

ORDINANCE NO. ~~1516~~-____

AN ORDINANCE OF THE COUNTY OF PINELLAS AMENDING THE PINELLAS COUNTY CODE BY AMENDING CHAPTER 110, ARTICLE VI, RELATING TO STREET IMPROVEMENTS AND STORM SEWERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREAS EMBRACED; PROVIDING FOR REMOVAL FROM THE PINELLAS COUNTY CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, through Laws of Florida, Chapter 63-1783, Pinellas County was initially provided with a method of providing municipal benefits to residents of unincorporated upon a petition basis; and

WHEREAS, this Special Act was subsequently converted to an ordinance and codified in Article II of Chapter 110; and

WHEREAS, while Article II has been amended from time to time, the method of assessing for these special benefits has become antiquated and is not cost effective; and

WHEREAS, the recent review of the County Code has determined that the existence of these two ordinances is redundant; and

WHEREAS, Florida Statutes, Chapter 197, provides a proven manner of collection of special assessments which is both cost effective and efficient.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA, that:

SECTION 1. Chapter 110, Section 31 of the Pinellas County Code is hereby amended as follows:

Sec. 110-31. - Initial proceedings.

- (a) By a written petition setting forth the legal description of the boundaries of the proposed special improvement district, the owners of 60 percent of the land area of the ~~real estate described in such petition~~proposed district, abutting upon the proposed improvements or otherwise specially benefited thereby, may request the board of county commissioners to establish a special improvement district and construct any one or a combination of the following improvements:
 - (1) Street improvements, which may include the grading, widening, drainage, paving, curbing, roadway underdrain, or guttering of any continuous portion of a street, or

two or more connecting streets. Sidewalks and bike paths may be included, where feasible, at the option of the board of county commissioners.

- (2) Drainage improvements, which may include pavement, the construction of storm sewers and related stormwater attenuation and treatment facilities, the reconstruction where necessary of streets and sidewalks necessarily damaged in the course of such construction, the building of culverts or enclosing streams where necessary or advisable to carry off stormwater.

The petition shall also request the board of county commissioners to assess the entire cost of such improvements, or such portion thereof as the board may designate against the properties specially benefited thereby. ~~The area containing such properties shall constitute an assessment district.~~ Governmental entities with a statutory exemption from assessments ad valorem taxes, ~~as well as non-benefited properties~~, shall be excluded from the assessment procedure, and their proportionate share may be included in the overall assessment or paid from the general fund, as the board may decide.

- (b) The board, upon finding that the petition for improvements under this section is sufficient in form, substance and execution, and finding a public purpose for the proposed improvements may by preliminary resolution order the improvements to be made and may assess against the benefited properties that portion of the cost which the board designates, paying as a county charge any remaining cost. Such special assessments shall be levied upon the benefited properties in general proportion to the benefits to be derived. Such special benefits may be determined and prorated according to the foot frontage of the properties or by such other method as the board may prescribe.

(c) The adoption of an assessment roll by the board of county commissioners under this section shall constitute a legislative determination that all assessed parcels of real property on the assessment roll derive a special benefit from the improvements funded thereby, and a legislative determination that the assessments are fairly and reasonably apportioned among the benefited properties.

(ed) All assessments levied pursuant to this section shall be levied and collected as non-ad valorem assessments pursuant to and in compliance with the Uniform Assessment Collection Act of Florida Statutes, Chapter 197.

SECTION 2. Chapter 110, Section 32 of the Pinellas County Code is hereby amended as follows:

Sec. 110-32. - Initiation of programs without petition.

The special improvement programs enumerated in this article may be initiated by the board of county commissioners at any time without the filing of the petition provided for in section 110-31. Such action shall be evidenced by an initial resolution ordering the construction of the improvement and describing the property bounding or abutting the improvement or otherwise specially benefited

thereby. The resolution shall state the nature and location of the improvement together with that portion of the cost thereof to be assessed against the benefited property and that portion, if any, to be paid by the county. All assessments levied pursuant to this section shall be levied and collected pursuant to the Uniform Method of Collection prescribed by Florida Statutes, Chapter 197.

SECTION 3. Chapter 110, Section 33 of the Pinellas County Code is hereby amended as follows:

Sec. 110-33. - Estimate of cost.

If improvements under this article are ordered, the designated county engineer shall prepare an estimate of the cost of constructing the improvements together with an estimate of incidental expenses, such as engineering, permitting costs, property acquisition for ponds, and any other expenses necessary or proper in connection therewith. The estimate of cost shall be used to determine the initial assessment amount and the maximum rate to be authorized by the resolution initially levying the assessment.

