

ORDINANCE NO. 2010-93

AN ORDINANCE OF THE CITY OF TAMPA, FLORIDA,
AMENDING CITY OF TAMPA CODE OF ORDINANCES,
CHAPTER 21 (STORMWATER MANAGEMENT); REPEALING
ALL ORDINANCES IN CONFLICT; PROVIDING FOR
SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City has heretofore enacted Ordinance No. 89-249 and Ordinance No. 2003-200, as codified in Chapter 21 of the City of Tampa Code of Ordinances, collectively referred to as the "City of Tampa Stormwater Management Ordinance;" and

WHEREAS, certain amendments to Chapter 21 are now required (1) in order to permit the City to impose charges for stormwater services for more than one year at a time, (2) to reflect recent changes in the City's' departmental organization, and (3) clarify certain provisions where questions have arisen in the past; and

WHEREAS, duly noticed public hearings as required by law were held by the City Council of the City; and

WHEREAS, all parties of interest and citizens were afforded an opportunity to be heard at said hearings.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL
OF THE CITY OF TAMPA, FLORIDA:

Section 1. That Division 1 of Article I of Chapter 21 shall be amended by adding the double underlined language and deleting the stricken language as follows:

Chapter 21 - STORMWATER MANAGEMENT

ARTICLE I. - ADMINISTRATIVE PROVISIONS

**DIVISION 1. - GENERAL PROVISIONS; ADMINISTRATIVE
AUTHORITY; DEFINITIONS**

Sec. 21-1. Title. This chapter shall be known and may be cited as the "City of Tampa Stormwater Management Ordinance."

Double underlined passages represent additions; ~~strikethrough~~ passages represent deletions.

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1 **Sec. 21-2. Legislative findings, intent, and purpose.**

2
3 (a) The purposes of this chapter are to:

- 4
5 (1) protect the health, safety, and welfare of the general public through the
6 administration and regulation of earthwork and drainage;
7 (2) provide procedures and standards for the imposition of Stormwater Charges
8 under the constitutional and statutory power of the City;
9 (3) authorize a procedure for the funding of Stormwater Management Services
10 and Stormwater Charges within a Stormwater Service Area;
11 (4) provide procedures and standards for the funding of Stormwater
12 Improvements within a Stormwater Improvement Area; and
13 (5) provide procedures and standards to determine the fair, equitable, and
14 reasonable charge for the Stormwater Fees charged to Government Property
15 to fund the regulation of Stormwater Management Services provided to
16 such property.

17
18 (b) The Stormwater Utility, the Stormwater Management Services and the
19 Stormwater Improvements provide a special benefit to Assessed Property or
20 Government Property based upon the following legislative findings:

- 21
22 (1) The Stormwater Utility possesses a logical relationship to the use and
23 enjoyment of all Developed Property by treating and controlling
24 contaminated Stormwater generated by improvements constructed on
25 Developed Property, which resulted in the alteration of such property from
26 its natural state.
27 (2) The special benefit received or burden created by Assessed Property or the
28 reasonable relationship to the benefit received or burden created by
29 Government Property is the collection, storage, control, management,
30 treatment, and conveyance of the Stormwater burden generated by the
31 improvements on Developed Property.
32 (3) Substantially all of the Stormwater burden managed, controlled and treated
33 by the Stormwater Utility is generated by Developed Property and the
34 amount of Stormwater generated by property in its natural state that is
35 managed, controlled and treated by the Stormwater Utility is
36 inconsequential.
37 (4) The Stormwater Fee as authorized to be calculated herein and charged to
38 Government Property bears a reasonable relationship to the cost of
39 providing Stormwater Management Services, including of Stormwater
40 generated by Government Property as Developed Property.

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1 (5) The Whereas clauses are hereby incorporated herein by reference.

2
3 **Sec. 21-3. Applicability.** The provisions of this chapter shall apply to all land and
4 improvements within the corporate limits of the ~~city~~City unless they are expressly
5 exempted ~~by~~herein or by any other applicable law.

6
7 **Sec. 21-4. Definitions.** For the purpose of this chapter, certain abbreviations, terms,
8 phrases, words and their derivatives shall have the following meanings:

9
10 *Annual Stormwater Resolution* means the resolution described in Sec. 21-129
11 hereof, approving a Stormwater Roll for a ~~specific~~one or more Fiscal Year~~s~~Years.

12
13 *Assessed Property* means all parcels of real property included on the Stormwater
14 Roll that receive a special benefit from the Stormwater Improvements and Stormwater
15 Management Services identified in a Final or Annual Stormwater Resolution.

16
17 *Borrow Pits* means the excavation and off-site hauling (to the site of another
18 property owner) of sand, soil, peat, clay, stone, shell and the like in quantities of more
19 than ten thousand (10,000) cubic yards.

20
21 *Capital Cost* means the cost associated with the construction, acquisition,
22 installation, reconstruction, renewal or replacement of Stormwater Improvements
23 including without limitation: (a) the cost of physical construction, reconstruction,
24 renewal, replacement or completion; (b) the costs of acquisition and installation; (c) the
25 cost of all labor, materials, machinery and equipment, including costs associated with the
26 acquisition thereof; (d) the cost of all lands and interest therein, property rights, and
27 easements of any nature whatsoever, including costs associated with the acquisition
28 thereof; (e) the cost of any indemnity or surety bonds and premiums for insurance during
29 construction; (f) the cost of construction plans and specifications, surveys and estimates
30 of costs; (g) the cost of engineering, legal and other consultant services; (h) reasonable
31 contingencies for construction cost increases and change orders; and (i) all other expenses
32 that are properly attributable to such acquisition or construction under generally accepted
33 accounting principles; and including reimbursement to the City or to a landowner or
34 developer as authorized by any other City ordinance for any moneys heretofore or
35 hereafter advanced for Capital Cost and interest on any interfund loan for such purposes.

