

ORDINANCE NO. 17- \_\_\_\_

AN ORDINANCE OF THE COUNTY OF PINELLAS AMENDING ARTICLE VI. OF CHAPTER 166 OF THE PINELLAS COUNTY LAND DEVELOPMENT CODE, RELATING TO THE PROVISION OF SERVICES AND CAPITAL FACILITIES FOR SURFACE WATER MANAGEMENT AND THE IMPOSITION OF SURFACE WATER ASSESSMENTS AND FEES RELATED TO THOSE SERVICES AND FACILITIES THROUGHOUT THE COUNTY; AMENDING SECTION 166-421 RELATING TO DEFINITIONS; AMENDING SECTION 166-424 RELATING TO LEGISLATIVE DETERMINATIONS OF SPECIAL BENEFIT AND REASONABLE APPORTIONMENT; AMENDING SECTION 166-452 RELATING TO THE SURFACE WATER UTILITY FUND; AMENDING SECTION 166-476 RELATING TO SURFACE WATER SERVICE CHARGES; AMENDING SECTION 166-477 RELATING TO SURFACE WATER IMPROVEMENT CHARGES; CREATING SECTION 166-478 RELATING TO APPORTIONMENT METHODOLOGY; REPEALING SECTION 166-501 RELATING TO THE INITIAL SURFACE WATER RATE RESOLUTION AND REPLACING IT WITH SECTION 166-501 RELATING TO SURFACE WATER RATE RESOLUTIONS GENERALLY; AMENDING SECTION 166-502 RELATING TO SURFACE WATER ROLLS; AMENDING SECTION 166-503 RELATING TO NOTICE BY PUBLICATION; AMENDING SECTION 166-504 RELATING TO NOTICE BY MAIL; AMENDING SECTION 166-505 RELATING TO THE EFFECT OF ADOPTION OF SURFACE WATER RATE RESOLUTIONS; REPEALING SECTION 166-506 RELATING TO ANNUAL ADOPTION PROCEDURES; REPEALING SECTION 166-507 RELATING TO THE EFFECT OF SURFACE WATER ASSESSMENT RESOLUTIONS; AMENDING SECTION 166-531 RELATING TO LIENS OF SURFACE WATER ASSESSMENTS; AMENDING SECTION 166-532 RELATING TO REVISIONS OF SURFACE WATER CHARGES; AMENDING SECTION 166-533 RELATING TO PROCEDURAL IRREGULARITIES; AMENDING SECTION 166-534 RELATING TO CORRECTIONS OF ERRORS AND OMISSIONS; AMENDING SECTION 166-535 RELATING TO INTERIM SURFACE WATER CHARGES; AMENDING SECTION 166-536 RELATING TO AUTHORIZATION FOR EXEMPTIONS AND HARDSHIP ASSISTANCE; AMENDING SECTION 166-562 RELATING TO AN ALTERNATIVE METHOD OF COLLECTION OF SURFACE WATER ASSESSMENTS; AMENDING SECTION 166-564 RELATING TO THE COLLECTION OF SURFACE WATER FEES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR CODIFICATION.

**WHEREAS**, Pinellas County Land Development Code (the “Code”) Chapter 166, Article VI., was created via Ordinance 13-14 to provide funding for surface water management through implementation of surface water assessments and surface water fees;

**WHEREAS**, said assessments and fees were first implemented in the 2013 tax year;

**WHEREAS**, since the 2013 tax year, the County has refined the data concerning properties subject to said assessments and fees;

**WHEREAS**, to enhance efficiency and eliminate redundancy, the Board desires to only hold public hearings for said assessments and fees to the extent required under state law; and

**WHEREAS**, the Board accordingly desires to codify the apportionment methodology set forth in the Initial Rate Resolution (13-60), as amended by subsequent Preliminary Rate Resolutions, and repeal the requirement to adopt a Preliminary Rate Resolution and Annual Rate Resolution every year.

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

SECTION 1. Sec 166-421 of the Code is hereby amended to read as follows:

**Sec. 166-421. Definitions.**

When used in this ~~ordinance~~ article, the following terms shall have the following meanings, unless the context clearly requires otherwise:

~~Annual surface water rate resolution means the resolution described in section 166-506 hereof, approving a surface water roll for a specific fiscal year.~~

*Assessed property* means all parcels of real property included on the surface water roll that receive a benefit from the surface water improvements and surface water management services.

*Board* means the Board of County Commissioners of Pinellas County, Florida.

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Building means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel or property of any kind. This term shall include mobile homes or any vehicles serving in any way the function of a building.

*Capital cost* means all or any portion of the expenses that are properly attributable to the acquisition, construction, design, installation, reconstruction, renewal or replacement (including demolition, environmental mitigation and relocation) of surface water improvements under generally accepted accounting principles and including reimbursement to the county for any moneys advanced for capital cost and interest on any interfund or intrafund loan for such purposes.

*Clerk* means the Clerk of the Circuit Court for Pinellas County, Florida or the ex-officio clerk of the board.

*Comprehensive plan* means the most recent version of the comprehensive plan adopted by the board pursuant to Chapter 163, Part II, Florida Statutes,

Condominium common area parcel means a parcel of developed property including one or more "common elements," as defined in section 718.103, Florida Statutes, of a condominium, the taxable value of which has been attributed to either condominium residential unit parcels or condominium non-residential unit parcels by the property appraiser.

Condominium complex means a condominium community created by a declaration of condominium pursuant to Chapter 718, Florida Statutes,

Condominium residential unit parcel means a tax parcel of developed property constituting a condominium "unit," as defined in section 718.103, Florida Statutes, which contains a dwelling unit and is assigned a land use code of 0430, 0431, 0436, 3937, 3944, or the functional equivalent thereof, together with those tax parcels that the surface water utility coordinator has determined

should be treated as condominium residential unit parcels based upon an individual verification of property use.

Condominium non-residential unit parcel means a tax parcel of developed property constituting a condominium "unit," as defined in section 718.103, Florida Statutes, which does not contain a dwelling unit and is assigned a land use code of 1134, 1738, 4148, or the functional equivalent thereof, together with those tax parcels that the surface water utility coordinator has determined should be treated as condominium non-residential unit parcels based upon an individual verification of property use.

*County* means Pinellas County, Florida.

*County administrator* means the chief administrative officer of the county or such person's designee.

*Developed property* means property that has been developed with impervious or semi-impervious area including, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas and other surfaces which similarly impact the natural infiltration or runoff patterns which existed prior to development.

*Drainage basin* means a part of the earth's surface that contributes stormwater runoff to a drainage system, which consists of diffuse surface waters, together with all natural or artificial tributary surface streams and/or bodies of impounded surface water.

Dwelling unit means a building, or a portion thereof, available to be used for residential purposes, consisting of one or more rooms arranged, designed, used, or intended to be used as living quarters for one family only.

*ERU* means "equivalent residential unit," the standard unit used to express the stormwater burden expected to be generated by each parcel of property.

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*ERU value* means the impervious area for a typical single family parcel within the surface water service area. Based upon a median impervious area derived from all single family parcels (calculated from the total base subarea plus extra features information on the tax roll), the county has computed an "ERU value" of 2,339 square feet, which shall be used to calculate the number of ERUs attributable to each parcel.

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~~*Final surface water rate resolution*~~ means the resolution described in section 166 505 hereof, which shall confirm, modify or repeal the initial surface water rate resolution and which shall be the final proceeding for the imposition of the initial surface water assessment and surface water fee.

