

ORDINANCE NO. 2019-01

AN ORDINANCE OF THE CITY OF LAKE WALES, FLORIDA, AMENDING CHAPTER 21 "UTILITIES" OF THE CODE OF ORDINANCES OF THE CITY OF LAKE WALES, BY ADDING SECTION 21-97 "STORMWATER CHARGES", RELATING TO THE IMPLEMENTATION AND COLLECTION OF STORMWATER UTILITY RATES, FEES, AND CHARGES FOR THE PROVISION OF SERVICES AND CAPITAL FACILITIES FOR STORMWATER MANAGEMENT WITHIN THE CITY OF LAKE WALES; PROVIDING DEFINITIONS AND FINDINGS; ESTABLISHING A STORMWATER UTILITY AND PROVIDING ITS RESPONSIBILITIES; ESTABLISHING A STORMWATER UTILITY FUND; AUTHORIZING THE IMPOSITION AND COLLECTION OF STORMWATER UTILITY FEES TO FUND THE COST OF PROVIDING SERVICES AND CAPITAL FACILITIES FOR STORMWATER MANAGEMENT; PROVIDING FOR ASSIGNMENT OF ERU'S TO CLASSIFICATIONS OF DEVELOPED PROPERTY; PROVIDING CREDIT FOR PRIVATE MITIGATION FACILITIES; ESTABLISHING PROCEDURES AND METHODS FOR THE COLLECTION OF STORMWATER UTILITY FEES; PROVIDING FOR REVISIONS, PROCEDURAL IRREGULARITIES, AND APPLICABILITY; PROVIDING THAT THIS ORDINANCE IS AN ADDITIONAL AND ALTERNATIVE METHOD; PROVIDING FOR ADJUSTMENTS AND APPEALS; PROVIDING NO LIABILITY FOR FLOODING; PROVIDING FOR SEVERABILITY AND CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF LAKE WALES, FLORIDA:

Section 1. Chapter 21 "Utilities" of the Code of Ordinances of the City of Lake Wales (the "Code"), is hereby amended by adding Section 21-97, "Stormwater Charges" to read in full as follows:

21-97. STORMWATER CHARGES

- (a) *Purpose and intent.* The purpose of this Ordinance is to protect the health, safety, and welfare of the general public through the administration and regulation of earthwork and drainage and to provide for a mechanism to provide funding for such activities. It is the intent of this Ordinance that the City will establish stormwater management as a city utility enterprise in accordance with Section 403.0893, Florida Statutes, and shall establish a program of utility fees for stormwater management services to be charged to all developed property within the City to accomplish the functions of the utility, which include, but are not limited to, maintenance, planning,

design, construction, regulation, surveying, and inspection as they relate to the stormwater management system of the City.

(b) **Definitions.** As used in this Ordinance, the following words and terms shall have the following meanings, unless the context clearly otherwise requires:

- (1) *Building* means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel or property of any kind. This term shall include mobile homes or any vehicles serving in any way the function of a building.
- (2) *Building Footprint* means the actual square footage of a Building as reflected on the Tax Roll, divided by the number of levels or floors within the Building.
- (3) *City* means the City of Lake Wales, Florida.
- (4) *City Manager* means the chief administrative officer of the City or such person's designee.
- (5) *Clerk* means the City Clerk, or such other person as may be duly authorized to act on such person's behalf.
- (6) *City Commission* means the governing body of the City of Lake Wales, Florida.
- (7) *Comprehensive Plan* means the comprehensive plan adopted by the City pursuant to Chapter 163, Part II, Florida Statutes.
- (8) *Condominium* means a condominium created by a declaration of condominium pursuant to Chapter 718, Florida Statutes.
- (9) *Condominium Common Area Parcel* means a Tax Parcel including one or more "common elements" of a Condominium, as defined in Section 718.103, Florida Statutes, to which the Property Appraiser has assigned a DOR Code of 04 or 05, the taxable value of which has been attributed to Condominium Residential Unit Parcels by the Property Appraiser.
- (10) *Condominium Residential Unit Parcel* means a parcel within the City constituting a Condominium "unit" (as defined in Section 718.103, Florida Statutes) to which the Property Appraiser has assigned a DOR Code of 04 or 05.
- (11) *County* means Polk County, Florida.
- (12) *Developed Property* means property that has been developed with impervious area including, but not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas and other surfaces which similarly impact

the natural infiltration or runoff patterns which existed prior to development.
Developed Property shall not include public roads.