36
37 *Clerk* means the City Clerk, or such other person as may be duly authorized to act
38 on such person's behalf.

39
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1 *Comprehensive Plan* means the comprehensive plan adopted by the City pursuant
2 to Chapter 163, Part II, Florida Statutes.

3
4 *Department* means the ~~Stormwater~~Public Works department having jurisdiction
5 and cognizance over the stormwater management division therein and its matters relating
6 to the use, management, operation and maintenance of the Stormwater Services and
7 system.

8
9 *Department of Revenue (DOR) code* means those Florida Department of Revenue
10 codes classifying land use as defined by Rule 12D-8-008(2)(a) F.A.C., as may be
11 amended from time to time.

12
13 *Detention Pond* means a stormwater facility designed to capture and limit
14 stormwater flow (by releasing it at a reduced rate) in order to reduce downstream impacts
15 or improve its quality.

16
17 *Developed Property* means property that has been developed with Impervious
18 Area.

19
20 *Director* means the director of the ~~city Stormwater Department, including the~~
21 ~~utility therein,~~ who shall be responsible for the management of the affairs of such
22 ~~department~~the Department, or his designee.

23
24 *Drainage System* means the surface and subsurface system for the removal of
25 water from or control of water on the land, including both the natural elements of
26 streams, marshes, swales and ponds, whether of an intermittent or continuous nature, and
27 manmade elements which include culverts, ditches, channels, piping and storage
28 facilities. The storm sewer system may be referred to as stormwater management
29 facilities, conveyance system, etc.

30
31 *Dwelling unit* means a room or group of rooms forming a single independent
32 habitable unit used for or intended to be used for living, sleeping, sanitation, cooking and
33 eating purposes by one (1) family only; for owner occupancy or for rental, lease or other
34 occupancy on a weekly or longer basis; and containing independent kitchen, sanitary and
35 sleeping facilities.

36
37 *ESFIA* means "equivalent square footage of impervious surface," (also known as
38 an "ESU" or an "Equivalent Stormwater Unit") the standard unit used to express the
39 Stormwater burden expected to be generated by each parcel of property, after taking into
40 consideration any ~~mitigation of the Stormwater burden that results from privately~~

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1 ~~maintained Stormwater Mitigation Facilities and other factors affecting the quantity,~~
2 ~~quality, or rate of Stormwater runoff.~~ approved Mitigation Credits.

3
4 *Excavation* means the action or process of creating a depression or hole in the
5 ground of two (2) feet or greater in depth by moving and/or removing the soil.

6
7 *Final Stormwater Resolution* means the resolution described in Sec. 21-128
8 hereof, which shall confirm, modify or repeal the Initial Stormwater Resolution and
9 which shall be the final proceeding for the imposition of the initial Stormwater Charges.

10
11 *Fiscal Year* means the period commencing on October 1 of each year and
12 continuing through the next succeeding September 30, or such other period as may be
13 prescribed by law as the fiscal year for the City.

14
15 *Government Property* means property owned by the United States of America, the
16 State of Florida, a sovereign state or nation, a county, a special district, a municipal
17 corporation, or any of their respective agencies or political subdivisions.

18
19 *Grading* means the action or process of changing the elevation contour of
20 property.

21
22 *Impervious Area* means hard surfaced areas which either prevent or severely
23 restrict the entry of water into the soil mantle and/or cause water to run off the surface in
24 greater quantities or at an increased rate of flow from that present under natural
25 conditions prior to development. Common impervious surfaces include, but are not
26 limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage
27 areas and other surfaces which similarly affect the natural infiltration or runoff patterns
28 which existed prior to development.

29
30 *Initial Stormwater Resolution* means the resolution described in Sec. 21-124
31 hereof, which shall be the initial proceeding for the imposition of the Stormwater
32 Charges.

33
34 *Mine* means a pit or excavation in the earth from which minerals or earthen
35 products are taken for use elsewhere.

36
37 *Mitigation Credit* means a credit applied to a Stormwater Charge for a Developed
38 Property in consideration of the on-site management of the Stormwater burden as a
39 consequence of the location of a Mitigation Facility or in consideration of discharge to an
40 non-City stormwater system or for the conveyance and/or treatment of City Stormwater.

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1
2 *Mitigation Facility* means a manmade facility or structure on the site of a
3 Developed Property which, by its design and function, retains Stormwater on-site and
4 thus generates less volume of Stormwater from the site or produces Stormwater runoff at
5 a lower rate or with less pollutants than would be the case in the absence of such facilities
6 or structure.

7
8 *Obligations* means a series of bonds or other evidence of indebtedness including
9 but not limited to, notes, commercial paper, capital leases or any other obligations of the
10 City issued or incurred to finance any portion of the Capital Cost of a Stormwater
11 Improvement and secured, in whole or in part, by proceeds of the Stormwater
12 Improvement Assessments.

13
14 *Official* means the mayor of the City or his or her designee.

15 *Owner, tenant, occupant* shall include the heirs, personal representatives,
16 successors and assigns of the person referred to, and the covenants and agreements
17 contained in any contract between the department and its consumers should be binding
18 upon and inure to the benefit of the heirs, personal representatives, successors or assigns
19 of the respective persons thereto.

20
21 *Pledged Revenue* means as to any series of Obligations, (a) the proceeds of such
22 Obligations, including investment earnings, (b) proceeds of the Stormwater Improvement
23 Assessments pledged to secure the payment of such Obligations, and (c) any other legally
24 available non-ad valorem revenue pledged to secure the payment of such Obligations, as
25 specified by the resolution authorizing such Obligations.