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

*General parcel* means a tax parcel of developed property that is not a single family parcel, a condominium common area parcel, a condominium residential unit parcel, a subdivision common element, a residential subdivision parcel, or a condominium non-residential unit parcel.

*Government property* means property owned by the United States of America, the State of Florida, a county, a special district, a municipal corporation, or any of their respective agencies or political subdivisions.

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

~~resolution means the resolution described in section 166 501 hereof, which shall be the initial proceeding for the imposition of the surface water assessment and surface water fee.~~

Land use codes mean the four-digit codes assigned by the property appraiser to properties within the county designating the predominant use of the property.

Large single family parcel means a single family parcel with an estimated impervious area between 4,368 and 10,000 (inclusive) square feet.

Maximum rate means the maximum rate of the assessment or fee established by a the final surface water rate resolution or any subsequent annual surface water rate resolution.

Medium single family parcel means a single family parcel with an estimated impervious area between 1,576 and 4,367 (inclusive) square feet.

Mitigation credit means a credit applied to a surface water assessment or surface water fee for a developed property in consideration of the on-site management of the stormwater burden as a consequence of the location of a mitigation facility or in consideration of discharge to a private stormwater system or for the conveyance and/or treatment of stormwater or as otherwise required by law.

Mitigation facility means a manmade facility or structure on the site of a developed property which, by its design and function, retains or detains stormwater on-site and thus generates less volume of stormwater from the site or produces stormwater runoff at a lower rate and/or with less pollutants than would be the case in the absence of such facilities or structure.

Net ERU means the standard unit used to express the stormwater burden expected to be generated by each parcel of property, after taking into consideration any mitigation of the stormwater burden that results from privately maintained stormwater management facilities and other factors affecting the quantity, quality, or rate of stormwater runoff.

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*Obligations* mean a series of bonds or other evidence of indebtedness including but not limited to, notes, commercial paper, capital leases or any other obligations of the county issued or incurred to finance any portion of the capital cost of a surface water improvement and secured, in whole or in part, by proceeds of the surface water improvement assessments or surface water fee.

*Ordinance* means this surface water utility ordinance as amended from time to time.

*Parcel* means a parcel of property which the property appraiser has assigned a distinct ad valorem property tax identification number.

*Pledged revenue* means, as to any series of obligations, (A) the proceeds of such obligations, including investment earnings, (B) proceeds of the surface water improvement assessments and surface water fees pledged to secure the payment of such obligations, and (C) any other legally available non-ad valorem revenue pledged to secure the payment of such obligations, as specified by the resolution authorizing such obligations.

~~*Preliminary surface water rate resolution* means the resolution described in section 166-506 hereof initiating the annual process for updating the annual surface water roll and directing the reimposition of surface water assessments and surface water fees.~~

*Project cost* means (A) the capital cost of a surface water improvement, (B) the transaction cost associated with the obligations to finance the surface water improvement, (C) interest accruing on such obligations for such period of time as the board deems appropriate, (D) the debt service reserve fund or account, if any, established for the obligations which financed the surface water improvement, and (E) any other costs or expenses related thereto.

*Property appraiser* means the Pinellas County Property Appraiser.

*Residential subdivision parcel* means a single family parcel within a platted residential subdivision as defined in section 193.0235, Florida Statutes, or its statutory successor in function.

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that also has subdivision common elements associated therewith, together with those tax parcels that the surface water utility coordinator has determined should be treated as residential subdivision parcels based upon an individual verification of property use.

Single family parcel means a tax parcel of developed property assigned a Land Use Code of 0000, 0090, 0110, 0260, 0261, or the functional equivalent thereof, together with those tax parcels that the surface water utility coordinator has determined should be treated as single family parcels based upon an individual verification of property use.

Small single family parcel means a single family parcel with an estimated impervious area between 200 and 1,575 (inclusive) square feet.

*Stormwater* means any surface runoff and drainage of water from land surfaces, including the surfaces of buildings and other hardened surfaces on the land.

Subdivision common element means property within a platted residential subdivision as defined in section 193.0235, Florida Statutes, or its statutory successor in function, the taxable value of which has been attributed to single family parcels within that platted residential subdivision.

*Surface water* means waters on the surface of the Earth, contained in bounds created naturally or artificially, including the Gulf of Mexico, bays, bayous, sounds, estuaries, lagoons, lakes, ponds, impoundments, rivers, streams, springs, creeks, branches, sloughs, tributaries, and other watercourses.

*Surface water assessment* means either a surface water improvement assessment, a surface water service assessment, or both.

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*Surface water fee* means a fee reasonably related to service provided by the county to government property to fund all or any portion of the surface water service cost for government property at a just, fair, reasonable, and equitable rate based upon such property's stormwater burden, the reasonable relationship to benefits received, and the reasonable cost of providing surface water management services or surface water improvements to such property. The surface water fee imposed against government property is not a special assessment; it is a regulatory fee imposed for the surface water management service provided to government property as developed property by the county's surface water utility.

*Surface water improvement* means land, capital facilities and improvements acquired or provided to detain, retain, convey or treat stormwater and other surface waters within the county that have been impacted by stormwater from developed property.

*Surface water improvement area* means one or more drainage basins, or any portion or portions thereof, as identified in ~~the initial surface water rate resolution or a subsequent preliminary~~ surface water rate resolution, encompassing those parcels of property specially benefited by the construction, reconstruction or installation of all or any portion of a surface water improvement that removes, detains, retains or treats, in whole or in part, the stormwater burden expected to be generated by the physical characteristics and use of the assessed property. Each surface water improvement area will include either (A) the property which is hydrologically connected, directly or indirectly, to the surface water improvement, or (B) all property located within a hydrologically defined area in which the county constructs one or more surface water improvements pursuant to a watershed management plan to correct existing deficiencies with respect to a specific level of service and provide a consistent level of surface water management.

*Surface water improvement assessment* means a special assessment imposed by the board within a surface water improvement area to fund the ~~the capital cost or the debt service and related cost of obligations issued to finance the project cost of a surface water improvement~~surface water improvement cost of a surface water improvement.

*Surface water improvement cost* means the cost to fund the capital cost or debt service and related obligations issued to finance the project cost of a surface water improvement.

*Surface water management service* means (A) management and administration of the county's surface water utility; (B) surface water program engineering; (C) drainage basin planning; (D) surface water improvements to be acquired or constructed within a reasonable time horizon without the issuance of any debt or borrowing; (E) operating and maintaining the county's capital facilities for surface water management, including extraordinary maintenance; (F) billing and collection of surface water assessments and surface water fees, including customer information and educational services and reserves for statutory discounts; and (G) legal, engineering and other consultant services.

*Surface water master plan* means a combination of policy documents adopted by the board which identifies the levels of service for water quality and quantity management in the county, based upon the criteria in the comprehensive plan and applicable state and federal law, and the methods for prioritizing expenditures within the county. The surface water master plan includes, but is not limited to, the surface water element of the comprehensive plan and the related provisions of the County Code.

*Surface water rate resolution* means a resolution imposing surface water assessments or surface water fees.

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*Surface water roll* means the property roll relating to surface water improvements or surface water management services approved by a final surface water rate resolution or an annual surface water rate resolution pursuant to section 166-502 hereof.

*Surface water service area* means the entire unincorporated area of the county, unless explicitly defined otherwise in a surface water rate resolution, geographic area described in the initial surface water rate resolution or a subsequent preliminary surface water rate resolution that encompasses all parcels within the county which specially benefit from the surface water management service.