- (13) *DOR Code* means a property use code established in Rule 12D-8.008, Florida Administrative Code, as amended, and as applied by the Property Appraiser to parcels within the City.
- (14) *Dwelling Unit* means a Building, or a portion thereof, which is located upon residential property and lawfully used for residential purposes, consisting of one or more rooms arranged, designed, used, or intended to be used as living quarters for one family unit only.
- (15) *ERU* means "**equivalent residential unit**," the standard unit used to express the Stormwater burden expected to be generated by each parcel of property. Based upon the average Impervious Area derived from a statistically valid sample of Single Family Residential Parcels, the City has computed an "ERU Value" of 3,652 square feet, which shall be used to calculate the number of ERUs attributable to each Developed Property.
- (16) *General Parcel* means a parcel of Developed Property within the City that is not a Single Family Residential Parcel or a Condominium Residential Unit Parcel.
- (17) *Impervious Area* means hard surfaced areas which either prevent or severely restrict the entry of water into the soil mantle and/or cause water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas and other surfaces which similarly affect the natural infiltration or runoff patterns which existed prior to development.
- (18) *Large Single Family Residential Parcel* means a Single Family Residential Parcel with an estimated Building Footprint between 2,841 and 5,100 (inclusive) square feet.
- (19) *Medium Single Family Residential Parcel* means a Single Family Residential Parcel with an estimated Building Footprint between 1,331 and 2,840 (inclusive) square feet.
- (20) *Mitigation Credit* means, for any parcel of Developed Property, a number between 0.0 and 1.0 representing a reduction in the Stormwater burden expected to be generated by such parcel attributable to privately maintained Stormwater management facilities and other factors affecting the quantity, quality, or rate of Stormwater runoff. The "Mitigation Credit" for each parcel shall be determined in accordance with Section 8 hereof.
- (21) *Mitigation Credit Factor* means the figure computed by subtracting the Mitigation Credit from 1.00.

- (22) *Mitigation Credit Policy* means the City of Lake Wales' Stormwater Utility Mitigation Credit Policy.
- (23) *Mitigation Facility* means a manmade facility or structure on the site of a Developed Property which, by its design and function, retains Stormwater on-site and thus generates less volume of Stormwater from the site or produces Stormwater runoff at a lower rate or with less pollutants than would be the case in the absence of such facilities or structure.
- (24) *Net ERU* means the standard unit used to express the Stormwater burden expected to be generated by each parcel of Developed Property, after taking into consideration any mitigation of the Stormwater burden that results from privately maintained Stormwater management facilities and other factors affecting the quantity, quality, or rate of Stormwater runoff
- (25) *Property Appraiser* means the Property Appraiser of Polk County.
- (26) *Single Family Residential Parcel* means a parcel of Developed Property within the City to which the Property Appraiser has assigned a DOR Code of 01 or 02.
- (27) *Small Single Family Residential Parcel* means a Single Family Residential Parcel with an estimated Building Footprint between 100 and 1,330 (inclusive) square feet.
- (28) *Stormwater* means the flow of water which results from, and which occurs following, a rainfall event.
- (29) *Stormwater Basin* means a part of the earth's surface that contributes Stormwater runoff to a drainage system, which consists of diffuse surface waters, together with all natural or artificial tributary surface streams and/or bodies of impounded surface water.
- (30) *Stormwater Basin Plan* means a policy document that is adopted by the City Commission for each Stormwater Basin or hydrologic subarea thereof in which Stormwater Improvements are proposed and that provides for implementation of the Stormwater Master Plan.
- (31) *Stormwater Improvement* means land, capital facilities and improvements acquired or provided to detain, retain, convey or treat Stormwater.
- (32) *Stormwater Master Plan* means a policy document adopted by the City Commission which identifies the levels of service for water quality and quantity management in the City, based upon the criteria in the Comprehensive Plan and applicable state and federal law, and the methods for prioritizing expenditures within the City. The Stormwater Master Plan shall designate those Stormwater Basins for which a Stormwater Basin Plan will be prepared.