26
27 *Project Cost* means (a) the Capital Cost of a Stormwater Improvement which may
28 or may not include the following, (b) the Transaction Cost associated with the
29 Obligations to finance the Stormwater Improvement, (c) interest accruing on such
30 Obligations for such period of time as the City deems appropriate, (d) the debt service
31 reserve fund or account, if any, established for the Obligations which financed the
32 Stormwater Improvement, and (e) any other costs or expenses related thereto.

33
34 *Property Appraiser* means the Hillsborough County Property Appraiser.

35
36 *Public drainage system* means drainage systems located in and/or draining water
37 from public rights-of-way or easements.

38
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1 *Retention Pond* means a stormwater facility that has no structural outfall and the
2 discharge from which is limited to percolation, evaporation, and evapo-transpiration.

3
4 *Retention storage* means storm runoff collected and stored with no release other
5 than evaporation or infiltration to the ground.

6
7 *Service area* means the corporate limits of the city.

8
9 *Stockpile, permanent* means the storage of soil or earthen products as a business
10 function, unrelated to any one (1) special site and with no foreseen end in accordance
11 with a site earthwork and drainage plan.

12
13 *Stockpile, temporary* means the short-term storage of soil or earthen products
14 during construction activities of a specific site in accordance with a site earthwork and
15 drainage plan.

16
17 *Stormwater* means the flow of water which results from, and which occurs
18 following, a rainfall event.

19
20 *Stormwater Assessment* means either a Stormwater Improvement Assessment, a
21 Stormwater Service Assessment, or both.

22
23 *Stormwater Basin* means a part of the earth's surface that contributes Stormwater
24 runoff to a drainage system, which consists of diffuse surface waters, together with all
25 natural or artificial tributary surface streams and/or bodies of impounded surface water.

26
27 *Stormwater Basin Plan* means a policy document that is adopted by the Council
28 for each Stormwater Basin or hydrologic subarea thereof in which Stormwater
29 Improvements are proposed and that provides for implementation of the Stormwater
30 Master Plan.

31
32 *Stormwater Charge* means the Stormwater Assessments and/or the Stormwater
33 Fee.

34
35 *Stormwater Fee* means a fee reasonably related to service provided by the City to
36 Government Property to fund all or any portion of the Stormwater Service Cost for
37 Government Property at a just, fair, reasonable, and equitable rate based upon such
38 property's Stormwater burden, the reasonable relationship to benefits received, and the
39 reasonable cost of providing Stormwater Management Services to such property. The
40 Stormwater Fee imposed against Government Property is not a special assessment; it is a

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1 regulatory fee imposed for the Stormwater Management Service provided to Government
2 Property as Developed Property by the City's Stormwater Utility.

3
4 *Stormwater Improvement* means land, capital facilities and improvements acquired
5 or provided to detain, retain, convey or treat Stormwater.

6
7 *Stormwater Improvement Area* means one or more Stormwater Basins, or any
8 portion or portions thereof, as identified in the Initial Stormwater Resolution,
9 encompassing those parcels of property specially benefited by the construction,
10 reconstruction or installation of all or any portion of a Stormwater Improvement that
11 removes, detains, retains or treats, in whole or in part, the Stormwater burden expected to
12 be generated by the physical characteristics and use of the Assessed Property. Each
13 Stormwater Improvement Area will include either (a) the property which is
14 hydrologically connected, directly or indirectly, to a Stormwater Improvement, or (b) all
15 property located within a hydrologically defined area in which the City constructs one or
16 more Stormwater Improvements pursuant to a Stormwater Basin Plan to correct existing
17 deficiencies with respect to a specific level of service and provide a consistent level of
18 Stormwater management.

19
20 *Stormwater Improvement Assessment* means a special assessment imposed by the
21 City within a Stormwater Improvement Area to fund the Capital Cost or the debt service
22 and related cost of Obligations issued to finance the Project Cost of a Stormwater
23 Improvement.

24
25 *Stormwater Management Service* means (a) management and administration of the
26 City's Stormwater Utility; (b) Stormwater program engineering; (c) Stormwater Basin
27 planning; (d) Stormwater Improvements to be acquired or constructed during a single
28 Fiscal Year without the issuance of any Obligations, except that budgeted and funded
29 projects may overlap ~~fiscal years~~Fiscal Years; (e) operating and maintaining the City's
30 capital facilities for Stormwater management, including extraordinary maintenance and
31 scheduled replacement of such facilities; (f) billing and collection of Stormwater
32 Charges, including customer information services and reserves for statutory discounts;
33 (g) permitting, inspecting and reviewing of plans; and (h) legal, engineering and other
34 consultant services.

35
36 *Stormwater Roll* means the roll created that includes all parcels within the City
37 and their assigned Stormwater Charge relating to Stormwater Improvements or
38 Stormwater Management Services approved by a Final Stormwater Resolution or ~~a~~each
39 subsequent Annual Stormwater Resolution pursuant to Secs. 21-128 and 21-129 hereof.

40
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1 *Stormwater Service Area* means the geographic area described in the Initial
2 Stormwater Resolution that encompasses all parcels within the City which specially
3 benefit from the Stormwater Management Service and all parcels to which stormwater
4 Management Services are provided.

5
6 *Stormwater Service Assessment* means a special assessment imposed by the City
7 within the Stormwater Service Area to fund the Stormwater Service Cost.