*Surface water service assessment* means a special assessment imposed by the county board within the surface water service area to fund ~~the~~ surface water service costs.

*Surface water service cost* means the estimated amount for any fiscal year of all expenditures and reasonable reserves that are properly attributable to ~~the~~ surface water management services provided within the surface water service area under generally accepted accounting principles, including, without limiting the generality of the foregoing, reimbursement to the county for any moneys advanced for ~~the~~ surface water management services, and interest on any interfund or intrafund loan for such purpose.

*Surface water utility* means the entity established by section 166-451 hereof to implement the surface water management program of the county.

*Surface water utility coordinator* means the county's surface water utility manager or such other person as designated by the county administrator.

*Tax collector* means the Pinellas County Tax Collector.

*Tax year* means the period commencing on January 1 of each year and continuing through the next succeeding December 31, or such other period as may be prescribed by law as the tax year of the county.

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*Tax roll* means the real property ad valorem tax assessment roll maintained by the property appraiser for the purpose of the levy and collection of ad valorem taxes.

*Transaction cost* means the costs, fees and expenses incurred by the county in connection with the issuance and sale of any series of obligations, including but not limited to (A) rating agency and other financing fees; (B) the fees and disbursements of bond counsel; (C) the underwriters' discount; (D) the fees and disbursements of the county's financial advisor; (E) the costs of preparing or printing the obligations and the documentation supporting issuance of the obligations; (F) the fees payable in respect of any municipal bond insurance policy; and (G) any other costs of a similar nature incurred in connection with issuance of such obligations.

*Uniform Assessment Collection Act* means F.S. §§ 197.3632 and 197.3635, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

*Very large single family parcel* means a single family parcel with an estimated impervious area greater than 10,000 square feet.

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*Watershed management plan* means a plan that is developed by the county for each drainage basin or hydrologic subarea thereof in which surface water improvements are proposed and that provides for implementation of the surface water master plan.

SECTION 2. Sec 166-422 of the Code is hereby retained in its entirety as follows:

**Sec. 166-422. Interpretation.**

Unless the context indicates otherwise, words importing the singular number include the plural number and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this ordinance; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this ordinance. Words of any gender include the correlative words of the other genders, unless the context indicates otherwise.

SECTION 3. Sec 166-423 of the Code is hereby retained in its entirety as follows:

**Sec. 166-423. General findings.**

It is hereby ascertained, determined, and declared that:

(a) Pursuant to Article VIII, section 1(g), Florida Constitution, F.S. §§ 125.01 and 125.66, and the Pinellas County Charter, the county has all powers of local self-government to perform county functions and render county services except when prohibited by law, and such power may be exercised by the enactment of legislation in the form of county ordinances.

(b) Pursuant to section 2.04(g) of the Pinellas County Home Rule Charter, the county has the special and necessary power to provide for the design, construction, and maintenance of major drainage systems in both the unincorporated and all incorporated areas of the county.

(c) Florida Statutes, § 403.0893, specifically authorizes and encourages the county to provide surface water management services and create stormwater programs and adopt surface water charges sufficient to plan, construct, operate and maintain stormwater and surface water management systems.

(d) The purpose of this ordinance is to (1) provide procedures and standards for the imposition of surface water assessments and surface water fees under the constitutional and statutory power of the county; (2) authorize a procedure for the funding of surface water management services, facilities, or programs providing special benefit and reasonably related to

assessed property within the surface water service area; (3) authorize a procedure for the funding of surface water improvements providing special benefit and reasonably related to assessed property within a surface water improvement area; (4) legislatively determine the special benefit provided to assessed property from the surface water utility; and (5) provide procedures and standards to determine the fair, equitable, and reasonable charge for the surface water fees charged to government property to fund the regulation of surface water management services provided to such properties and surface water improvements serving such properties.

(e) The Florida Legislature has mandated that local governments in the State of Florida, including the county, have the responsibility for developing mutually compatible stormwater management programs consistent with the rules and regulations of the Florida Department of Environmental Protection and the water management districts and the stormwater management programs established and maintained by other local governments.

(f) The county is responsible for the management and maintenance of the county's surface water management system which has been developed for the purpose of collection, storage, treatment, and conveyance of stormwater and the management and treatment of associated surface waters. The county has, pursuant to Chapter 163, Florida Statutes, adopted the Surface Water Management Element of the Pinellas County Comprehensive Plan which sets forth goals that make it necessary and essential to construct improvements and extensions to the existing stormwater system so the collection, storage, treatment, and conveyance of stormwater and associated surface waters within the county adequately protects the health, safety, and welfare of the citizens. The creation and maintenance of the surface water utility is designed to implement the surface water management element and other municipal, federal and state policies mandating stormwater management programs by local governments.

(g) Through the National Pollutant Discharge Elimination System Stormwater permitting program, the U. S. Environmental Protection Agency, as implemented by the Florida Department of Environmental Protection, has mandated the county to implement and fund a comprehensive surface water management program to reduce the contamination to surface waters of stormwater runoff and prohibit illicit discharges.

(h) The surface water assessments and surface water fees authorized herein are consistent with the authority granted in F.S. § 403.0893. That statutory provision is additional and supplemental authority to the constitutional and statutory power of self-government granted to the county.

(i) The county maintains a system of stormwater and surface water management facilities, including but not limited to inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities, and other components as well as natural waterways. Those elements of the county stormwater and surface water management system that provide for the collection, storage, treatment, and conveyance of stormwater and the treatment and conveyance of associated surface waters are of benefit and provide services to all developed property within the county.

(j) The public health, safety, and welfare are adversely affected by poor water quality and flooding resulting from inadequate stormwater and surface water management practices. All developed property either uses the stormwater management system or benefits from the provision and operation of the surface water management services.

(k) The cost of operating and maintaining the stormwater and surface water management system and providing surface water management services in accordance with existing permits and the financing of existing and future repairs, replacements, improvements, and

extensions thereof should, to the extent practicable, be allocated in relationship to the benefits enjoyed, services received, or burden caused therefrom.

(l) Property owners within the county are eligible for flood insurance through the National Flood Insurance Program (NFIP), which enables these property owners to acquire federally backed flood insurance protection. To ensure that this coverage is available, the county is required to meet the minimum FEMA requirements for participation in the NFIP and failure to meet these requirements could result in flood insurance being either unavailable or prohibitively expensive to property owners within the county.

(m) New and dedicated funding for the stormwater and surface water management program of the county is needed to maintain compliance with state and federal requirements, for participation in the NFIP, and the levy of surface water assessments and surface water fees is the most equitable method of providing this funding.

SECTION 4. Sec 166-424 of the Code is hereby amended to read as follows:

**Sec. 166-424. Legislative determinations of special benefit and reasonable apportionment.**

It is hereby ascertained and declared that ~~the surface water assessments and surface water fees to be imposed in accordance with this article provide an equitable method of funding~~ surface water ~~management utility, the surface water management services and the surface water improvements services and surface water improvements by fairly and reasonably allocating~~ surface water service costs and surface water improvement costs to specially benefitted developed property classified on the basis of stormwater burden expected to be generated by the physical characteristics and use of such property. Accordingly, surface water assessments and surface water fees as authorized to be calculated and charged herein bear a reasonable relationship to the cost of providing surface water management services and surface water improvements to assessed



property. Surface water management services and surface water improvements provide a special benefit to ~~the~~ assessed property based upon the following legislative determinations:

(1) The surface water utility and the services and facilities provided thereby possess a logical relationship to the use and enjoyment of developed property by treating and controlling contaminated stormwater generated by improvements constructed on developed property.

