

ORDINANCE NO. 96-01

AN ORDINANCE ESTABLISHING A STORMWATER UTILITY SYSTEM FOR THE CITY OF WEST MIAMI; MAKING CERTAIN FINDINGS AND DETERMINATIONS ESTABLISHING A SCHEDULE OF RATES; ESTABLISHING A METHOD AND PROCEDURE FOR THE COLLECTION OF STORMWATER UTILITY FEES; PROVIDING GROUNDS AND PROCEDURES FOR ADJUSTMENT OF FEES; DIRECTING THE CITY MANAGER TO KEEP RECORDS; ESTABLISHING STORMWATER UTILITY TRUST FUNDS; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR INCLUSION AN EFFECTIVE DATE; PROVIDING FOR INCLUSION IN THE CITY CODE, AND CONTAINING A REPEALER PROVISION AND A SEVERABILITY CLAUSE

WHEREAS, the City of West Miami is responsible for the ownership, maintenance and expansion of the existing stormwater system which has been developed over a number of years for the purpose of collecting and disposing of storm and other surface water; and

WHEREAS, the City of West Miami has developed a city-wide Storm Drainage master plan prepared by Consulting Engineers, Inc.; and

WHEREAS, said plan indicates that the present system is inadequate to control and manage stormwater runoff within the city's limits; and

WHEREAS, said plan has additionally concluded that it will be necessary and essential to construct improvements and extensions to the existing system to ensure that the collection and disposal of stormwater within the City of West Miami adequately protects the health, safety and welfare of the citizens of the City of West Miami; and

**WHEREAS**, the City of West Miami will explore all possible alternatives to obtain outside funding for such improvements and expansions as necessary; and

**WHEREAS**, the City Commission for the City of West Miami will have the deciding power based on engineer's recommendation and needs for improvements in identified areas, the plans to improve those areas by phases depending on priority; and

**WHEREAS**, the point of discharge for numerous stormwater drainage systems servicing the City of West Miami is Biscayne Bay and its tributaries; and

**WHEREAS**, the waters of Biscayne Bay and its tributaries are protected under the provisions of the Biscayne Bay Aquatic Preserve Act as adopted by the Florida State Legislature; and

**WHEREAS**, pollution abatement requirements by virtue of said act are among the most stringent in the State resulting in higher capital and maintenance costs for storm drainage facilities; and

**WHEREAS**, the South Florida Water Management District has recently adopted rules and regulations with respect to groundwater protection resulting in higher capital costs for the construction of groundwater protection devices in conjunction with storm drainage improvements; and

**WHEREAS**, the Clean Water Act requires municipalities to implement stormwater management programs; and

**WHEREAS**, the Environmental Protection Agency (EPA) has established stormwater management controls, and has issued a National Pollutant Discharge Elimination System (NPDES) permit to the City of West Miami, containing specific performance

requirements; and

**WHEREAS**, it is necessary and essential that the City address the various environmental issues that will further burden its infrastructure requirements in the future as necessary and in phases by priority:

**NOW, THEREFORE**, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF WEST MIAMI, FLORIDA:

**Section 1.**        Authority.

The City is authorized by the provisions of Florida Statutes Chapter 166 and the Florida Constitution to construct, reconstruct, improve and extend stormwater utility systems and to issue revenue bonds and other debts if needed to finance in whole or part the cost of such system and to establish just and equitable rates, fees and charges for the services and facilities provided by the system; and is mandated by Florida Statute Sections 403.0981 and 403.0983 to implement stormwater management systems; and is authorized by Florida Statute section 403.0983 to generate revenue from service charges assessed as part of a stormwater utility.

**Section 2.**        Findings and Determinations.

It is hereby found, determined and declared as follows:

- (a) Those elements of the system which provide for the collection of and disposal of storm and surface water and regulation of groundwater are of benefit and provide services to all property within the City including property not presently served by the storm elements of the system.

- (b) The cost of operating and maintaining the City Stormwater Management System and financing necessary repairs, replacements, improvements and extension thereof should, to the extent practicable be allocated in relationship to the benefits enjoyed and services received therefrom.

**Section 3.      A Management System Fee.**

A. A Fee is hereby imposed upon each developed lot and parcels within the City for services and facilities provided by the Stormwater Management System. The ordinance and the fees imposed hereunder shall be reviewed by the City Commission on or about \_\_\_\_\_ . For purposes of imposing the Stormwater Fee, all lots and parcels within the City are classified into the following two (2) customer classes:

- (a) Residential
- (b) Non-residential

The City Manager or his/her designee is directed to prepare a list of lots and parcels within the City and assign a classification of residential or commercial to each lot or parcel.