8
9 *Stormwater Service Cost* means the estimated amount for any Fiscal Year (or for
10 more than one Fiscal Year upon approval of Council pursuant to Sec. 21-129(b) hereof)
11 of all expenditures and reasonable reserves that are properly attributable to the
12 Stormwater Management Service provided within the Stormwater Service Area under
13 generally accepted accounting principles.

14
15 *Stormwater System* means the appurtenances, facilities, equipment and services
16 necessary for the collection, treatment, storage and conveyance of storm and surface
17 waters.

18
19 *Stormwater Utility* means the entity established by Sec. 21-117 hereof to
20 implement the Stormwater management program of the City.

21
22 *Tax Collector* means the Hillsborough County Tax Collector.

23
24 *Tax Roll* means the real property ad valorem tax assessment roll maintained by the
25 Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

26
27 *Transaction Cost* means the costs, fees and expenses incurred by the City in
28 connection with the issuance and sale of any series of Obligations, including but not
29 limited to (a) rating agency and other financing fees; (b) the fees and disbursements of
30 bond counsel; (c) the underwriters' discount; (4) the fees and disbursements of the City's
31 financial advisor; (d) the costs of preparing or printing the Obligations and the
32 documentation supporting issuance of the Obligations; (e) the fees payable in respect of
33 any municipal bond insurance policy; and (f) any other costs of a similar nature incurred
34 in connection with issuance of such Obligations.

35
36 *Uniform Assessment Collection Act* means sections 197.3632 and 197.3635,
37 Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem
38 assessments on the same bill as ad valorem taxes, and any applicable regulations
39 promulgated thereunder.

40
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1 Year means calendar year from January 1, to December 31.

2
3 **Sec. 21-5. Administrative Authority.** The provisions of this chapter shall be
4 administered and enforced by the ~~official~~Official. For purposes of administration of the
5 provisions of this chapter, the ~~official~~Official's designee shall be the ~~director of the~~
6 ~~Stormwater Department~~Director. This Ordinance shall be deemed to provide an
7 additional and alternative method for the doing of the things authorized hereby and shall
8 be regarded as supplemental and additional to powers conferred by other laws, and shall
9 not be regarded as in derogation of any powers now existing or which may hereafter
10 come into existence. This Ordinance, being necessary for the welfare of the inhabitants
11 of the City, shall be liberally construed to effect the purposes hereof.

12
13 **Sec. 21-6. Alternate materials and methods of construction.** The provisions of this
14 chapter are not intended to prevent the use of any material or method of construction not
15 specifically prescribed by this chapter, provided any such alternate has been approved by
16 the official. The official shall approve any such alternate, provided he finds that the
17 alternate for the purpose intended is at least the equivalent of that prescribed in this
18 chapter in quality, strength, effectiveness, fire resistance, durability and safety. The
19 official shall require that sufficient evidence or proof be submitted to substantiate any
20 claim made regarding the alternate. If these criteria are not met, the official shall deny the
21 request.

22
23 **Sec. 21-7. Borrow pits, mines.** Borrow pits and mines are expressly prohibited, unless a
24 development plan relating to these activities has been received and approved by the city
25 and a special excavation and earthwork permit is obtained from the city prior to engaging
26 in the construction of a borrow pit or mine.

27
28 **Sec. 21-8. Drainage patterns not to be changed to the detriment of neighboring**
29 **properties.** It is unlawful for any person, notwithstanding the issuance of a permit by the
30 city, to stockpile material or to grade, fill, excavate, construct or do any other act
31 affecting drainage which results in the alteration of the surface or subsurface drainage
32 patterns to the detriment of neighboring properties or public rights-of-way.

33
34 **Sec. 21-9. Protection of public drainage systems.** It is unlawful to introduce any
35 foreign matter (including, but not limited to, trash, leaves, grass clippings, debris,
36 garbage, fill, construction materials, organic or inorganic pollutants, acids, and petroleum
37 products), whether by action or inaction, to any public drainage system including but not
38 limited to streets. It is a public nuisance for any person to damage, obstruct or interfere
39 with the operation of any public drainage system, whether by action or inaction.

40
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1 ~~Sees. 21-10-25. Reserved.~~

2
3 **Section 2.** That Article IV of Chapter 21 shall be amended by adding the
4 double underlined language and deleting the stricken language as follows:

5
6 **Chapter 21 - STORMWATER MANAGEMENT**

7
8 **ARTICLE IV. CREATION OF STORMWATER UTILITY, IMPOSITION AND**
9 **COLLECTION OF STORMWATER CHARGES**

10
11 **DIVISION I-~~1.~~ 1. - CREATION OF STORMWATER UTILITY**

12
13 **Sec. 21-117. Creation of Stormwater Utility.** There is hereby established a Stormwater
14 Utility, which shall be a portion of the operational means of implementing and
15 performing the functional requirements of the City's Stormwater management system to
16 construct or acquire Stormwater Improvements and provide Stormwater Management
17 Services. The Stormwater Utility shall provide administration and management services
18 in: the operation and maintenance of Stormwater Management Services; the preparation
19 of Stormwater studies and the implementation of the Stormwater Utility; the regulation of
20 Stormwater Basins; and the repair, replacement, improvement and extension, of the City's
21 capital facilities for Stormwater management.

22
23 **Sec. 21-118. Stormwater Utility Fund.** There shall be established a Stormwater Utility
24 Fund as a "special revenue fund" because a periodic determination of revenues earned
25 and expenses incurred in connection with the provision of services and capital facilities
26 for Stormwater management will enhance accountability and management control of the
27 City's Stormwater Utility. Proceeds of the Stormwater Service Assessment and
28 Stormwater Fees shall be used for payment of Stormwater Management Services.