(2) Substantially all of the stormwater burden managed, controlled and treated by the surface water utility is generated by the impervious area of developed property and the amount of stormwater generated by property in its natural state that is managed, controlled and treated by the surface water utility is inconsequential. Accordingly, it is fair and reasonable to impose surface water assessments and surface water fees only against developed property containing at least 200 square feet of impervious area. Further in accordance therewith, it is the board's intent that only the owner of developed property itself be subject to surface water assessments and surface water fees; the fee owner of the underlying natural land shall be subject to surface water assessments and surface water fees only to the extent the fee owner also owns the overlying developed property.

(3) ~~The creation and maintenance of the surface water utility is designed to implement federal and state policies mandating stormwater and surface water management programs by the county and to ensure that county property owners can participate in the NFIP.~~ All parcels within the unincorporated area of the county containing developed property with at least 200 feet of impervious area receive a special benefit from the provision of surface water management services.

(4) The special benefits provided by the surface water management services and surface water improvements to all developed property include, but are not limited to: (1) the provision of surface water management services and the availability and use of surface water improvements by the owners and occupants of developed property to properly and safely detain,

retain, convey and treat stormwater discharged from developed property; (2) stabilization of or the increase of developed property values; (3) increased safety and better access to developed property; (4) rendering developed property more adaptable to a current or reasonably foreseeable new and higher use; (5) alleviation of the burdens caused by stormwater runoff and accumulation attendant with the use of developed property; and (6) fostering the enhancement of environmentally responsible use and enjoyment of the natural resources within the surface water service area and surface water improvement area.

(5) ~~The surface water fee as authorized to be calculated herein and charged to assessed property bears a reasonable relationship to the cost of providing surface water management services, including the stormwater generated by government property as developed property. The surface water fees provide a reasonable method of funding the surface water service costs and surface water improvement costs attributed to government property because such costs provide a reasonable estimation of the costs of providing surface water management services and surface water improvements to government property and managing the burden generated by the use of government property as individually classified on the basis of the stormwater burden expected to be generated.~~

(6) ~~Any shortfall in the expected proceeds from surface water service assessments and surface water fees due to any reduction or exemption from payment of the surface water service assessment or surface water fee required by law or authorized by the board shall be supplemented by any legally available funds, or combination of such funds, and shall not be paid for by proceeds or funds derived from the surface water service assessment or surface water fee. In the event a court of competent jurisdiction determines any exemption or reduction by the board is improper or otherwise adversely affects the validity of the surface~~

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water service assessment or surface water fee imposed, the sole and exclusive remedy shall be the imposition of a surface water service assessment or surface water fee upon each affected parcel in the amount of the surface water service assessment or surface water fee that would have been otherwise imposed save for such reduction or exemption afforded to such parcel.

(7) The Pinellas Park Water Management District is responsible for managing the primary stormwater drainage system in its approximately 15 square mile jurisdictional area, which is partially located within the unincorporated area of the county. However, the secondary drainage systems, including street drainage, curb and gutter inlets, and the associated stormwater conveyance systems are maintained by the county if within the unincorporated area. Accordingly, there is no duplication of services between the two entities and it is fair and reasonable to impose surface water service assessments and surface water fees within the unincorporated area portion of the Pinellas Park Water Management District.

SECTION 5. Sec 166-451 of the Code is hereby retained in its entirety as follows:

**Sec. 166-451. Established.**

There is hereby established a surface water utility, which shall be the operational means of implementing the surface water master plan and otherwise carrying out the functional requirements of the county's surface water management system, to construct, acquire, and maintain surface water improvements and provide surface water management services. The surface water utility shall provide administration and management services in the operation and maintenance of the county's capital facilities for stormwater and surface water management; the implementation of the county's comprehensive surface water management system; the preparation of watershed management plans and the implementation of the surface water utility; and the repair, replacement, improvement and extension, of the county's capital facilities for stormwater and surface water

management. The surface water utility shall place emphasis on the achievement of maximum efficiency through identifying programs and funding sources which are complementary to other regional, state and federal programs. The surface water utility coordinator shall be responsible for administration of the surface water utility.

SECTION 6. Sec 166-452 of the Code is hereby amended to read as follows:

**Sec. 166-452. Surface Water Utility Fund.**

The board intends to fund the cost of providing services and capital facilities for surface water management through surface water assessments and surface water fees. The board has further concluded that periodic determination of revenues earned and expenses incurred in connection with the provision of services and capital facilities for surface water management will enhance accountability and management control of the county's surface water utility and will facilitate implementation of the board's funding policy for surface water management. Accordingly, there shall be established a surface water utility fund. From an accounting perspective, the surface water utility fund shall be established as a "special revenue fund." Proceeds of ~~the~~ surface water service assessments and surface water fees associated therewith shall be used for payment of ~~the~~ surface water service costs. Proceeds of ~~the~~ surface water improvement assessments and surface water fees associated therewith shall be used for payment of the capital cost of surface water improvements and the payment of debt service on obligations issued to finance surface water improvements.

SECTION 7. Sec 166-476 of the Code is hereby amended to read as follows:

**Sec. 166-476. Surface water service charges.**

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(a) The board is hereby authorized to impose surface water service assessments and surface water fees against property located within the surface water service area, ~~as subsequently created in an initial surface water rate resolution or preliminary surface water rate resolution.~~

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(b) ~~The~~ Surface water service costs may be assessed against developed property located within the surface water service area at a rate based upon the benefit accruing to such property from the surface water management services provided by the county, measured by the number of ERUs attributable to each parcel or classification of property.

(c) Notwithstanding the foregoing, if the board specifically determines that any portion of the surface water service area receives a distinct special benefit from any component of ~~the~~ surface water management services that is materially different in kind or degree from the special benefit received by other portions of ~~a~~ the surface water service area, the surface water service costs related to such component shall be assessed against the portion of the surface water service area receiving the distinct special benefit.

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SECTION 8. Sec 166-477 of the Code is hereby amended to read as follows:

**Sec. 166-477. Surface water improvement charges.**

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(a) The board is hereby authorized to impose surface water improvement assessments and ~~surface water fees against property located within a surface water improvement area, as subsequently created in an initial surface water rate resolution or preliminary surface water rate resolution,~~ to fund all or any portion of the surface water improvement cost ~~capital cost or the debt service and related cost of obligations issued to finance the project cost~~ of a surface water improvement ~~identified in any watershed management plan.~~

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(b) Surface water improvement assessments and surface water fees to fund the capital cost or the debt service and related cost of obligations issued to finance the project cost surface

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water improvement cost of a ~~each~~ surface water improvement may be imposed against all parcels of ~~the~~ property within a surface water improvement area at a rate based upon the benefit accruing to such property from the ~~the~~ surface water improvement, measured by the number of ERUs attributable to each parcel or classification of property.

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(c) If surface water improvement assessments and surface water fees are imposed to fund the surface water improvement cost of a surface water improvement, the surface water improvement assessments and surface water fees may include amounts required to fund any amounts withdrawn during the prior fiscal year from any debt service reserve account established for obligations and the amount of any principal of and interest on obligations that has become due and remains unpaid.

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SECTION 9. Sec. 166-478 of the Code is hereby created and shall read as follows:

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Sec. 166-478. Apportionment methodology,

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That certain report entitled "Pinellas County, Surface Water Governance Study," dated as of June, 2013, and prepared by CDM Smith, Inc. is hereby adopted and incorporated herein by reference, including the assumptions, conclusions, and findings in such study as to the determination of the surface water service assessments and surface water fees.