B. There is hereby established the following procedures and criteria used to determine rates for the services and facilities of the municipal Stormwater Management System:

- (a) The City Commission, upon recommendation by the City Manager, hereby establishes reasonable rates for management systems for each living residential unit including, duplex, triplex and multi-family units; each residence shall be billed at a flat fee as established herein by the City Commission for a single family

equivalent unit. A single family equivalent unit (SFEU) is hereby defined as the statistical average horizontal impervious area of single family detached residences in the City of West Miami which have been appraised as single family residences by the Dade County Property Appraisers Office. The total impervious area of a single family residence includes all areas covered by structures and impervious amenities, such as but not limited to roof tops, patios, porches and driveways. In the City of West Miami a single family equivalent unit (SFEU) equals 1400 square feet.

- (b) For all non-residential and commercial properties, that is enterprise, business establishment, building, or other occupancy not covered by subsections (a) of this Section, the rate shall be computed based on the total square footage impervious area of the property divided by the average impervious area of a single family equivalent unit times the rate established for a single family equivalent unit. The billing amount shall be updated by the City Manager based on any additions to the impervious areas.

**Section 4.      Schedule of Rates.**

The following rates are hereby established within the City of West Miami:

- (a) The rates to be charged for management for each single family residence or dwelling unit shall be \$1.75 per month.

- (b) The rates to be charged for Commercial properties, i.e., all other occupants other than provided for in subsection (a) of this Section, shall be the rate established in subsection (a) (\$1.75 per month) multiplied by the number of single family equivalent units. Single family equivalent unit equals the total square footage of impervious area of the property divided by 1400 square foot (statistically developed average for a single family residence in the City of West Miami). Single family equivalent units will be rounded to the nearest tenth (0.1) of a unit. With a minimum charge of E.R.U. or \$1.75 per month.
- (c) The (SFEU) shall be calculated and established annually by the City Manager, upon approval by the City Commission of the Expense and Revenue budgets for the Stormwater Management Division of the City's Public Works Department.

**Section 5.      Collection of Charge.**

- (a) The Stormwater Utility Fee is to be paid as billed by the owner, tenant or occupant of each lot or parcel which is subject to the fee.
- (b) All real properties within the corporate limits of the City of West Miami shall be subject to the payment and collection of the utility charges established by this ordinance. Exempt properties shall be public rights-of-way and alleyways dedicated by plat or deed, public drainage canals, wetlands, and other bodies of water

determined to be non-contributory; except those water bodies fitted with impervious surfaces, linings, or bottoms, and retention basins, shall not be exempt.

[Note: This means that City property is also subject to payment of the fees; just as are all churches and synagogues, schools and other government-owned lands.]

- (c) All construction sites will be assessed from the date that a permit from new construction is issued, based on the methodology established by this ordinance. Adjustments will be made under the guidelines of Section 6 of this ordinance, in the case of expired permits where no construction has taken place.
- (d) A late charge shall be automatically imposed upon any delinquent account in the amount of ten (10) percent of the prior billing period's unpaid utility charge, and it shall be added to the next subsequent billing. The City of West Miami shall have a lien for delinquent or unpaid utility fee. Enforcement and foreclosure of said liens(s) shall be as provided by law.

**Section 6.        Adjustment of Fees.**

A. Requests for adjustment of the Stormwater Utility Fee shall be submitted through the Director of the Department of Public Works herein referred to as Director, who shall be given authority to administer the procedures and standards and to review criteria for the adjustment of fees as established herein. The following procedures shall apply to all adjustment requests of the Stormwater Utility Fee:

- (a) Any owner, tenant or occupant who has paid his Stormwater Utility Fees and who believes the contribution rate component of his Stormwater Utility Fee to be unjust or inequitable may, subject to the limitations set forth in this article, submit his adjustment request to the Director.
- (b) Adjustment requests for fees paid by an owner, tenant or occupant making the request shall be in writing and shall set forth, in detail, the grounds upon which relief is sought.
- (c) Adjustment requests made during the first calendar year that the Stormwater Utility Fee is imposed will be reviewed by the Director within a one (1) year period from the date of filing of the adjustment request. Adjustments resulting from such request shall be retroactive to the beginning approved by the building permit process.
- (d) Adjustment requests for the Stormwater Utility Fee shall be reviewed by the Director within a four (4) month period from the date of filing of the adjustment request. Adjustments resulting from such requests shall be retroactive to the date of filing of the request. Under no circumstances will the City be financially liable beyond the time limits set forth herein.
- (e) The owner, tenant or occupant requesting the adjustment may be required, at his own cost, to provide supplemental information to the Department of Public Works including, but not limited to, survey, data and engineering reports,



approved by either a registered professional land surveyor (R.P.L.S.) or professional engineer (P.E.).

