

**ORDINANCE NO. 07-950**

**AN ORDINANCE OF THE CITY OF PALMETTO AMENDING CHAPTER 29, ARTICLE VII, OF THE CITY CODE OF ORDINANCES, PERTAINING TO THE CITY STORMWATER MANAGEMENT SYSTEM; PROVIDING A METHODOLOGY FOR THE CALCULATION OF STORMWATER MANAGEMENT FEES FOR RESIDENTIAL AND NON-RESIDENTIAL PROPERTIES; PROVIDING FOR THE DETERMINATION OF IMPERVIOUS AREA; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Article VIII, Section 2 of the Florida Constitution provides that municipalities shall have governmental, corporate and proprietary powers to enable municipalities to conduct municipal government, perform municipal functions and render municipal services; and,

**WHEREAS**, pursuant to the referenced provision of the Florida Constitution, the City may exercise any power for municipal purposes except as otherwise provided by law; and,

**WHEREAS**, Chapter 166, Florida Statutes, the "Municipal Home Rule Powers Act," implements the applicable provisions of the Florida Constitution and authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by law and to enact ordinances in furtherance thereof; and,

**WHEREAS**, Section 166.201, Florida Statutes, specifically, authorizes the City to raise by user charges or fees, the amounts of money necessary for the conduct of municipal government; and,

**WHEREAS**, Section 403.0893(1), Florida Statutes, authorizes the creation and funding of a stormwater utility; and,

**WHEREAS**, the City of Palmetto, hereinafter referred to as the "City," is responsible for the ownership, maintenance, and improvement of a stormwater management conveyance and impoundment system; and,

**WHEREAS**, after consideration of a rate study performed by the City's consulting engineer, the City enacted Ordinance No. 06-908 on December 18, 2006, implementing a stormwater rate structure for residential and non-residential properties within the City's boundaries; and,

**WHEREAS**, at that time, the City's consulting engineer discussed with the City Commission the advisability of adjusting stormwater rates in future years to adequately maintain and fund the stormwater utility system; and

**WHEREAS**, it continues to be necessary and essential to construct improvements and extensions to the system to ensure that the collection and disposition of stormwater within the City is consistent with the protection of the public health, safety and welfare; and,

**WHEREAS**, the City's consulting engineer has performed a stormwater utility fee structure study, updating the City's stormwater data and rate structure; and,

**WHEREAS**, the City Commission has considered the recommendations of City staff and the consulting engineer; and

**WHEREAS**, the City Commission finds that the revisions and amendments to the stormwater utility fee structures set forth herein are consistent with the concept of reasonably apportioning the costs for such utility based on the customer's actual usage of the stormwater system, while taking into account the administrative costs and requirements of such system; and

**WHEREAS**, the City Commission has determined that said revisions and amendments to the stormwater utility system are in the best interest of the public health, safety, and welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PALMETTO, FLORIDA, as follows:**

**Section 1. Findings of Fact.** The above "WHEREAS" clauses are adopted herein as findings of fact.

**Section 2. Revision Language.** The City of Palmetto Code of Ordinances is hereby amended by revising Chapter 29, Article VII, Section 29-203, by changing the definition of "impervious area" to read in its entirety as follows:

*Impervious area* shall mean any part of any parcel of land that has an impermeable cover caused to be erected or constructed by the action of persons. Impervious area data provided by the Office of the Manatee County Property Appraiser shall be the primary basis for determining impervious area pursuant to this article. Updated data from said Office will be reviewed by the City Clerk annually each January. Where impervious surface area data is not available from said Office for a given parcel, the city's Department of Public Works shall determine the amount of impervious surface for that parcel.

**Section 3. Revision Language.** The City of Palmetto Code of Ordinances is hereby amended by revising Chapter 29, Article VII, Section 207, to read in its entirety as follows:

**Sec. 29-207. Fee for stormwater management service.**

A service fee is hereby charged to all owners of developed property in the City which contribute any stormwater runoff to and/or which benefit from the City's stormwater management system.

- (a) *Residential property.* Residential property fees are calculated based on the total impervious area of structures on the property, including building attachments. The fees are as shown in Table 1 below. Unless contrary action is taken by the City Commission, residential stormwater fees shall be increased by 2.50% on October 1<sup>st</sup> of 2010, and each October 1<sup>st</sup> thereafter.

