

ORDINANCE NO. 393.93

AN ORDINANCE OF THE TOWN OF GOLDEN BEACH, FLORIDA, ESTABLISHING A STORMWATER UTILITY FOR THE TOWN; PROVIDING FOR DEFINITIONS; MAKING CERTAIN FINDINGS AND DETERMINATIONS; ESTABLISHING A STORMWATER UTILITY FEE; ESTABLISHING A METHOD AND PROCEDURE FOR THE COLLECTION OF STORMWATER UTILITY FEES; DIRECTING THE TOWN MANAGER TO MAINTAIN CERTAIN RECORDS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE.

WHEREAS, the Town is responsible for the ownership, maintenance and expansion of an existing stormwater management system that has been developed over a number of years for the purpose of collecting and disposing of storm and other surface water; and

WHEREAS, the points of discharge for numerous stormwater drainage systems serving the Town of Golden Beach are Biscayne Bay

environmental issues which will further burden its infrastructure requirements; and

WHEREAS, the Town finds that it is necessary and essential to construct improvements and extensions to the existing stormwater management system to ensure that the collection and disposal of stormwater within the Town of Golden Beach adequately protects the health, safety and welfare of the citizens of the Town;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:

Section 1. That the Code of the Town of Golden Beach is hereby amended by adding a new Chapter which shall read as follows:

STORMWATER UTILITY

Sec. 1. Purpose; Authority.

The purpose of this article is to implement the provisions of Section 403.0893(1), Florida Statutes, by creating a Town-wide Stormwater Utility and adopting stormwater utility fees sufficient to plan, construct, operate and maintain the stormwater management program required by Section 403.0891(3), Florida Statutes.

Sec. 2. Definitions.

The following, when used in this article, shall have the meanings ascribed in this section, except where the context clearly indicates a different meaning:

- (a) "Developed Property" shall mean any parcel of land that contains an impervious area.
- (b) "Dwelling" shall mean any building that is wholly or partly used or intended to be used for living, sleeping, cooking and eating.
- (c) "Dwelling Unit" shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities used or intended to be used for living, sleeping, cooking and eating.

(d) "Equivalent Residential Unit" (or "ERU") shall mean the statistical average horizontal impervious area of all residences in the Town that have been appraised as residences by the Dade County Appraiser's office.

(e) "Impervious Area" shall mean the horizontal ground surface that is incapable of being penetrated by rainwater. This shall include, but not be limited to, all structures, roof extensions, slabs, patios, porches, driveways, sidewalks, parking areas, swimming pools, athletic courts and decks.

(f) "Nonresidential Developed Property" shall mean any parcel of land that contains an impervious area and that is classified by the Dade County Property Appraiser as land use types 10 through and including 99, as set forth in Florida Administrative Code Rule 12D-8.008(2)(c), as amended from time to time.

(g) "Residential Developed Property" shall mean any parcel of land that contains an impervious area and is classified by the Dade County Property Appraiser as land use types 00 through and including 09 as set forth in Florida Administrative Code Rule 12D-8.008(2)(c), as amended from time to time.

(h) "Stormwater Infrastructure" shall mean the structural, non-structural or natural features of a parcel of land or Watershed which collect, convey, store, absorb, inhibit, treat, use, reuse, or otherwise affect the quantity or quality of stormwater.

(i) "Stormwater" shall mean the water that results from rainfall.

Section 403.031, Florida Statutes, as amended from time to time.

Sec. 3. Findings and Determinations.

It is hereby determined and declared as follows:

(a) The Town desires to create a Stormwater Management Program to maintain and improve water quality, to control flooding that results from rainfall events, to deter unmanaged rainwater from eroding sandy soils, to deter the disruption of the habitat of aquatic plants and animals and to provide for the collection of Stormwater Utility Fees for those expenses connected with the planning, constructing, operating and maintaining of a Stormwater Management Program.

(b) The collection of and disposal of stormwater and regulation of groundwater are of benefit to all property within the Town including property not currently served by the Program.

(c) The cost of operating and maintaining the Program should, to the extent practicable, be allocated to its beneficiaries based on their relative contribution to its need.

Sec. 4. Stormwater Utility Fee.