29
30 **DIVISION H-~~2.~~ 2. - IMPOSITION OF STORMWATER CHARGES**

31
32 **Sec. 21-119. Stormwater Charges.** Stormwater Charges are composed of Stormwater
33 Assessments, (which includes Stormwater Service Assessments and/or Stormwater
34 Improvement Assessments) and Stormwater Fees.

35
36 **Sec. 21-120. Imposition of Stormwater Service Assessments.**
37

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1 (a) The Stormwater Service Cost may be assessed against Developed Property located
2 within the Stormwater Service Area at a rate of assessment based upon the special
3 benefit accruing to such property from the Stormwater Management Service
4 provided by the City, measured by the number of ESFIAs attributable to each
5 parcel or classification of property.

6
7 (b) Notwithstanding the foregoing, if the Council specifically determines that any
8 portion of the Stormwater Service Area receives a distinct special benefit from any
9 component of the Stormwater Management Service that is materially different in
10 kind or degree from the special benefit received by other portions of the
11 Stormwater Service Area, the Stormwater Service Cost related to such component
12 shall be assessed against the portion of the Stormwater Service Area receiving the
13 distinct special benefit.

14
15 **Sec. 21-121. Imposition of Stormwater Improvement Assessments.**

16
17 (a) Stormwater Improvement Assessments may be imposed to fund all or any portion
18 of the Capital Cost or the debt service and related cost of Obligations issued to
19 finance the Project Cost of a Stormwater Improvement identified in any
20 Stormwater Basin Plan. Stormwater Improvement Assessments to fund the
21 Capital Cost or the debt service and related cost of Obligations issued to finance
22 the Project Cost of each Stormwater Improvement may be imposed against all
23 parcels of property within the Stormwater Improvement Area at a rate of
24 assessment based upon the special benefit accruing to such property from the
25 Stormwater Improvement, measured by the number of ESFIAs attributable to each
26 parcel or classification of property.

27
28 (b) If Stormwater Improvement Assessments are imposed to fund the debt service and
29 related cost of Obligations issued to finance the Project Cost of a Stormwater
30 Improvement, the Stormwater Improvement Assessment may include the amount
31 required to fund any amounts withdrawn during the prior Fiscal Year from any
32 debt service reserve account established for Obligations and the amount of any
33 principal of and interest on Obligations that has become due and remains unpaid.

34
35 **Sec. 21-122. Imposition of Stormwater Fees.** A Stormwater Fee may be levied on and
36 collected from all Government Property that is Developed Property within the
37 Stormwater Service Area to fund all or any portion of the Stormwater Service Cost for
38 Government Property at a just, fair, reasonable, and equitable rate based upon such
39 property's Stormwater burden and the reasonable cost of providing Stormwater
40 Management Services to such property. The rate of the Stormwater Fee for each

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1 classification of Government Property shall be determined based upon each property's
2 individual number of ESFIAs based upon that property's amount of Impervious Area.

3
4 **Sec. 21-123. Mitigation Credit.** The Council may, by separate resolution, or in any
5 Initial Stormwater Resolution or any Annual Stormwater Resolution, establish a
6 Mitigation Credit for a Stormwater Charge. The calculation of a ~~mitigation~~
7 ~~credit~~Mitigation Credit may be based upon, but not limited to, the following factors:
8 onsite Mitigation Facilities; discharge to a system other than the City's; and the receipt,
9 treatment and collection of City Stormwater. In order to qualify for a ~~mitigation~~
10 ~~credit~~Mitigation Credit the property owner shall provide the City with an engineering
11 study that demonstrates the extent of the mitigation within 60 days of when the property
12 owner receives notice of the proposed assessment or fee. Any reduction which may be
13 necessary after the Stormwater Roll has been adopted will be refunded to the property
14 owner.

15
16 **DIVISION H. ~~3.~~ - PROCEDURES FOR ADOPTION AND COLLECTION**
17 **OF STORMWATER CHARGES**

18
19 **Sec. 21-124. Initial Stormwater Resolution.** The initial proceeding for imposition of
20 the Stormwater Charges may be the Council's adoption of an Initial Stormwater
21 Resolution. The Initial Stormwater Resolution shall (a) describe the Stormwater
22 Improvement or Stormwater Management Service proposed for funding from the
23 proceeds of the Stormwater Assessments and Stormwater Fees; (b) estimate the Capital
24 Cost or Stormwater Service Cost; (c) describe with particularity the proposed method of
25 apportioning the Capital Cost or Stormwater Service Cost among the parcels of property
26 located within the Stormwater Improvement Area or Stormwater Service Area, as
27 applicable, such that the owner of any parcel of property can objectively determine the
28 amount of the Stormwater Assessments, based upon its value, use or physical
29 characteristics; (d) include specific legislative findings that recognize the equity provided
30 by the apportionment methodology and specific legislative findings that recognize the
31 special benefit provided by the Stormwater Improvement or Stormwater Management
32 Service; (e) describe with particularity the proposed method of determining the amount
33 each parcel of Government Property located within the Stormwater Service Area should
34 be charged as a Stormwater Fee based upon such property's Stormwater burden and the
35 reasonable cost of providing Stormwater Management Services to such property; and
36 (f) include specific legislative findings that recognize the fairness, equity and
37 reasonableness of the Stormwater Fee. At its option, the Council may adopt separate
38 Initial Stormwater Resolutions for the Stormwater Service Assessment, each Stormwater
39 Improvement Assessment, and the Stormwater Fee. ~~The Initial Stormwater Resolution~~

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1 need only be adopted once for each Stormwater Service Assessment, Stormwater
2 Improvement Assessment and Stormwater Fee.