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Each parcel located within the surface water service area shall be assigned to one of the following classifications: small single family parcels, medium single family parcels, large single family parcels, very large single family parcels, condominium residential unit parcels, condominium non-residential unit parcels, condominium common area parcels, subdivision common elements, residential subdivision parcels, or general parcels.

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(a) Single family parcels

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(1) The impervious area information on the tax roll is the most comprehensive and recent data available for single family parcels within the surface water service area. The cost of individually measuring or verifying impervious area for each single family parcel greatly exceeds any benefit to be derived from individual measurement and verification.

(2) The impervious area derived from the total base subarea plus all extra features information included for each single family parcel on the tax roll constitutes a reasonable approximation for the total impervious area for each single family parcel.

(3) Based upon an analysis of all single family parcels within the surface water service area, it has been determined that the typical single family parcel within the surface water service area contains 2,339 square feet of impervious area.

(4) As provided above, the county has an estimated 2,339 square feet of impervious area for a typical medium single family parcel within the surface water service area. Accordingly, the number of net ERUs attributable to each medium single family parcel shall be computed by multiplying one (1) ERU by the appropriate mitigation credit factor.

(5) The county has estimated 1,315 square feet of impervious area for a typical small single family parcel within the surface water service area. Accordingly, the number of net ERUs attributable to each small single family parcel shall be computed by multiplying 0.6 ERUs by the appropriate mitigation credit factor.

(6) The county has estimated 5,411 square feet of impervious area for a typical large single family parcel within the surface water service area. Accordingly, the number

of net ERUs attributable to each large single family parcel shall be computed by multiplying 2.3 ERUs by the appropriate mitigation credit factor.

(7) The number of net ERUs attributable to each very large single family parcel shall be computed as a general parcel, in accordance with subsection (d) of this section 166-478 below.

(b) Condominium parcels and residential subdivision parcels

(1) A residential condominium constitutes a unique form of real property ownership comprised of condominium residential unit parcels, to which there may be an appurtenant undivided share in condominium common area parcels

(2) It is fair and reasonable and in accordance with section 718.120, F.S., to attribute the impervious area of condominium common area parcels to the condominium residential unit parcel to which such condominium common area parcels are appurtenant.

(3) Similarly a single family parcel located within a platted residential subdivision as defined in Section 193.0235, F.S., may share an interest in appurtenant subdivision common elements.

(4) It is fair and reasonable and in accordance with Section 193.0235, F.S., to attribute the impervious area of subdivision common elements to the residential subdivision parcels to which such subdivision common elements are appurtenant.

(5) The number of net ERUs attributable to each condominium residential unit parcel in a condominium complex shall be the amount computed by (a) calculating the total aggregate impervious area of the condominium complex in which the condominium residential unit parcel is located, including any condominium common area parcels. (b) divided by the total number of condominium residential unit parcels located within such



condominium complex, (c) divided by the ERU value, and (d) multiplying the result by the appropriate mitigation credit factor.

(6) The number of net ERUs attributable to each residential subdivision parcel shall be the amount computed by (a) calculating the impervious area derived from the total base subarea plus all extra features information included for each residential parcel on the tax roll, (b) adding the result to the portion of the common areas obtained by dividing the common impervious area of the platted residential subdivision in which the residential subdivision parcel is located, divided by the total number of residential subdivision parcels located within such platted residential subdivision, and (c) multiplying by the appropriate mitigation credit factor.

(c) Non-residential condominium parcels

(1) A non-residential condominium constitutes a unique form of real property ownership comprised of condominium non-residential unit parcels, to which they may be an appurtenant undivided share in condominium common area parcels.

(2) It is fair and reasonable and in accordance with section 718.120, F.S., to attribute the impervious area of condominium common area parcels to the condominium non-residential unit parcels to which such condominium common area parcels are appurtenant.

(3) The number of net ERUs attributable to each condominium non-residential unit parcel in a condominium complex shall be the amount calculated by (a) calculating the impervious area of the condominium complex in which the condominium non-residential unit parcel is located, including any condominium common area parcels, (b) multiplying the total impervious square footage assigned to the condominium complex by

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~~the percentage of building square footage allocated to all condominium non-residential unit parcels. (c) divide by the ERU value, and (d) multiplying that figure by the appropriate mitigation credit factor.~~

~~(d) General parcels~~

~~The number of net ERUs attributable to each general parcel shall be determined by (1) dividing the impervious area of the general parcel by the ERU value and (2) multiplying the result by the appropriate mitigation credit factor.~~

~~(e) Private stormwater mitigation facilities~~

~~The board recognizes the benefits provided by privately maintained stormwater mitigation facilities. Accordingly, the board may adopt a mitigation credit policy at its discretion. If a policy is so adopted, it shall be the exclusive authority designating the mitigation credit factor to be used in determining the number of net ERUs designated to a parcel in accordance with the above methodology set forth in this section 166-478. A copy of the effective mitigation credit policy, if one exists, shall be kept on file with the surface water utility coordinator and open to public inspection.~~

~~SECTION 10. Sec. 166-501 of the Code is hereby repealed in its entirety and amended to read as follows:~~

~~Sec. 166-501. — Initial surface water rate resolution.~~

~~(a) — The initial proceeding for imposition of a surface water assessment and surface water fee shall be the board's adoption of an initial surface water rate resolution.~~

~~(b) — The initial surface water rate resolution shall (1) describe the surface water improvement or surface water management service proposed for funding; (2) estimate the capital/project cost or surface water service cost; (3) describe with particularity the proposed method of apportioning the capital/project cost or surface water service cost among the parcels of~~

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~~property located within the surface water improvement area or surface water service area, as applicable, such that the owner of any parcel of property can objectively determine the amount of the charge; and (4) include specific legislative findings that recognize the equity provided by the apportionment methodology and specific legislative findings that recognize the special benefit provided by the surface water improvement or surface water management service.~~

~~(e) — At its option, the board may adopt separate initial surface water rate resolutions for the surface water service assessment and each surface water improvement assessment.~~

**Sec. 166-501, Surface water rate resolutions generally.**

~~The board may authorize surface water assessments or surface water fees through adoption of surface water rate resolutions consistent with the provisions in this section 166-501 below;~~

~~(a) All surface water rate resolutions shall (1) contain a brief, and general description of the services, facilities, or programs to be provided; (2) identify the applicable surface water service areas or surface water improvement areas; (3) describe the surface water improvements or surface water management services proposed for funding; (4) estimate the surface water improvement costs or surface water service costs; (5) establish the maximum rate, if desired by the board and set the rate(s) to be imposed in the upcoming fiscal year(s); (6) describe with particularity the proposed method of apportioning the surface water improvement costs or surface water service costs among the parcels of property located within the surface water improvement area or surface water service area, as applicable, such that the owner of any parcel of property can objectively determine the amount of the charge; (7) include specific legislative findings that recognize the equity provided by the apportionment methodology and specific legislative findings that recognize the special benefit provided by the surface water improvement or surface water~~

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management service; (8) determine the method of collection; and (9) direct the certification of applicable surface water rolls to the extent required by the Uniform Assessment Collection Act or otherwise by law.

