

ORDINANCE NO. 2868

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING SECTION 70-388 (FINDINGS AND DETERMINATION) AND SECTION 70-340 (SCHEDULE OF RATES) TO ESTABLISH THE CITY AS A SPECIAL ASSESSMENT DISTRICT FOR THE STORMWATER FEE; AMENDING SECTION 70-341 (COLLECTION OF CHARGE) AUTHORIZING THE LEVY OF NON-AD VALOREM ASSESSMENTS FOR THE STORMWATER FEE; CREATING SECTION 70-344 (NON-AD VALOREM ASSESSMENT) PROVIDING FOR THE COLLECTION OF NON-AD VALOREM ASSESSMENTS, AUTHORIZING AN AGREEMENT WITH THE VOLUSIA COUNTY PROPERTY APPRAISER AND THE VOLUSIA COUNTY TAX COLLECTOR, AUTHORIZING AND REQUIRING THE ADOPTION OF A RESOLUTION REGARDING THE CITY'S USE OF THE UNIFORM METHOD OF COLLECTING NON-AD VALOREM ASSESSMENTS AND PROVIDING TRANSITION PROVISIONS; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Holly Hill has determined that it is in the City's best interest to levy a special assessment on all developed parcels in the City for the stormwater fee instead of billing this amount on a monthly basis; and

WHEREAS, the collection of a non-ad valorem special assessment is permitted pursuant to Florida Statute Section 197.3632; and

WHEREAS, the existing City regulations need to be amended to allow for the collection of this stormwater fee by special assessment; and

WHEREAS, words which are underlined (underlined) are additions to the text and words with strike through (~~strike through~~) the characters are deletions from the text.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF
THE CITY OF HOLLY HILL, FLORIDA:**

SECTION 1. The City Commission of the City of Holly Hill hereby amends Sections 70-338 (Findings and determinations.), Section 70-340 (Schedule of rates.), Section 70-341 (Collection of charges.) and creates Section 70-344 (Non-ad valorem assessment.) to read as follows:
Sec. 70-338. Findings and determination.

It is hereby found, determined, and declared as follows:

(1) (a) Those elements of the system for the collection of and disposal of stormwater and surface water are of benefit and provide services to all property within the city including property not presently served by the storm elements of the system.

(2) (b) The cost of operating and maintaining the city stormwater management system and financing necessary repairs, replacements, improvements, and extensions thereof should, to the extent practicable, be allocated in relationship to the user impacts, benefits enjoyed and services received therefrom.

(c) The City of Holly Hill in its entirety, as its City boundaries exist on the date of enactment of this section and as they may be expanded or contracted from time to time, is hereby declared a special assessment district for the purposes of collecting the stormwater fee for a developed parcel. A developed parcel shall be as defined in the resolution adopted by the City Commission establishing the stormwater fee. It is the intent of the City that this non-ad valorem assessment be levied the first time for the 2011-2012 fiscal year and every fiscal year thereafter.

Sec. 70-339. Stormwater management system fee--Application and classification.

(a) A stormwater fee is hereby imposed upon each developed lot and parcel within the city for services and facilities provided by the stormwater management system. A developed lot or parcel is one upon which impervious improvements have been constructed. For purposes of imposing the stormwater fee, all lots and parcels within the city are classified as residential or nonresidential.

(b) The city manager or designee is directed to prepare a list of developed lots and parcels within the city and assign a classification of residential or nonresidential to each lot or parcel. The determination of the city manager may be appealed to the city commission by the lot or parcel owner or occupant. The decision of the city commission shall be final.

Sec. 70-340. ~~Same~~--Schedule of rates.