3
4 **Sec. 21-125. Stormwater Roll.**

5
6 (a) ~~The Director of~~Each Fiscal Year, the ~~Stormwater Department~~Official shall
7 prepare, or direct the preparation of, a ~~preliminary~~ Stormwater Roll that contains
8 the following information:

- 9
10 (1) a summary description of each parcel of property (conforming to the
11 description contained on the Tax Roll) subject to the Stormwater
12 Assessment and a summary description of each parcel of Government
13 Property to be charged a Stormwater Fee for service;
14 (2) the name of the owner of record of each parcel as shown on the Tax Roll;
15 (3) the number of ESFIAs attributable to each parcel;
16 (4) the estimated maximum Stormwater ~~Improvement~~ Assessment to become
17 due in the ensuing Fiscal Year for each ESFIA;
18 (5) the estimated maximum Stormwater ~~Improvement~~ Assessment to become
19 due in any Fiscal Year for each parcel;
20 (6) the estimated maximum Stormwater Fee to become due in the ensuing
21 Fiscal Year for each parcel of Government Property; and

22
23 (b) Copies of the Initial Stormwater Resolution, the Final Stormwater Resolution and
24 the preliminary Stormwater Roll shall be on file in the City Clerk's office of the
25 Director of the Stormwater Department and open to public inspection and copying
26 pursuant to the Public Records Act. The foregoing shall not be construed to
27 require that the Stormwater Roll be in printed form if the data for each parcel can
28 be determined by use of a computer available to the public.

29
30 **Sec. 21-126. Notice by Publication.** After filing the Stormwater Roll in the office of the
31 ~~Director of the Stormwater Department~~City Clerk, as required by Sec. 21-125 hereof, the
32 ~~Director~~Official shall ~~publish~~cause to be published once in a newspaper of general
33 circulation within the County a notice stating that a public hearing of the Council will be
34 held on a certain day and hour, not earlier than 20 calendar days from such publication, at
35 which hearing the Council will receive written comments and hear testimony from all
36 interested persons regarding adoption of the Final Stormwater Resolution and approval of
37 the Stormwater Roll. The published notice shall conform to the requirements set forth in
38 the Uniform Assessment Collection Act for purposes of the Stormwater Assessments.
39 Publication of the notice of public hearing need only be done in the event that a public

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1 hearing will be held by Council based on its election pursuant to Sec. 21-129(b) hereof
2 and resulting requirements of the Uniform Assessment Collection Act.
3

4 **Sec. 21-127. Notice by Mail.** In addition to the published notice required by Sec. 21-
5 126, the ~~Director of the Stormwater Department~~Official shall provide notice of the
6 proposed Stormwater Charges by first class mail to the owner of each parcel of property
7 subject to the Stormwater Charges. For purposes of the Stormwater Assessments, the
8 mailed notice shall conform to the requirements set forth in the Uniform Assessment
9 Collection Act. Notice shall be mailed at least 20 calendar days prior to the hearing to
10 each property owner at such address as is shown on the Tax Roll on the twentieth
11 calendar day prior to the date of mailing. Notice shall be deemed mailed upon delivery
12 thereof to the possession of the U.S. Postal Service. The ~~Director of the Stormwater~~
13 ~~Department~~Official shall provide proof of such notice by affidavit. Failure of the owner
14 to receive such notice due to mistake or inadvertence shall not affect the validity of the
15 Stormwater Roll nor release or discharge any obligation for the payment of a Stormwater
16 Charge imposed by the Council pursuant to this Ordinance. Notice of the public hearing
17 need only be mailed in the event that a public hearing will be held by Council based on
18 its election pursuant to Sec. 21-129(b) hereof and resulting requirements of the Uniform
19 Assessment Collection Act.
20

21 **Sec. 21-128. Final Stormwater Resolution.** At the time named in such notice, or such
22 time to which an adjournment or continuance may be taken, the Council shall receive
23 written objections and hear testimony of interested persons and may then adopt the Final
24 Stormwater Resolution prior to the adjournment of said hearing which shall (a) confirm,
25 modify or repeal the Initial Stormwater Resolution with such amendments, if any, as may
26 be deemed appropriate by the Council; (b) approve the Stormwater Roll, with such
27 amendments as it deems just and right; and (c) determine the method of collection. All
28 objections to adoption of the Final Stormwater Resolution shall be made in writing, and
29 filed with the Clerk at or before the time or adjourned time of such hearing. No person
30 who has received timely notice and has failed to object to the Final Stormwater
31 Resolution shall have standing to challenge the imposition of the Stormwater Charges
32 described in such Final Stormwater Resolution, provided this provision is contained in
33 such timely notice. The Final Stormwater Resolution need only be adopted once for each
34 Stormwater Service Assessment, Stormwater Improvement Assessment and Stormwater
35 Fee.
36

37 **Sec. 21-129. Annual Stormwater Resolution.**
38

39 (a) During its budget adoption process, the Council may adopt an Annual Stormwater
40 Resolution for each Fiscal Year following adoption of the Final Stormwater Resolution.