- (33) *Stormwater Management Service* means (A) maintenance, management and administration of the City's Stormwater Utility; (B) Stormwater program engineering; (C) Stormwater basin planning; (D) Stormwater facilities and improvements to be acquired or constructed; (E) operating and maintaining the City's facilities for Stormwater management, including extraordinary maintenance; (F) billing and collection of the Stormwater utility fees, including customer information services and reserves for statutory discounts; and (G) legal, engineering and other consultant services.
- (34) *Stormwater Service Area* means the geographic area described in Section 5 herein that encompasses all parcels within the City which specially benefit from the Stormwater Management Service and all parcels to which Stormwater Management Services are provided.
- (35) *Stormwater Service Cost* means the estimated amount for any Fiscal Year of all expenditures and reasonable reserves that are properly attributable to the Stormwater Management Services provided by the City to Developed Property under generally accepted accounting principles, including, without limiting the generality of the foregoing, reimbursement to the City for any moneys advanced for the Stormwater Management Service, and interest on any interfund or intrafund loan for such purpose.
- (36) *Stormwater Utility* means the entity established to implement the Stormwater management program of the City.
- (37) *Stormwater Utility Fee* means a fair and reasonable regulatory fee for service provided by the City to Developed Property to fund all or any portion of the Stormwater Service Cost at a just, fair, reasonable, and equitable rate based upon such property's Stormwater burden and the reasonable cost of providing Stormwater Management Services to such property.
- (38) *Very Large Single Family Residential Parcel* means a Single Family Residential Parcel with an estimated Building Footprint greater than 5,100 square feet.

(c) Legislative Findings.

- (1) Pursuant to Article VIII, section 2(b), Florida Constitution, and sections 166.021 and 166.041, Florida Statutes, the City has all powers of local self-government to perform municipal functions and render municipal services except when prohibited by law, and such power may be exercised by the enactment of legislation in the form of City Ordinances.
- (2) The City Commission may exercise any governmental, corporate, or proprietary power for a municipal purpose except when expressly prohibited by law, and the City Commission may legislate on any subject matter on which the Florida Legislature may act, except those subjects described in (a), (b), (c), and (d) of section 166.021(3), Florida Statutes. The subject matter of paragraphs (a), (b),

(c), and (d) of section 166.021(3), Florida Statutes, are not relevant to the imposition of Stormwater Utility Fees by the City.

- (3) The purpose of this Ordinance is to (1) provide procedures and standards for the imposition of Stormwater Utility Fees under the constitutional and statutory power of the City; (2) authorize a procedure for the funding of Stormwater Management Services, facilities, or programs provided to properties within the Stormwater Service Area; and (3) legislatively determine the benefit provided to all parcels of Developed Property from the Stormwater Utility.
- (4) Pursuant to the constitutional and statutory authority of the City and pursuant to section 403.0893, Florida Statutes, the City has the authority to create a Stormwater Utility and fund the construction, operation, maintenance, and administration of said utility through the imposition of a Stormwater Utility Fee.
- (5) The Florida Legislature has mandated that local governments in the State of Florida, including the City, have the responsibility for developing mutually compatible stormwater management programs consistent with the rules and regulations of the Florida Department of Environmental Protection, the Federal Clean Water Act, and the water management districts and the stormwater management programs established and maintained by other local governments.
- (6) The Stormwater Utility Fees imposed hereby are consistent with the authority granted in section 403.0893, Florida Statutes. That statutory provision is additional and supplemental authority to the constitutional and statutory power of self-government granted to a municipality.
- (7) The Stormwater Utility regulates the use and enjoyment of all Developed Property within the City by treating and controlling contaminated Stormwater generated by improvements constructed on the Developed Property resulting in the alteration of such property from its natural state to accommodate such improvements.
- (8) The special benefits provided by the Stormwater Management Services to all Developed Property located within the Stormwater Service Area include, but are not limited to: (1) the provision of Stormwater Management Services and the availability and use of facilities and improvements by the owners and occupants of Developed Property to properly and safely detain, retain, convey and treat Stormwater discharged from Developed Property; (2) stabilization of or the increase of Developed Property values; (3) increased safety and better access to Developed Property; (4) improved appearance; (5) rendering Developed Property more adaptable to a current or reasonably foreseeable new and higher use; (6) alleviation of the burdens caused by Stormwater runoff and accumulation attendant with the use of Developed Property; and (7) fostering the enhancement of environmentally responsible use and enjoyment of the natural resources within the Stormwater Service Area.