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(b) Where required by the Uniform Assessment Collection Act or otherwise by law, a surface water rate resolution shall be adopted by the board at a public hearing. Notice of such public hearing shall be provided by publication and first class mail to the assessed property owners as provided by law and substantially conform with the notice requirements set forth in sections 166-503 and 166-504 hereof. The failure of the owner to receive such notice due to mistake or inadvertence shall not affect the validity of applicable surface water rolls nor release or discharge any obligation for payment of a surface water assessment or surface water fee imposed by the board pursuant to this ordinance.

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**SECTION 11. Sec. 166-502 of the Code is hereby amended to read as follows:**

**Sec. 166-502. Surface water rolls.**

(a) For every tax year a surface water assessment is imposed, the surface water utility coordinator shall prepare, or direct the preparation of, a preliminary surface water roll for each surface water assessment imposed during that tax year, in accordance with the apportionment methodology set forth in section 166-478 hereof, that contains the following information:

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- (1) A summary description of each parcel of property (conforming to the description contained on the tax roll) subject to the surface water assessment or surface water fee;
- (2) The name of the owner of record of each parcel as shown on the tax roll, if available;
- (3) The number of ERUs attributable to each parcel;

(4) The estimated maximum surface water improvement assessment to become due in any fiscal year for each ERU and each tax parcel;

(5) The estimated maximum annual surface water service assessment to become due in any fiscal year for each ERU and each tax parcel;~~and~~

(6) The estimated maximum surface water fee to become due in any fiscal year for each ERU and each tax parcel; ~~and~~

(7) Any additional information required by the Uniform Assessment Collection Act or otherwise by law.

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(b) Copies of this ordinance and all surface water rate resolutions adopted and surface water rolls certified pursuant thereto, ~~the initial surface water rate resolution and the preliminary surface water roll~~ shall be on file in the office of the surface water utility coordinator and open to public inspection. The foregoing shall not be construed to require that the surface water roll be in printed form if the amount of the surface water assessment for each parcel of property can be determined by use of a computer terminal available for use by the public.

(c) In the event a surface water fee is imposed against government property, the surface water utility coordinator shall prepare a separate surface water roll for government property in conformance with subsection (a) above.

(d) Surface water rolls shall be delivered to the tax collector as required by the Uniform Assessment Collection Act, or if the alternative method described in sections 166-562 or 166-564 hereof is used to collect the surface water assessments or surface water fees, such other official as the board by resolution shall designate. If a surface water assessment or surface water fee against any property shall be sustained, reduced, or abated by the court, an adjustment shall be made on the surface water roll.

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SECTION 12. Sec. 166-503 of the Code is hereby amended to read as follows:

**Sec. 166-503. Notice by publication.**

(a) Where required by the Uniform Assessment Collection Act or otherwise by law, prior to adoption of a surface water rate resolution,~~Upon completion of the surface water roll~~ the surface water utility coordinator shall publish, or direct the publication of, once in a newspaper of general circulation within the county a notice stating that at a meeting of the board on a certain day and hour, not earlier than 20 calendar days from such publication, which meeting shall be a regular, adjourned, or special meeting, the board will hear objections of all interested persons to the ~~final surface water rate resolution which shall establish the rate of assessment and approve the aforementioned surface water roll~~surface water rate resolution.

(b) The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include (1) a geographic depiction of the property subject to the surface water assessment and surface water fee; (2) a brief and general description of the services, facilities, or programs to be provided; (3) the rate of assessment including a maximum rate if applicable in the event one was adopted in the Initial Surface Water Rate Resolution; (4) a statement that all affected property owners have the right to appear at the public hearing and the right to file written objections within 20 days of the publication of the notice~~the procedure for objecting provided in section 166-505 hereof;~~ (5) the method by which the surface water assessment and surface water fee will be collected; ~~and~~ (6) a statement that the surface water roll is available for inspection at the office of the surface water utility coordinator and all interested persons may ascertain the amount to be assessed against a parcel of assessed property at the office of the surface water utility coordinator; (7) a statement identifying the Pinellas County Board of County Commissioners as the local governing board; (8) a statement that the tax collector will

collect the surface water assessment; and (9) a schedule for the surface water assessment and surface water fee if applicable.

SECTION 13. Sec. 166-504 of the Code is hereby amended to read as follows:

**Sec. 166-504. Notice by Mail.**

(a) Where required by the Uniform Assessment Collection Act or otherwise by law, prior to adoption of a surface water rate resolution, in addition to the published notice required by section 166-503, the surface water utility coordinator shall provide notice, or direct the provision of notice, of the proposed surface water assessment and surface water fee by first class mail to the owner of each parcel of property subject to the surface water assessment and surface water fee.

(b) Such notice shall include (1) the purpose of the surface water assessment and surface water fee; (2) the rate to be levied against each parcel of property, including a maximum rate in the event one was adopted; (3) the number of ERUs applied to determine the surface water assessment and surface water fee; (4) the number of such ERUs contained in each parcel of property; (5) the total revenue to be collected by the county from the surface water assessment and surface water fee; (6) a statement that failure to pay the surface water assessment or surface water fee will cause a tax certificate to be issued against the property or foreclosure proceedings to be instituted, either of which may result in a loss of title to the property; (7) a statement that all affected owners have a right to appear at the hearing and to file written objections with the board within 20 days of the notice; and (8) the date, time, and place of the hearing.

~~(c)~~ The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Notice shall be mailed at least 20 calendar days prior to the hearing to each owner at such address as is shown on the tax roll. Notice shall be deemed mailed upon delivery thereof to the possession of the United States Postal Service. The surface water utility

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coordinator may provide proof of such notice by affidavit. Failure of the owner to receive such notice due to mistake or inadvertence shall not affect the validity of the surface water roll nor release or discharge any obligation for payment of a surface water assessment or surface water fee imposed by the board pursuant to this ordinance.

(d) At the time named in such notice or to such time as an adjournment or continuance may be taken by the board, the board shall receive any written objections of interested persons and may then, or at any subsequent meeting of the board, adopt the surface water rate resolution. All written objections to the surface water rate resolution shall be filed with the surface water utility coordinator at or before the time or adjourned time of such hearing.

(e) Nothing herein shall preclude the board from providing annual notification to all owners of assessed property in the manner provided in sections 166-503 and 166-504 hereof or any other method as provided by law.

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**SECTION 14.** Sec. 166-505 of the Code is hereby amended to read as follows:

**Sec. 166-505. Effect of aAdoption of final surface water rate resolutions.**

~~(a) — At the time named in such notice or to such time as an adjournment or continuance may be taken by the board, the board shall receive any written objections of interested persons and may then, or at any subsequent meeting of the board, adopt the final surface water rate resolution which shall (1) create any surface water improvement or service areas; (2) confirm, modify, or repeal the Initial Surface Water Rate Resolution with such amendments, if any, as may be deemed appropriate by the Board; (3) establish the maximum rate, if desired by the board and set the rate to be imposed in the upcoming fiscal year; (4) approve the initial surface water roll, with such amendments as it deems just and right; and (5) determine the method of collection.~~



~~(b) — The adoption of the Final surface water rate resolution by the board shall constitute a legislative determination that all parcels assessed derive a special benefit from the services, facilities, or programs to be provided or constructed and a legislative determination that the surface water assessments and surface water fees are fairly and reasonably apportioned among the properties that receive the special benefit. All written objections to the final surface water rate resolution shall be filed with the surface water utility coordinator at or before the time or adjourned time of such hearing. The final surface water rate resolution shall constitute the annual surface water rate resolution for the initial fiscal year in which surface water assessments and surface water fees are imposed or reimposed hereunder.~~

The adoption of a surface water rate resolution by the board shall:

(a) Constitute a legislative determination that all parcels assessed derive a special benefit from the services, facilities, or programs to be provided or constructed and a legislative determination that the surface water assessments and surface water fees are fairly and reasonably apportioned among the properties that receive the special benefit.