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1 The Final Stormwater Resolution shall constitute the Annual Stormwater Resolution for
2 the initial Fiscal Year. The Annual Stormwater Resolution, if adopted, shall approve the
3 Stormwater Roll for such Fiscal Year. The Stormwater Roll shall be prepared in
4 accordance with the Initial ~~Assessment~~Stormwater Resolution, if adopted, as confirmed
5 or amended by the Final Stormwater Resolution. ~~If~~
6

7 (b) In the event Council elects to budget the Stormwater Service Cost for more than
8 one Fiscal Year, then in such an event:
9

10 (1) for the first Fiscal Year, the notices provided pursuant to Secs. 21-126 and
11 21-127 hereof shall contain statements specifying the period for which the
12 Stormwater Charges will be imposed and for subsequent Fiscal Years, the
13 notices provided pursuant to Secs. 21-126 and 21-127 hereof are not
14 necessary unless otherwise required by the Uniform Assessment Collection
15 Act; and
16

17 (2) for the first Fiscal Year, an Annual Stormwater Resolution shall be adopted
18 and shall specify (A) the period for which the Stormwater Charges are to be
19 imposed, and (B) the parcel data work to be conducted by the Department
20 and the adjustments to the Stormwater Roll, if any, that are permitted
21 during such period; and
22

23 (3) for subsequent Fiscal Years, no Annual Stormwater Resolution shall be
24 required and the Official shall cause the Stormwater Roll to be certified to
25 the Tax Collector in compliance with the Uniform Assessment Collection
26 Act.
27

28 (c) Notwithstanding the above, if the proposed Stormwater Charge for any parcel of
29 Developed Property exceeds the maximum amount established in the Final Stormwater
30 Resolution or the last Annual Stormwater Resolution or if a Stormwater Charge is
31 imposed against property not previously subject thereto, the Council shall provide notice
32 to the owner of such property in accordance with Secs. 21-126 and 21-127 hereof and
33 conduct a public hearing prior to adoption of the Annual Stormwater Resolution. Failure
34 to adopt an Annual Stormwater Resolution during the budget adoption process for a
35 Fiscal Year may be cured at any time.
36

37 **Sec. 21-130. Effect of Stormwater Resolutions.** The adoption of the Final Stormwater
38 Resolution or any subsequent Annual Stormwater Resolution shall be the final
39 adjudication of the issues presented (including, but not limited to, the apportionment
40 methodology, the rate of the fee for service to Government Property, the rate of

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1 assessment, the adoption of the Stormwater Roll and the levy and lien of the Stormwater
2 Charges), unless proper steps are initiated in a court of competent jurisdiction to secure
3 relief within 20 days from the date of Council adoption of the Final Stormwater
4 Resolution. The Stormwater Charges for each applicable Fiscal Year shall be established
5 upon adoption of the Annual Stormwater Resolution. The Stormwater Roll, as approved
6 by the Final Stormwater Resolution or any subsequent Annual Stormwater Resolution,
7 shall be delivered to the Tax Collector, or such other official as the Council, by
8 resolution, deems appropriate.

9
10 **Sec. 21-131. Lien of Stormwater Assessments.** Upon adoption of the Annual
11 Stormwater Resolution ~~for each Fiscal Year~~, Stormwater Assessments to be collected
12 under the Uniform Assessment Collection Act shall constitute a lien against Assessed
13 Property equal in rank and dignity with the liens of all state, county, district or municipal
14 taxes and other non-ad valorem assessments. Except as otherwise provided by law, such
15 lien shall be superior in dignity to all other prior liens, titles and claims, until paid. The
16 lien shall be deemed perfected upon adoption by the Council of ~~the~~each Annual
17 Stormwater Resolution and shall attach to the property included on the Stormwater Roll
18 as of the prior January 1, the lien date for ad valorem taxes.

19
20 **Sec. 21-132. Method of Collection of Stormwater Assessments.** Unless directed
21 otherwise by the Council, Stormwater Assessments shall be collected pursuant to the
22 Uniform Assessment Collection Act, and the City shall comply with all applicable
23 provisions thereof. Any hearing or notice required by this Ordinance may be combined
24 with any other hearing or notice required by the Uniform Assessment Collection Act.

25
26 **Sec. 21-133. Method of Collection of Stormwater Fees Charged to Government**
27 **Property.**

- 28
29 (a) Unless directed otherwise by the Council, Stormwater Fee bills will be mailed by
30 first class mail to the owner of each affected parcel of Government Property. The
31 bill or accompanying explanatory material shall include (1) a brief explanation of
32 the Stormwater Fee, (2) a description of the ESFIAs used to determine the amount
33 of the Stormwater Fee, (3) the number of ESFIAs attributed to the parcel, (4) the
34 total amount of the parcel's Stormwater Fee for the appropriate period, (5) the
35 location at which payment will be accepted, and (6) the date on which the
36 Stormwater Fee is due.
- 37
38 (b) A Stormwater Fee shall become delinquent if it is not paid within 30 days from the
39 date any installment is due. The City shall notify the owner of any Government
40 Property that is delinquent in payment of its Stormwater Fee within 60 days from

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1 the date the Stormwater Fee was due. Such notice shall state in effect that the City
2 will initiate a mandamus or other appropriate judicial action to compel payment.
3

- 4 (c) All costs, fees and expenses, including reasonable attorney fees and title search
5 expenses, related to any mandamus or other action as described herein shall be
6 included in any judgment or decree rendered therein. All delinquent owners of
7 Government Property against which a mandamus or other appropriate action is
8 filed shall be liable for an apportioned amount of reasonable costs and expenses
9 incurred by the City, including reasonable attorney fees, in collection of such
10 delinquent Stormwater Fees and any other costs incurred by the City as a result of
11 such delinquent Stormwater Fees including, but not limited to, costs paid for
12 draws on a credit facility and the same shall be collectible as a part of or in
13 addition to, the costs of the action.
14

15 **Sec. 21-134. Responsibility for Enforcement.** The City and its agent, if any, shall
16 maintain the duty to enforce the prompt collection of Stormwater Charges by any and all
17 legal means. The duties related to collection of Stormwater Assessments may be
18 enforced at the suit of any holder of Obligations in a court of competent jurisdiction by
19 mandamus or other appropriate proceedings or actions.
20