There is hereby established the following uniform schedule of rates for the services and facilities of the municipal stormwater management system provided by the city to the owner, tenant, or occupant of the premises using the services and facilities of such system:

~~(1)~~ (a) The city commission, upon recommendation of the city manager, shall by resolution establish a reasonable rate for stormwater management for each single-family residential dwelling unit. Each single-family residential dwelling unit shall be billed a flat fee established by the city commission. ~~to be included in the monthly water and sewer statement.~~

~~(2)~~ (b) For nonresidential properties, and multifamily residential properties including hotels and motels, a single-family equivalent unit shall be determined periodically and shall be included in the

rate resolution. The single-family equivalent is the average impervious area for single-family dwellings in the city. All nonresidential properties, i.e., enterprises, business establishments, government establishments, buildings, or other residential and nonresidential occupancies not covered by subsection (1) of this section shall be billed based on the total impervious area of the property divided by the single-family equivalent and then multiplied by the rate established for a single-family residential unit. The total impervious area of the property and the number of single-family equivalent units shall be updated by the public works department based on any additions to the impervious area as approved through the permit process. For nonresidential properties that are not separately metered, the total bill will be sent to the account holder of the master meter.

(3) (c) For those properties that are separately metered, but the impervious area cannot be determined for each metered account from the city or county for each account located on the parcel, each metered account shall be billed based on an on-site visit or a meeting with the owner of the property to determine the proportion of single-family equivalent units applicable to each metered property. For this determination, the proportion of impervious area shall be the occupied square footage divided by the total square footage of the building. Parking lots shall be assumed to be proportionate to occupied space. This calculation shall be done to the nearest tenth of a single-family equivalent unit. No individual metered nonresidential property shall be billed less than one single-family equivalent unit. Disputes concerning the city's determination of the proportion of impervious area shall require the owner to notify in writing the public works director or his designee of the correction. Disputes involving the total impervious area for a parcel or the proportionate amount assigned to a metered account based on on-site measurement will be resolved by the public works director or his designee.

Sec. 70-341. ~~Same~~--Collection of charge.

There is hereby levied a non-ad valorem assessment against each and every developed parcel in the City a stormwater fee as established by resolution adopted by the City Commission.

~~The stormwater fee is to be paid monthly by the owner, tenant, or occupant of each lot or parcel which is subject to the stormwater. Such fee shall be added to the monthly water and sewer billing for owners, tenants and occupants having such accounts with the city. Persons using the services and facilities of the stormwater management system who are not consumers of water or sewer shall be rendered bills or statements for the use of the services and facilities of such system. If any bills for stormwater service charges shall not be paid before the 20th day following the original date of billing, a charge equal to 15 percent of the amount of the monthly charge shall be added thereto. If the amount of such stormwater service charges shall not be paid within 30 days from the rendition of such bill, the city shall discontinue furnishing all utility service to the premises and shall proceed forthwith to recover the amount of such stormwater charges in such lawful manner as it may deem advisable. The city may make collection arrangements with other governmental entities or other utilities for areas that are not served by city utilities.~~

Sec. 70-342. Recordkeeping; changes in rates and charges.

It shall be the duty of the city manager or his designee to keep an accurate record of all persons using the services and facilities of the municipal stormwater management system of the city and to make changes in accordance with the rates and changes established in this article.

Sec. 70-343. Establishment of trust fund.

There shall be established a stormwater utility trust fund for the deposit of all fees and charges collected by the stormwater utility and for recording all appropriate expenditures of the stormwater utility system.

Sec. 70-344. Non-ad valorem Assessment

(a) Collection of non-ad valorem assessments. The City Commission elects to use the uniform method to impose and collect non-ad valorem assessments. The non-ad valorem assessments collected pursuant to this section will be included in the combined notice for ad-valorem taxes and non-ad valorem assessments as provided in Section 197.3635, Florida Statutes. Non-ad valorem assessments collected pursuant to this section are subject to all collection provisions in Section 197.3632, Florida Statutes, including provisions relating to discount for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, and issuance and sale of tax certificates and tax deeds for nonpayment.