SECTION 4. Chapter 110, Sections 35 and 63 of the Pinellas County Code are hereby repealed as follows:

~~Sec. 110-35. - Notice of hearing.~~

~~After the completion of the cost estimates, the clerk of the board of county commissioners shall publish at least once a week for two consecutive weeks in a newspaper of general circulation, published in the county, a notice stating that at a regular meeting of such board at a certain hour on a certain day, not earlier than three days after the final publication, the board will hear objections and comments of all interested persons regarding the project described in the resolution. Such notice shall contain in brief and general terms a description of the proposed improvements with the location thereof and shall state that the estimates of cost are on file in the office of the clerk of the board, and that the preliminary plans and cost estimates are available for review in the department of public works. A copy of the notice shall also be mailed to the current owners of record of benefited properties.~~

~~Sec. 110-36. - Hearing.~~

~~At the time named in the notice provided for in section 110-35, or at that time to which an adjournment may be taken, the board of county commissioners shall receive the objections and comments of interested persons and may then or thereafter repeal, modify, or confirm the initial resolution, which shall determine the maximum assessment to be charged to each benefited property. This maximum assessment shall be the basis for the assessment roll, which shall describe each parcel of land and the amount of each assessment. Any objections~~

~~not so made shall be considered waived and if the objections made shall be overruled, adoption of the final resolution, incorporating the assessment roll, shall be the final decision of the issues presented unless proper steps for relief be taken in a court of competent jurisdiction within ten days. A copy of this resolution shall be mailed to the current owners of record of the benefited properties, and a notice of pending assessment lien shall be recorded in the official records of the clerk of the circuit court.~~

SECTION 5. Chapter 110, Section 37 of the Pinellas County Code is hereby amended and renumbered as follows:

Sec. 110-~~37~~34. - Report of cost.

After the construction of the project, the designated county engineer and the clerk shall prepare and present to the board of county commissioners a report of cost of the improvement. The report of cost shall show the total cost of the improvement, including incidental expenses. The board of county commissioners shall credit to each of the assessments the difference in the assessment as originally made, approved, and recorded and the proportionate part of the actual cost as finally determined. ~~In no event shall the final assessments exceed the amount of the original assessment. This adjusted roll will be the basis for payments and liens as described below.~~ The levied assessment shall be amended, if necessary, in accordance with the Uniform Method for the levy, collection, and enforcement of non-ad valorem assessments should the final cost of the improvement from the preliminary cost, differ from the estimated cost.

~~From the date of recording of the final resolution, such assessments shall become legal, valid, and binding first liens upon the property against which such assessments are made and shall be superior in rank and priority to all other liens, titles and claims. The assessments shall be collectible and shall be entitled to sale and forfeiture in the same manner and with the same attorney's fee, interest and penalties for default in payment, as general county taxes. Collection may also be effected by foreclosure in a court of equity, according to the laws then existing for the foreclosure of mortgages, or the collection and enforcement of payment thereof may be accomplished by any other method authorized by law. It shall be lawful to join in any such bill for foreclosure any one or more lots or parcels of land, by whomsoever owned, if assessed for the same improvement made under the provisions of this article.~~

SECTION 6. Chapter 110, Section 40 of the Pinellas County Code is hereby amended and renumbered as follows:

Sec. 110-~~40~~35 - Recordation Lien of Improvement Assessment

Upon adoption of the assessment resolution, assessments to be collected under the Uniform Assessment Collection Act shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as

otherwise provided by law, such lien shall be superior in dignity to all other prior liens, titles and claims, until paid. The lien shall attach to the property included on the district assessment roll as of the prior January 1, the lien date for ad valorem taxes. Following construction and any adjustment of assessments, the resolution and assessment roll shall be recorded in the official records of the clerk of the circuit court; provided however, that no assessment roll shall be recorded between the dates of April 15 and April 30 in any given year.

SECTION 7. Chapter 110, Sections 44 through 51 of the Pinellas County Code are hereby repealed as follows:

Sec. 110-44.— Security for bonds.

The bonds issued under the provisions of this article shall be payable solely from the special assessments, the installments thereof and interest and penalties thereon which have been pledged to their payment, and shall not be deemed to constitute a general obligation of the county for the payment of which the full faith, credit and taxing power are pledged. The issuance of such bonds shall not directly, indirectly nor contingently obligate the county to levy or to pledge any form of ad valorem taxation whatever.