(a) A Stormwater Utility Fee is hereby assessed against each Developed Property within the Town for services and facilities provided by the Stormwater Management Program. The amount of the Stormwater Utility Fee shall be set by an administrative order of the Town Manager after

for all Nonresidential Developed Property, 8,000 square feet of Impervious Area shall be the equivalent of one ERU.

(c) The following procedures and criteria are to be used to determine rates for the services and facilities of the Stormwater Management Program:

(1) Each Dwelling Unit of Residential Developed Property and each vacant buildable lot shall be assessed a Stormwater Utility Fee calculated by multiplying the rate for one ERU by the number of ERUs allocated to the property in accordance with Section 4(b) hereof.

(2) Each Nonresidential Developed Property shall be assessed a Stormwater Utility Fee calculated by dividing the total Impervious Area of the Nonresidential Developed Property by the square footage value assigned to one ERU as provided in Section 4(b) hereof; then by multiplying the resulting quotient by the rate of one ERU. Notwithstanding the foregoing, each Nonresidential Developed Property classified by the Dade County Property Appraiser as land versus type 71 shall be assessed a Stormwater Utility Fee that is 50% of the fee for Nonresidential Developed Property as calculated herein.

(3) The Stormwater Utility Fees payable to the Town pursuant to this article shall be deposited in a separate Town Stormwater Utility Fund account and shall be used exclusively by the Town, together with accrued interest thereon, to pay for the costs of planning, financing, constructing, operating and

(b) Fees and late charges, together with any interest charges, shall be debts due and owing the Town's Stormwater Utility and all of same shall be recoverable by the Town in a court of competent jurisdiction.

(c) The Town Manager shall establish procedures to notify owners, of Developed Property of delinquent Stormwater Utility Fee accounts.

(d) All Stormwater Utility Fees, late charges and interest accruing thereupon, due and owing to the Town Stormwater Utility which remain unpaid 60 days after the past due date shall become a lien against and upon the Developed Property for which the Stormwater Utility Fees are due and owing to the same extent and character as a lien for a special assessment. Until fully paid and discharged, such fees, late charges, and interest accrued shall constitute a special assessment lien equal in rank and dignity with the liens of Town ad valorem taxes and superior in rank and dignity to all other liens, encumbrances, titles, and claims in, to or against the Developed Property involved for the period of five years from the date such Stormwater Utility Fees, late charges, and interest accrued thereupon became a lien as set forth in this ordinance. This lien may be enforced and satisfied by the Town pursuant to Chapter 173, Florida Statutes, as amended from time to time, or by any other method permitted by law. The lien provided for in this sub-section shall not be deemed to be in lieu of any other legal remedies for recovery of such fee, late charges, and accrued interest available to the Town.

(e) For Stormwater Utility Fees which become more than 60 days past due and unpaid, the Town shall cause to be filed in the office of the Clerk of the Circuit Court of

paid or discharged, the Town shall cause evidence of the satisfaction and discharge of such lien to be filed with the office of the Clerk of the Circuit Court of Dade County, Florida.

(g) Notwithstanding other provisions to the contrary, the Town shall have the discretion not to file notices of lien for fees, late charges, and interest accrued in an amount less than fifty dollars (\$50.00). If the Town elects not to file a notice of lien, such fees, late charges, and accrued interest shall remain as debts due and owing in accordance with Section (b) above.

(h) The Town Manager or his designee is authorized and directed to certify upon request the amount of fees, late charges and interest accrued, which are due and owing to the Town for any Developed Property which is subject to payment of said fees, or the Town Manager may certify that no fees, late charges or accrued interest are due and owing.

Section 2. Repeal of Conflicting Ordinances. All ordinances, resolutions, code sections or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the

or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Effective Date. This Ordinance shall be effective upon adoption on second reading.

PASSED AND ADOPTED on first reading this 15 day of June, 1993.


PASSED AND ADOPTED on second reading this 29 day of June, 1993.

  
BARRY A. NELSON, MAYOR

ATTEST:

  
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY: on roll call the following vote ensued:

  
RICHARD JAY WEISS, TOWN ATTORNEY

Mayor Nelson	<u>no</u>
Vice Mayor Addicott	<u>yes</u>
Councilman Duffner	<u>yes</u>
Councilman Mena	<u>yes</u>