(b) Agreement to reimburse the Volusia County Property Appraiser and the Volusia County Tax Collector. In order to use the uniform method for the levy, collection, and enforcement of the non-ad valorem assessments, the City is authorized to enter into a written agreement with the Volusia County Property Appraiser and the Volusia County Tax Collector providing for the reimbursement of their costs incurred in the administration and collection of the non-ad valorem assessments levied under this section.

(c) Adoption of a resolution. The City will comply with all statutory notice prerequisites set forth in Section 197.3632, Florida Statutes. The City Council will adopt a resolution at a public hearing prior to January 1, 2011 in accordance with Subsection 197.3632(3), Florida Statutes, which resolution shall state the following:

_____ (1) The City's intent to use the uniform method of collecting non-ad valorem assessments.

_____ (2) The City's need for the imposition of the non-ad valorem assessments.

(3) The entire City is declared a special-assessment district, with developed parcels being subject to the special assessment.

(d) Transition. The City shall continue to levy the monthly stormwater fee for developed parcels through the month of September 2011 for the 2010/2011 fiscal year. Commencing in October 2011 for the 2011/2012 fiscal year, and each fiscal year thereafter, the City shall stop the monthly collection of the stormwater fees for developed parcels and shall collect said stormwater fee by the special assessment.

SECTION 2. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

SECTION 3. That all ordinances made in conflict with this Ordinance are hereby repealed.

SECTION 4. That this Ordinance shall become effective immediately upon its adoption.

SECTION 5. That this Ordinance shall be posted at City Hall as required by law.

The within and foregoing Ordinance was introduced and read on first reading before the City Commission of the City of Holly Hill, Florida, at its regularly scheduled meeting held in Commission Chambers at City Hall on the 13th day of April, 2010.

It was moved by Commissioner Glass and seconded by Commissioner Penny that said Ordinance be approved on first reading. A roll call vote of the Commission held on said motion for approval of the Ordinance resulted as follows:

ROLL CALL VOTE AS FOLLOWS: (Ordinance 2868):

Mayor Roland D. Via Yes
Commissioner John Penny Yes
Commissioner Rick Glass Yes
Commissioner Mark Reed Yes
Commissioner Liz Towsley No

ADOPTED THIS 13th DAY OF April, 2010.

The within and foregoing Ordinance was introduced and read on second reading before the City Commission of the City of Holly Hill, Florida, at its regular meeting held in Commission Chambers at City Hall on the 27th day of April, 2010.

It was moved by Commissioner Penny and seconded by Commissioner Reed that said Ordinance be adopted. A roll call vote of the Commission held on said motion to adopt the Ordinance resulted as follows:

ROLL CALL VOTE AS FOLLOWS: (Ordinance 2868):

Mayor Roland D. Via Yes
Commissioner John Penny Yes
Commissioner Rick Glass No
Commissioner Mark Reed Yes
Commissioner Liz Towsley No

ADOPTED THIS 27th DAY OF April, 2010.

Whereupon, the Mayor of the City of Holly Hill, Florida, has hereunto set his official signature, duly attested by the City Clerk, and has caused the official seal of said City to be affixed, all at City Hall in the City of Holly Hill, this 27th day of April, 2010 for the purpose of authenticity as is required by law.

City of Holly Hill, Florida

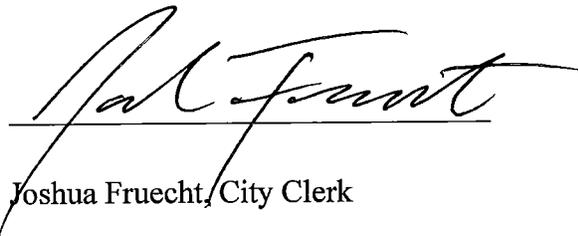


Roland D. Via, Mayor



Oel Wingo, Ph.D., City Manager

Attest:



Joshua Fruecht, City Clerk

Ordinance 2868
April 13, 2010
April 27, 2010