21 **Sec. 21-135. Revisions to Stormwater Charges.** If any Stormwater Charge made under
22 the provisions of this Ordinance is either in whole or in part annulled, vacated or set aside
23 by the judgment of any court, or if the Council is satisfied that any such Stormwater
24 Charge is so irregular or defective that the same cannot be enforced or collected, or if the
25 Council has failed to include any property on the Stormwater Roll that should have been
26 so included, the Council may take all necessary steps to impose a new Stormwater
27 Charge against any such property, following as nearly as may be practicable, the
28 provisions of this Ordinance and in case such second Stormwater Charge is annulled, the
29 Council may obtain and impose other Stormwater Charges until a valid Stormwater
30 Charge is imposed.
31

32 **Sec. 21-136. Procedural Irregularities.** Any irregularity in the proceedings in
33 connection with the levy of any Stormwater Charge under the provisions of this
34 Ordinance shall not affect the validity of the same after the approval thereof, and any
35 Stormwater Charge as finally approved shall be competent and sufficient evidence that
36 such Stormwater Charge was duly levied, that the Stormwater Charge was duly made and
37 adopted, and that all other proceedings adequate to such Stormwater Charge were duly
38 had, taken and performed as required by this Ordinance; and no variance from the
39 directions hereunder shall be held material unless it be clearly shown that the party
40 objecting was materially injured thereby. Notwithstanding the provisions of this Sec. 21-

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1 136, any party objecting to a Stormwater Charge imposed pursuant to this Ordinance
2 must file an objection with a court of competent jurisdiction within the time periods
3 prescribed in Sec. 21-130 of this Ordinance.
4

5 **Sec. 21-137. Correction of Errors and Omissions.**
6

7 (a) No act of error or omission on the part of the Council, ~~Director of the Stormwater~~
8 ~~Department~~Official, Property Appraiser, Tax Collector, Clerk, or their respective
9 deputies, employees or designees, shall operate to release or discharge any
10 obligation for payment of any Stormwater Charge imposed by the Council under
11 the provisions of this Ordinance.
12

13 (b) The ~~Director of the Stormwater Department~~Official may correct the number of
14 ESFIAs or Mitigation Credit attributed to a parcel of property at any time. Any
15 such correction which reduces a Stormwater Charge shall be considered valid from
16 the date on which the Stormwater Charge was imposed and shall in no way affect
17 the enforcement of the Stormwater Charge imposed under the provisions of this
18 Ordinance. Any such correction which increases a Stormwater Charge or imposes
19 a Stormwater Charge on omitted property shall first require notice to the affected
20 owner in the manner described in Sec. 21-127 hereof, providing the date, time and
21 place that the Council will consider confirming the correction and offering the
22 owner an opportunity to be heard.
23

24 (c) After the Stormwater Roll has been delivered to the Tax Collector in the case of
25 Stormwater Assessments, any changes, modifications or corrections thereto shall
26 be made in accordance with the procedures applicable to errors and insolvencies
27 for ad valorem taxes.
28

29 **DIVISION ~~III.~~4. - ISSUANCE OF OBLIGATIONS**
30

31 **Sec. 21-138. General Authority.** Upon adoption of the Final Stormwater Resolution
32 imposing Stormwater Improvement Assessments or at any time thereafter, the Council
33 shall have the power and is hereby authorized to provide by ordinance or resolution, at
34 one time or from time to time in series, for the issuance of Obligations of the City to fund
35 the Project Cost thereof and any amounts to be paid or accrued in connection with
36 issuance of such Obligations, including, but not limited to capitalized interest,
37 Transaction Costs and reserve account deposits.
38

39 **Sec. 21-139. Taxing Power Not Pledged.** Obligations issued under the provisions of
40 this Ordinance shall not be deemed to constitute a pledge of the faith and credit of the

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1 City, but such Obligations shall be payable only from Pledged Revenue and, if
2 applicable, proceeds of the Stormwater Assessments, in the manner provided herein and
3 by the ordinance or resolution authorizing the Obligations. The issuance of Obligations
4 under the provisions of this Ordinance shall not directly or indirectly obligate the City to
5 levy or to pledge any form of ad valorem taxation whatever therefor. No holder of any
6 such Obligations shall ever have the right to compel any exercise of the ad valorem
7 taxing power on the part of the City to pay any such Obligations or the interest thereon or
8 to enforce payment of such Obligations or the interest thereon against any property of the
9 City, nor shall such Obligations constitute a charge, lien or encumbrance, legal or
10 equitable, upon any property of the City, except the Pledged Revenue.
11

12 **Section 3.** That should a court of competent jurisdiction declare any part of this
13 Ordinance invalid the remaining parts hereof shall not, in any way, be affected by such
14 determination as to the invalid part.
15


16 **Section 4.** That all ordinances or parts of ordinances in conflict herewith are
17 hereby repealed to the extent of any conflict.
18


19 **Section 5.** That this ordinance shall take effect immediately upon its passage
20 and adoption on second reading by City Council.
21

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1 PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF
2 TAMPA, FLORIDA ON JUL 29, 2010.

3
4 ATTEST:

5
6 
7 _____
8 CHAIRMAN
9 CITY COUNCIL

10 
11 _____
12 CITY CLERK

13 APPROVED BY ME ON JUL 30 2010

14
15 
16 _____
17 PAM IORIO, MAYOR

18
19 APPROVED AS TO LEGAL
20 SUFFICIENCY BY:

21
22
23 _____
24 CITY ATTORNEY/ASSISTANT CITY
25 ATTORNEY
26

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