(b) Constitute the final adjudication of the issues presented (including, but not limited to, the apportionment methodology, the rate, the certification of applicable surface water rolls, and the levy and lien of the surface water assessments and surface water fees), unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of board adoption of the surface water rate resolution. Nothing contained in this ordinance shall be construed or interpreted to affect the finality of any surface water assessment or surface water fee not challenged within the required 20-day period for those charges previously imposed against assessed property by the inclusion of the assessed property on a surface water roll approved in a surface water rate resolution.

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**SECTION 15. Sec. 166-506 of the Code is hereby repealed in its entirety:**

**~~Sec. 166-506. Annual adoption procedures.~~**

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~~(a) — Annually, during the budget adoption process, the board shall determine whether to reimpose a surface water assessment and surface water fee for each fiscal year following the initial fiscal year. If the board elects to reimpose a surface water assessment and surface water fee, the procedures in this section shall be followed.~~

~~(b) — The initial proceedings for the reimposition of an annual surface water assessment and surface water fee shall be the adoption of a preliminary rate resolution by the Board (1) containing a brief and general description of the services, facilities, or programs to be provided; (2) determining the surface water service cost or capital/project cost to be assessed for the upcoming fiscal year; (3) establishing the estimated rate for the upcoming fiscal year; (4) establishing or increasing a maximum rate, if desired by the board; (5) authorizing the date, time, and place of a public hearing to receive and consider comments from the public and consider the adoption of the annual surface water rate resolution for the upcoming fiscal year; and (6) directing the surface water utility coordinator to (a) update the surface water roll, (b) provide notice by publication and first class mail to affected owners in the event circumstances described in subsection (f) of this section so require, and (c) directing and authorizing any supplemental or additional notice deemed proper, necessary or convenient by the county.~~

~~(c) — At the public hearing established in the preliminary surface water rate resolution or to which an adjournment or continuance may be taken by the board, the board shall receive any oral or written objections of interested persons and may then, or at any subsequent meeting of the board, adopt the annual surface water rate resolution, which shall (1) establish the rate to be imposed in the upcoming fiscal year and (2) approve the surface water roll for the upcoming fiscal~~

~~year with such adjustments as the board deems just and right. The surface water roll shall be prepared in accordance with the method of apportionment set forth in the initial surface water rate resolution, or any subsequent preliminary surface water rate resolution, together with modifications, if any, that are provided and confirmed in the final surface water rate resolution or any subsequent annual surface water rate resolution.~~

~~(d) — Nothing herein shall preclude the board from providing annual notification to all owners of assessed property in the manner provided in sections 166-503 and 166-504 hereof or any other method as provided by law.~~

~~(e) — The board may establish or increase a maximum rate in an initial surface water rate resolution or preliminary surface water rate resolution and confirm such maximum rate in the annual surface water rate resolution in the event notice of such maximum rate has been included in the notices required by section 166-503 and 166-504 hereof.~~

~~(f) — In the event (1) the proposed surface water assessment or surface water fee for any fiscal year exceeds the rates adopted by the board, including a maximum rate, if any, that were listed in the notices previously provided to the owners of assessed property pursuant to sections 166-503 and 166-504 hereof, (2) the purpose for which the surface water assessment or surface water fee is imposed or the use of the revenue from the surface water assessment or surface water fee is substantially changed from that represented by notice previously provided to the owners of assessed property pursuant to sections 166-503 and 166-504 hereof, (3) assessed property is reclassified or the method of apportionment is revised or altered resulting in an increased surface water assessment or surface water fee from that represented by notice previously provided to the owners of assessed property pursuant to sections 166-503 and 166-504 hereof, or (4) a surface water roll contains assessed property that was not included on the surface water roll approved for the prior fiscal year,~~

~~notice shall be provided by publication and first class mail to the owners of such assessed property as provided by law. Such notice shall substantially conform with the notice requirements set forth in sections 166-503 and 166-504 hereof and inform the owner of the date, time, and place for the adoption of the annual surface water rate resolution. The failure of the owner to receive such notice due to mistake or inadvertence, shall not affect the validity of the surface water roll nor release or discharge any obligation for payment of a surface water assessment or surface water fee imposed by the board pursuant to this ordinance.~~

~~(g) — As to any assessed property not included on a surface water roll approved by the adoption of the final surface water rate resolution or a prior year's annual surface water rate resolution, the adoption of the succeeding annual surface water rate resolution shall be the final adjudication of the issues presented as to such assessed property (including, but not limited to, the determination of special benefit and fair apportionment to the assessed property, the method of apportionment and assessment, the rate, the establishment or increase of a maximum rate, the surface water roll, and the levy and lien of the surface water assessments and fees), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the board action on the annual surface water rate resolution. Nothing contained herein shall be construed or interpreted to affect the finality of any surface water assessment or surface water fee not challenged within the required 20-day period for those charges previously imposed against assessed property by the inclusion of the assessed property on a surface water roll approved in the final surface water rate resolution or any subsequent annual surface water rate resolution.~~

~~(h) — The surface water roll, as approved by the annual surface water rate resolution, shall be delivered to the tax collector as required by the Uniform Assessment Collection Act, or if the alternative method described in sections 166-562 or 166-564 hereof is used to collect the surface~~

~~water assessments or surface water fees, such other official as the board by resolution shall designate. If the surface water assessment or surface water fee against any property shall be sustained, reduced, or abated by the court, an adjustment shall be made on the surface water roll.~~

SECTION 16. Sec. 166-507 of the Code is hereby repealed in its entirety:

~~**Sec. 166-507. Effect of surface water assessment resolutions.**~~

~~The adoption of the Final Surface Water Rate Resolution or Annual Surface Water Rate Resolution shall be the final adjudication of the issues presented (including, but not limited to, the apportionment methodology, the rate, the adoption of the Surface Water Roll and the levy and lien of the Surface Water Assessments and Surface Water Fees), unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of Board adoption of the Final Surface Water Rate Resolution. The Surface Water Assessments and Surface Water Fees for each Fiscal Year shall be established upon adoption of the Annual Surface Water Rate Resolution. The Surface Water Roll, as approved by the Final Surface Water Rate Resolution or Annual Surface Water Rate Resolution, shall be delivered to the Tax Collector, or such other official as the Board, by resolution, deems appropriate.~~

SECTION 17. Sec. 166-531 of the Code is hereby amended to read as follows:

**Sec. 166-531. Lien of surface water assessments.**

(a) Upon adoption of ~~the annual a~~ surface water rate resolution ~~for each fiscal year~~, surface water 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 be deemed perfected upon adoption by the board of the ~~annual~~ surface

water rate resolution and shall attach to the property included on ~~the applicable~~ surface water rolls as of the prior January 1, the lien date for ad valorem taxes.

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(b) Upon adoption of the ~~a final~~ surface water rate resolution, surface water assessments to be collected under the alternative method of collection provided in section 166-562 hereof 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 be deemed perfected on the date notice thereof is recorded in the Official Records of Pinellas County, Florida.