- (9) The City's Stormwater Management Services are necessitated by the existence of Impervious Area. Accordingly, it is fair and reasonable to impose a Stormwater Utility Fee only against Developed Property containing at least 100 square feet of Impervious Area.
- (10) Substantially all of the Stormwater burden managed, controlled, and treated by the Stormwater Utility is generated by Developed Property and the amount of Stormwater generated by property in its natural state that is managed, controlled and treated by the Stormwater Utility is inconsequential.
- (11) The Stormwater Utility Fees imposed herein provide a reasonable method of funding the City's cost of providing Stormwater Management Services because such costs provide a reasonable estimation of the costs of providing Stormwater Management Services to such property based upon the City's budget and resource allocations and managing the Stormwater burden generated by the use of such property as individually classified on the basis of the Stormwater burden expected to be generated by the physical characteristics of such property.
- (12) The Stormwater Utility Fee is reasonably related to the cost of providing Stormwater Management Services, including the collection, storage, treatment, and conveyance of Stormwater generated by Developed Property.
- (13) The Stormwater Utility Fee is not a special assessment; it is a regulatory fee imposed for the Stormwater Management Service provided to Developed Property by the City's Stormwater Utility.

(d) Stormwater Utility and Utility Fund.

- (1) There is hereby established a Stormwater Utility, which shall be the operational means of implementing and otherwise carrying out the functional requirements of the City's Stormwater management system to construct or acquire Stormwater improvements and provide Stormwater Management Services. The Stormwater Utility shall provide administration and management services in: the operation and maintenance of the City's capital facilities for Stormwater management; the preparation of Stormwater studies and the implementation of the Stormwater Utility; the regulation of Stormwater Basins; and the repair, replacement, improvement and extension of the City's capital facilities for Stormwater management. The Stormwater Utility shall place emphasis on the achievement of maximum efficiency through identifying programs and funding sources which are complementary to other regional, state and federal programs. The City Manager or his designee shall be responsible for administration of the Stormwater Utility.
- (2) The City Commission intends to fund all or part of the cost of providing services and capital facilities for Stormwater management through Stormwater Utility Fees. The City Commission has further concluded that periodic determination of revenues earned and expenses incurred in connection with the provision of

services and capital facilities for Stormwater management will enhance accountability and management control of the City's Stormwater Utility and will facilitate implementation of the City Commission's funding policy for Stormwater management. Accordingly, there shall be established a Stormwater utility fund. From an accounting perspective, the Stormwater utility fund shall be established as an enterprise fund.

(e) Stormwater Service Area.

- (1) The City Commission hereby establishes the entire incorporated area of the City as the Stormwater Service Area.
- (2) The Stormwater Utility shall provide Stormwater Management Services to all Developed Property within the Stormwater Service Area. All or any portion of the Stormwater Service Cost may be funded from the proceeds of the Stormwater Utility Fee.
- (3) The Stormwater Utility may also acquire and construct capital facilities to assist and facilitate the provision of Stormwater Management Services within the Stormwater Service Area.