**Table 1. Residential Fees.**

| <b>RESIDENTIAL RATE SCHEDULE</b> |  |                |                |                |
|----------------------------------|--|----------------|----------------|----------------|
| Res. Sq. Ft.                     |  | <b>FY 2008</b> | <b>FY 2009</b> | <b>FY 2010</b> |
| 0 - 999                          |  | \$ 3.72        | \$ 4.46        | \$ 5.35        |
| 1,000 - 1499                     |  | \$ 5.76        | \$ 6.91        | \$ 8.29        |
| 1500 - 1999                      |  | \$ 7.36        | \$ 8.83        | \$ 10.60       |
| 2000 - 2499                      |  | \$ 9.48        | \$ 11.37       | \$ 13.64       |
| >2500                            |  | \$ 14.12       | \$ 16.94       | \$ 20.33       |

- (b) *Non-residential/commercial.* Non-residential/commercial property fees are based on the total impervious area of structures on the property, including building attachments. Non-residential / commercial fees are as shown in Table 2 below. Unless contrary action is taken by the City Commission, non-residential/commercial stormwater fees shall be increased by 2.50% on October 1<sup>st</sup> of 2010, and each October 1<sup>st</sup> thereafter.

**Table 2. Non-residential/Commercial Fees**

| <b>COMMERCIAL RATE SCHEDULE (per Sq. Ft. of Impervious Area)</b> |  |                |                |                |
|--|--|----------------|----------------|----------------|
|  |  | <b>FY 2008</b> | <b>FY 2009</b> | <b>FY 2010</b> |
| Constructed / Developed Property                                 |  | \$ 0.00354     | \$ 0.00425     | \$ 0.00510     |

- (c) *Fee adjustment.* Stormwater fees shall be appropriately adjusted where it is demonstrated that application of the fee structure provided for in Table 1 or Table 2 herein would be inequitable due to circumstances including but not limited to on-site retention, variations in impervious area, and other features that decrease stormwater runoff from a given property.

Application for a fee adjustment shall be submitted on a form provided by the City. The City shall develop and apply specific guidelines for evaluating applications.

- (1) Mitigation credits will only be given for that component of the stormwater fee that is dedicated to operation and maintenance costs for the stormwater system.
  - (2) A 100% credit towards the operation and maintenance component of the stormwater fee will be provided for a private system that is permitted by the Southwest Florida Water Management District and provides treatment/retention of a 24-hour, 25-year storm event.
  - (3) A 100% credit will be provided towards the operation and maintenance component of the stormwater fee for private system that is NOT permitted by the Southwest Florida Water Management District, only if the system is certified by a Florida Professional Engineer as meeting the criteria as would be required for a Southwest Florida Water Management District permit for a 24-hour, 25-year storm event.
  - (4) A 100% credit towards the operation and maintenance component of the stormwater fee will be provided if a property owner can demonstrate that their property does not discharge any stormwater to the Palmetto municipal system, including roadside ditches.
  - (5) A partial mitigation credit towards the operation and maintenance component of the stormwater fee will be provided for a private system based on the percentage of the 24-hour, 25-year storm event treated/retained by the private system, as determined by City staff.
  - (6) No mitigation credit will be given to any private system that is maintained by the City of Palmetto.
- (d) If any condition on which an adjustment is made pursuant to this section changes or a new condition occurs, the adjustment may, at the discretion of the City, be disallowed until such time that a new application for adjustment is made and reviewed.

- (e) The City Commission shall have the authority to adopt a resolution specifying a dollar amount that shall be deemed to be the maximum monthly fee any one customer shall pay for stormwater utility services in connection with nonresidential property. Said resolution shall be kept on file with the City Clerk and made available to the general public. The City Commission may modify said amount by resolution duly passed, as may be necessary from time to time.

**Section 4. Repeal of Inconsistent Ordinances.** This Ordinance hereby repeals all ordinances, or parts thereof, in conflict herewith to the extent of such conflict.

**Section 5. Severability.** If any provisions of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

**Section 6. Effective Date.** This Ordinance shall take effect as provided for by law and by City Charter, Section 14, upon execution by the Mayor or, if disapproval occurs, upon reconsideration by the City Commission and passing of the Ordinance by at least four (4) votes.

|                         |                    |
|-------------------------|--------------------|
| <b>FIRST READING</b>    | September 24, 2007 |
| <b>PUBLICATION DATE</b> | October 5, 2007    |
| <b>SECOND READING</b>   | October 15, 2007   |

**PASSED AND DULY ADOPTED, BY THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, with a quorum present and voting, in regular session assembled, this 15th day of October, 2007.**

CITY OF PALMETTO, FLORIDA, BY  
AND THROUGH THE CITY COMMISSION  
OF THE CITY OF PALMETTO

By: Lawrence E. Bustle, Jr.  
Lawrence E. Bustle, Jr., Mayor

ATTEST:

By: James R. Freeman

James R. Freeman, City Clerk