Failure to provide such information may result in the denial of the adjustment request.

- (f) Adjustments to the Stormwater Utility Fee will be made upon the granting of the adjustment request, in writing, by the Director. All adjustments will be pre-rated in accordance with the established procedures of the City of West Miami. Denials of adjustment requests shall be made in writing by the Director.

**Section 7.        Duties and Powers.**

- (a) It shall be the duty of the City Manager to keep an accurate record of all persons using the services and facilities of said municipal Stormwater Management System of the City and to make changes in accordance with the rates and charges established in this article.
- (b) The management utility shall have the power to prepare plans for improvements and expansions of the system; and to construct the improvements following the City's established procurement procedures. The City Commission will have the final say as to how and when, depending on the availability of funds.
- (c) The utility shall have the power to establish policies and regulations for pollution abatement and control inside private properties and in the public rights-of-way of the City; to conduct inspections and to enforce regulations; and to conduct other duties as may be

necessary to comply with federal, state and county regulations and with the terms of its NPDES permit.

(d) The management utility shall have the power to require compliance of all new developments in the City with the pollution control regulations aforementioned.

(e) The Public Works Director or his designee shall be responsible for determining the impervious area of developed properties and of properties under construction.

**Section 8. Stormwater Utility Trust Funds.**

There shall be established a Stormwater utility Trust Fund for the deposit of all fees and charges collected by the utility. These funds shall be for the exclusive use of the Department of Public Works for the following expenditures:

(a) Operation and Maintenance of the Stormwater Management System.

(b) Funding of pollution abatement devices constructed on systems.

(c) Administrative Costs associated with the management of the Stormwater Utility.

(d) Debt Service Financing.

**Section 9. Flooding Liability.**

Flooding that results from occasionally exceeds the capacity of storm drainage 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 of flooding or flood damage; or that systems capable of handling all storm events can be cost-effectively constructed, operated or maintained. This ordinance shall not create any liability on the part of, or cause of action against the City of West Miami, or any official or employee thereof, for any flood damage that may result from such storms or the runoff or flooding resulting therefrom. The ordinance does not purport to reduce the need, or eliminate the necessity for individual property owners to obtain flood insurance. The City, through the City Commission and the Administration, shall have full discretion as to how the funds from this ordinance shall be allocated.

**Section 10. Private Facilities.**

The property owner shall be responsible for drainage within the property, and for all facilities located on private property. The owner shall clean and maintain the facilities to ensure efficient and proper operation, and shall obtain approval of the Public Works Director, or his designee, for any proposed modifications to the private drainage system. The utility shall perform inspections inside the private facilities, and may require of the owner that maintenance, repairs, or replacements of the facilities be performed, based upon the severity of problems, sources of pollutants, and of potential hazards to the public health, safety and welfare.

**Section 11.**

Should any part of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining portions hereof shall not be affected and shall remain in full force and effect.

**Section 12.**

All ordinances or parts of the ordinances insofar as they are inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of any conflict.

**Section 13.**

This ordinance shall become effective on August 7 1996

**Section 14.**

It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of the Code of the City of West Miami, Florida, as amended, which provisions may be renumbered or relettered and that the word "ordinance" may be changed to "section", "article" or other appropriate word to accomplish such intention.

**Section 15.**

The requirement of reading this ordinance on two separate days is hereby dispensed with a vote of not less than four-fifths of the members of the Commission.

**ATTEST:**

  
\_\_\_\_\_  
Felix Diaz, City Clerk

  
\_\_\_\_\_  
Rebeca Sosa, Mayor

**Approved as to form:**

\_\_\_\_\_  
Jose A. Villalobos, City Attorney

Roll Call:

Mayor Rebeca Sosa

Y

Vice Mayor Carlos Diaz Padron

Y

Commissioner Enrique Gonzalez

Y

Commissioner Purita Martin

Y

Commissioner Tania Rozio

Y

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