(f) Stormwater Utility Fees.

- (1) The City Commission is hereby authorized to impose a Stormwater Utility Fee on all Developed Property within the Stormwater Service Area to fund all or any portion of the Stormwater Service Cost at a just, fair, reasonable, and equitable rate based upon such property's Stormwater burden and the reasonable cost of providing Stormwater Management Services to such property.

The rate of the Stormwater Utility Fee for each classification of property shall be determined by each property's individual number of ERUs based upon that property's amount of Impervious Area.

- (2) The Stormwater Utility Fee will be computed for each parcel of Developed Property located within the Stormwater Service Area by multiplying the number of Net ERUs attributable thereto by the rate per ERU as established by separate Resolution. The rate of the Stormwater Utility Fee shall be established and amended by separate Resolution of the City Commission.
- (3) The City Commission is also hereby authorized to impose Stormwater Utility Fees to fund all or any portion of the cost necessary to fund a Stormwater Improvement identified in any Stormwater Basin Plan or Stormwater Master Plan. The Stormwater Utility Fees to fund the capital cost or the debt service and related cost of any obligations issued to finance the cost of any Stormwater Improvements may be levied against all parcels of Developed Property within the Stormwater Service Area at a rate based upon the benefit accruing to such

property from the Stormwater Improvement, measured by the number of ERUs attributable to each parcel.

Notwithstanding the foregoing, if the City Commission specifically determines that any portion of the Stormwater Service Area receives a distinct special benefit from any component of the Stormwater Management Service that is materially different in kind or degree from the special benefit received by other portions of the Stormwater Service Area, the Stormwater Service Cost related to such component shall be levied against the portion of the Stormwater Service Area receiving the distinct special benefit.

(g) Assignment of ERU'S.

(1) Each parcel of Developed Property located within the Stormwater Service Area shall be assigned to one of the following classifications: Small Single Family Residential Parcels, Medium Single Family Residential Parcels, Large Single Family Residential Parcels, Very Large Single Family Residential Parcels, Condominium Residential Unit Parcels, or General Parcels. ERUs shall be assigned to each parcel of Developed Property within the Stormwater Service Area in accordance with the procedures provided in this Section.

(2) Single Family Residential Parcels.

(i) The cost of measuring or verifying the Impervious Area for each individual Single Family Residential Parcel greatly exceeds any benefit to be derived from individual measurement and verification.

(ii) The City has computed an average Building Footprint of 1,073 square feet for a typical Small Single Family Residential Parcel with a total impervious area of 2,100 square feet. The number of ERUs attributable to each Small Single Family Residential Parcel shall be computed by dividing the total impervious area of the typical Small Single Family Residential Parcel by the total impervious area of the typical Medium Single Family Residential Parcel (3,652 square feet). Accordingly, the number of Net ERUs attributable to each Small Single Family Residential Parcel shall be computed by multiplying 0.58 ERUs by the appropriate Mitigation Credit Factor.

(iii) The City has computed an average Building Footprint of 2,073 square feet for a typical Medium Single Family Residential Parcel with a total impervious area of 3,652 square feet. Accordingly, the number of Net ERUs attributable to each Medium Single Family Residential Parcel shall be computed by multiplying one (1.0) ERU by the appropriate Mitigation Credit Factor.

- (iv) The City has computed an average Building Footprint of 3,390 square feet for a typical Large Single Family Residential Parcel with a total impervious area of 5,546 square feet. The number of ERUs attributable to each Large Single Family Residential Parcel shall be computed by dividing the total impervious area of the typical Large Single Family Residential Parcel by the total impervious area of the typical Medium Single Family Residential Parcel (3,652 square feet). Accordingly, the number of Net ERUs attributable to each Large Single Family Parcel shall be computed by multiplying 1.52 ERUs by the appropriate Mitigation Credit Factor.
- (v) The number of ERUs attributable to each Very Large Single Family Residential Parcel (parcels with a Building footprint in excess of 5,100 square feet) shall be computed in the manner provided herein for General Parcels.