Sec. 110-45.— Construction contract.

The bonds authorized under the provisions of this article shall not be sold until contracts for the construction of the improvements to be paid from the proceeds of such bonds have been finally awarded in an aggregate amount not exceeding the special assessments pledged for the payment of the bonds.

Sec. 110-46.— Deposit of collections.

(a) — All collections of assessments contained in any assessment roll which is not secured by a bond issue under this article, and the interest and penalties thereon, shall be deposited in a separate fund properly designated, and such fund shall be used for the payment of the cost of the improvements or as designated by the board of county commissioners.

(b) — Collections of assessments contained in any assessment roll secured by a bond issue under this article, and the interest and penalties thereon, shall be deposited in a separate fund properly designated, and such fund shall be pledged to and used solely for the payment of the principal of and interest on the bonds issued under this article for the construction of the improvements for which such assessments were made until all of such bonds and the interest thereon shall have been fully paid; provided, that if bonds be issued as herein provided for more than one improvement, all assessments collected for all such improvements may by

~~resolution of the board of county commissioners be ordered to be placed in one fund which shall be maintained, pledged and applied for the payment of the principal of and interest on such bonds.~~

~~Sec. 110-47.— Requirement to make new assessments:~~

~~If any special assessment made under the provisions of this article to defray the whole or any part of the expense of any improvement shall be either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the board of county commissioners shall be satisfied that any such assessment is so irregular or defective that the assessment cannot be enforced or collected, or if the board shall have omitted to make such assessment when it might have done so, the board shall take all necessary steps to cause a new assessment to be made for the whole or any part of any improvement or against any property benefited by any improvement, following as nearly as may be the provisions of this article. If such second assessment shall be annulled, the board may obtain and make additional assessments until a valid assessment shall be levied.~~

~~Sec. 110-48.— Pledge of special assessments:~~

~~All assessments and charges made under this article on account of the construction of any improvement may be pledged to the payment of the principal of and the interest on any bonds issued to pay the whole or any part of the cost of such improvement.~~

~~Sec. 110-51.— Division of assessments:~~

~~If the owner or owners of any lot or parcel of land assessed under the provisions of this article and all those having any interest therein by way of mortgage or other lien or leasehold rights or otherwise shall in writing request that such assessment be divided so that a part of the assessment shall be the assessment on and constitute a lien on one portion of such lot or parcel and the remainder shall be the assessment on and constitute a lien or liens against the remainder of such parcel or separate parts thereof, the board of county commissioners, in its discretion, shall have the power to divide such assessment in accordance with such request, and thereafter the separate parts of such assessment shall be the assessments and constitute separate liens upon the parts of the lot or parcel, respectively, into which the assessment shall have been so divided; and any resolution making such division shall recite a finding of the board that such division is equitable, is based upon the benefits accruing to each portion, as divided, and that the legal description of the altered lot or parcel is reflected on the assessment roll maintained by the property appraiser under law for the levy of taxes.~~

~~Sec. 110-5536.— Severability.~~

~~If any section, subsection, clause, phrase, sentence or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.~~

SECTION 8. Chapter 110, Sections 56 through 57 of the Pinellas County Code are hereby renumbered as follows:

Sec. 110-~~5636~~. - Revolving fund.

In order to carry out the provisions of this article, the board of county commissioners may create with general funds of the county a revolving fund. If moneys on deposit in such revolving fund are advanced to pay the cost of all or any part of improvements constructed under this article, the board shall reimburse such revolving fund with the proceeds of bonds issued under this article or from the collections of special assessments relating to the improvement for which such funds were advanced. The board may also levy a tax not to exceed five mills annually to set up sufficient moneys in the revolving fund for the purpose of this article.

Sec. 110-~~5737~~. - Powers cumulative.

The powers conferred by this article shall be cumulative and in addition to any existing powers and shall not be subject to any restriction or limitation appearing in any other law, nor shall anything in this article be construed as being in derogation of authority existing by virtue of any other special, local or general law.

SECTION 9. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance, or the particular application thereof, shall be held invalid or unconstitutional by any Court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

SECTION 10. Area Embraced. This article shall be in effect in the unincorporated areas of Pinellas County.

SECTION 11. Codification. It is the intention of the Board of County [Commissioners](#) that the provisions of this Ordinance shall become and be made a part of the Pinellas County Code and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to section, article or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 12. Filing of Ordinance; Effective Date. Pursuant to Section 125.66, Florida Statutes (2014), a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of

| County Commissioners. This Ordinance shall become effective upon filing with the Department of State.