(3) *Residential Condominium Parcels.*

- (i) A residential Condominium constitutes a unique form of real property ownership comprised of Condominium Residential Unit Parcels, to which there may be an appurtenant undivided share in Condominium Common Area Parcels.
- (ii) It is fair and reasonable to attribute the Impervious Area of Condominium Common Area Parcels to the Condominium Residential Unit Parcels to which such Condominium Common Area Parcels are appurtenant.
- (iii) The number of Net ERUs attributable to each Condominium Residential Unit Parcel in a residential Condominium shall be equal to the sum of the following: (a) the amount computed by multiplying (1) the amount calculated by (i) dividing the Impervious Area of the Condominium Complex on which the Condominium Residential Unit Parcel is located by the ERU Value (3,652 square feet), and (ii) dividing the result by the total number of Condominium Residential Unit Parcels located on such Condominium, and by (2) the appropriate Mitigation Credit Factor.

- (4) *General Parcels.* The number of Net ERUs attributable to each General Parcel shall be determined by (1) dividing the Impervious Area of the General Parcel by the ERU Value (3,652 square feet), and (2) multiplying the result by the appropriate Mitigation Credit Factor.

(h) Private Mitigation Facilities.

- (1) The City Commission recognizes the benefits provided by privately maintained Mitigation Facilities. Properties supporting private Mitigation Facilities should be credited for the public benefits they provide. Accordingly, the charges based on the number of ERUs otherwise attributable to such property may be adjusted by a Mitigation Credit determined in accordance with the City's Mitigation Credit Policy which may be adopted by the City Commission by separate Resolution. No Mitigation Credit shall exceed the amount of the Tax Parcel's Stormwater Utility Fee.
- (2) In order to receive a new Mitigation Credit for which property is eligible, a nonresidential property owner shall be required to provide the City Utilities Director with "as built" drawings of the Mitigation Facilities sealed by a Florida registered professional engineer, a certification from a Florida registered professional engineer as to the standards of retention and detention achieved by the Mitigation Facilities, or such other reasonable requirements as may be necessary to effectuate the purposes of this section. Applicants for residential mitigation credits may include property owners, homeowners' associations and community development districts and shall provide sufficient information to adequately evaluate the basis for said credit.
- (3) No Mitigation Credit shall be applied for service provided to property by a Mitigation Facility constructed or maintained with public funds. However, a Mitigation Credit shall be applied for service provided to property by a regional Mitigation Facility if the developer of the property provided a capital contribution to the regional facility in lieu of constructing on-site facilities.

(i) Billing and Collection.

- (1) The Stormwater Utility Fees authorized herein shall be billed and collected on a monthly basis along with the City's other utility fees in the regular utility billing cycle, appearing as a separate line item. Bills for the Stormwater Utility Fees shall be payable at the same time, in the same manner, and subject to the same penalties as have been heretofore established for the other utility fees charged and administered by the City.
- (2) In the event a Developed Property does not have other City utility service, a new account shall be developed and the property shall be billed by the City for the Stormwater Utility Fees on an annual basis.

- (3) A monthly billing charge shall also be assessed against each City utility account provided however; only one billing charge shall be assessed, regardless of whether the customer receives water service, wastewater service, stormwater service, reclaimed water service or any combination thereof.

(j) *Adjustments and Appeals.*

- (1) All requests for adjustment of the Stormwater Utility Fee shall be submitted to the City Utilities Director. The City Utilities Director shall review each request as follows:

- (i) All requests shall be in writing and set forth in detail the grounds upon which relief is sought.

- (ii) All adjustment requests shall be reviewed within four months from the date of submission. Adjustments resulting from such requests shall be retroactive to the date of submission.

- (iii) The person requesting the adjustment may be required, at his or her own cost, to provide supplemental information to the City Utilities Director, including but not limited to survey data, traffic studies and other engineering reports prepared by a registered professional land surveyor (R.P.L.S.) or professional engineer (P.E.), as required. Failure to provide such information in a timely manner may result in denial of the adjustment request.

- (iv) The City Utilities Director shall provide the person requesting the adjustment with a written determination of the request within the time provided herein.

- (2) All determinations of the City Utilities Director pursuant to Section (j) may be appealed to the City Manager. Appeals must be filed with the City Manager within 30 days of issuance of the City Utilities Director's written determination. Appeals shall be determined by the City Manager within 30 days of filing. In evaluating appeals, the City Manager shall be bound by the method of setting rates as set forth in this Ordinance. The decision of the City Manager shall be final.

- (k) ***Revisions to Stormwater Utility Fees.*** If any Stormwater Utility Fee made under the provisions of this Ordinance is either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the City Commission is satisfied that any such Stormwater Utility Fee is so irregular or defective that the same cannot be enforced or collected, or if the City Commission has failed to charge any property that should have been charged, the City Commission may take all necessary steps to impose a new Stormwater Utility Fee against any such property, following as nearly as may be practicable, the provisions of this Ordinance and in case such second Stormwater Utility Fee is annulled, the City Commission may obtain and impose other Stormwater Utility Fee until a valid Stormwater Utility Fee is imposed.

(l) **Procedural Irregularities.** Any irregularity in the proceedings in connection with the levy of any Stormwater Utility Fee under the provisions of this Ordinance shall not affect the validity of the same after the approval thereof, and any Stormwater Utility Fee as finally approved shall be competent and sufficient evidence that such Stormwater Utility Fee was duly levied, that the Stormwater Utility Fee was duly made and adopted, and that all other proceedings adequate to such Stormwater Utility Fee were duly had, taken and performed as required by this Ordinance; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby.

(m) **Flooding; Liability.** Floods from Stormwater runoff may occasionally occur which exceed the capacity of Stormwater management facilities constructed, operated or maintained by funds made available under this Ordinance. This Ordinance shall not be construed or interpreted to mean that property subject to the fees and charges established herein will always (or at any time) be free from Stormwater flooding or flood damage, or that Stormwater systems capable of handling all storm events can be cost-effectively constructed, operated or maintained. Nor shall this Ordinance operate to create any liability on the part of, or cause of action against, the City, or any official or employee thereof, for any flood damage that may result from such storms or the runoff thereof. Nor does this Ordinance purport to reduce the need or the necessity for obtaining flood insurance by individual property owners.

Section 2. This Ordinance and the City's authority to impose Stormwater Utility Fees pursuant hereto shall be applicable throughout the City.

Section 3. This Ordinance shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This Ordinance, being necessary for the welfare of the inhabitants of the City, shall be liberally construed to effect the purposes hereof.

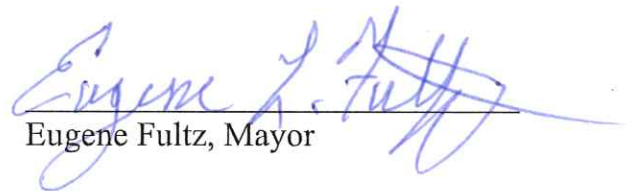
Section 4. The provisions of this Ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby.

Section 5. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

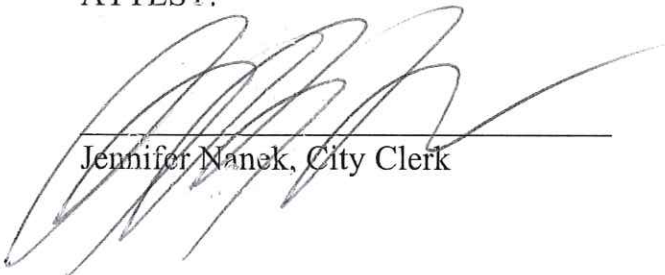
Section 6. It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Lake Wales; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 7. This Ordinance shall take effect on the date of its passage and adoption by the City Commission.

PASSED AND DULY ADOPTED after second reading and public hearing this 5th day of February, 2019.


Eugene Fultz, Mayor

ATTEST:


Jennifer Nanek, City Clerk