SECTION 18. Sec. 166-532 of the Code is hereby amended to read as follows:

**Sec. 166-532. Revisions to surface water charges.**

If any surface water assessment or surface water fee made under the provisions of this ordinance is either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the board is satisfied that any such surface water assessment or surface water fee is so irregular or defective that the same cannot be enforced or collected, or if the board has failed to include any property on ~~a the~~ surface water roll that should have been so included, the board may take all necessary steps to impose a new surface water assessment or surface water fee against any such property, following as nearly as may be practicable, the provisions of this ordinance and in case such second surface water assessment or surface water fee is annulled, the board may obtain and impose other surface water assessments or surface water fee until a valid surface water assessment or surface water fee is imposed.

SECTION 19. Sec. 166-533 of the Code is hereby amended to read as follows:

**Sec. 166-533. Procedural irregularities.**

Any irregularity in the proceedings in connection with the levy of any surface water assessment or surface water fee under the provisions of this ordinance shall not affect the validity of the same after the approval thereof, and any surface water assessment or surface water fee as finally approved shall be competent and sufficient evidence that such surface water assessment or surface water fee was duly levied, that the surface water assessment or surface water fee was duly made and adopted, and that all other proceedings adequate to such surface water assessment or surface water fee were duly had, taken and performed as required by this ordinance; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby. Notwithstanding the provisions of this section, any party objecting to a surface water assessment or surface water fee imposed pursuant to this ordinance must file an objection with a court of competent jurisdiction within the time periods prescribed in section 166-50~~57~~ of this ordinance.

SECTION 20. Sec. 166-534 of the Code is hereby retained in its entirety as follows:

**Sec. 166-534. Correction of errors and omissions.**

(a) No act of error or omission on the part of the board, surface water utility coordinator, property appraiser, tax collector, clerk, or their respective deputies, employees or designees, shall operate to release or discharge any obligation for payment of any surface water assessment or surface water fee imposed by the board under the provisions of this ordinance.

(b) The number of ERUs attributed to a parcel of property may be corrected at any time by the surface water utility coordinator. Any such correction which reduces a surface water assessment or surface water fee shall be considered valid from the date on which the surface water assessment or surface water fee was imposed and shall in no way affect the enforcement of the surface water assessment or surface water fee imposed under the provisions of this ordinance. [To](#)

the extent required by the Uniform Assessment Collection Act or otherwise by law. Any such correction which increases a surface water assessment or surface water fee or imposes a surface water assessment or surface water fee on omitted property shall first require notice to the affected owner in the manner described in section 166-504 hereof, providing the date, time and place that the board will consider confirming the correction and offering the owner an opportunity to be heard.

(c) After the surface water roll has been delivered to the tax collector in accordance with the Uniform Assessment Collection Act, any changes, modifications or corrections thereto shall be made in accordance with the procedures applicable to errors and insolvencies for ad valorem taxes.

SECTION 21. Sec. 166-535 of the Code is hereby amended to read as follows:

**Sec. 166-535. Interim surface water charges.**

(a) An interim surface water assessment or surface water fee may be imposed against all property, for which a mobile home tie-down permit or building permit is issued after adoption of ~~the annual~~ surface water rate resolution. If imposed, the amount of the interim surface water assessment or surface water fee shall be calculated upon a monthly rate, which shall be one-twelfth of the annual rate for such property computed in accordance with the ~~annual~~ surface water rate resolution for the fiscal year for which the interim surface water assessment or surface water fee is being imposed. Such monthly rate shall be imposed for each partial and full calendar month remaining in the fiscal year. In addition to the monthly rate, the interim surface water assessment or surface water fee shall also include an estimate of the subsequent fiscal year's surface water assessment or surface water fee if the tax parcel will not be assessed as developed property on the tax roll for that year.

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(b) No mobile home tie-down permit or building permit shall be issued until full payment of the interim surface water assessment or surface water fee is received by the county if an interim charge is imposed. Issuance of the mobile home tie-down permit or building permit without the payment in full of the interim surface water assessment or surface water fee shall not relieve the owner of such property of the obligation of full payment. Any interim surface water assessment or surface water fee not collected prior to the issuance of the mobile home tie-down permit or building permit may be collected pursuant to the Uniform Assessment Collection Act as provided in section 166-561 of this ordinance or by any other method authorized by law.

(c) If imposed, any interim surface water assessment shall be deemed due and payable on the date the mobile home tie-down permit or building permit was issued and shall constitute a lien against such property as of that date. Said lien shall be equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved and shall be deemed perfected upon the issuance of the mobile home tie-down permit or building permit.

(d) In the event a building permit expires prior to the substantial commencement of the construction activities for which it was issued, and the applicant paid the interim surface water assessment or surface water fee at the time the building permit was issued, the applicant may within 90 days of the expiration of the building permit apply for a refund of the interim surface water assessment or surface water fee. Failure to timely apply for a refund of the interim surface water assessment or surface water fee shall waive any right to a refund.

(e) The application for refund shall be filed with the surface water utility coordinator and contain the following:

- 1) The name and address of the applicant;
- 2) The location of the property and the tax parcel identification number for the property which was the subject of the building permit;
- 3) The date the interim surface water assessment or surface water fee was paid;
- 4) A copy of the receipt of payment for the interim surface water assessment or surface water fee; and
- 5) The date the building permit was issued and the date of expiration.

(f) After verifying that the building permit has expired and that the construction has not been substantially commenced, the County shall refund the applicable portion of the interim surface water assessment or surface water fee paid.

(g) A building permit which is subsequently issued for a building on the same property which was subject of a refund shall pay the interim surface water assessment or surface water fee as required by this section.

SECTION 22. Sec. 166-536 of the Code is hereby amended to read as follows:

**Sec. 166-536. Authorization for exemptions and hardship assistance.**

(a) The board, in its sole discretion, shall determine whether to provide exemptions from payment of a surface water assessment or surface water fee for government property or property whose use is wholly or partially exempt from ad valorem taxation under Florida law.

(b) The board, in its sole discretion, shall determine whether to provide a program of hardship assistance to county residents who are living below or close to the poverty level and are at risk of losing title to their homes as a result of the imposition of a surface water assessment or surface water fee.

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(c) The board shall designate the funds available to provide any exemptions or hardship assistance. The provision of an exemption or hardship assistance in any one year shall in no way establish a right or entitlement to such exemption or assistance in any subsequent year and the provision of funds in any year may be limited to the extent funds are available and appropriated by the board. Any funds designated for exemptions or hardship assistance shall be paid by the county from funds other than those generated by the applicable surface water assessments or surface water fees.

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(d) Any shortfall in the expected surface water assessment or surface water fee proceeds due to any hardship assistance or exemption from payment of the surface water assessments or surface water fees required by law or authorized by the board shall be supplemented by any legally available funds, or combination of such funds, and shall not be paid for by proceeds or funds derived from the charges. In the event a court of competent jurisdiction determines any exemption or reduction by the board is improper or otherwise adversely affects the validity of a ~~the~~ surface water assessment or surface water fee imposed ~~for any fiscal year~~, the sole and exclusive remedy shall be the imposition of an assessment or fee upon each affected property in the amount of the surface water assessment or surface water fee that would have been otherwise imposed save for such reduction or exemption afforded to such property by the board.

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SECTION 23. Sec. 166-561 of the Code is hereby retained in its entirety as follows:

**Sec. 166-561. Method of collection of surface water assessments.**

Unless directed otherwise by the board, surface water assessments shall be collected pursuant to the Uniform Assessment Collection Act, and the county shall comply with all applicable provisions thereof. Any hearing or notice required by this ordinance may be combined with any other hearing or notice required by the Uniform Assessment Collection Act.

SECTION 24. Sec. 166-562 of the Code is hereby amended to read as follows:

**Sec. 166-562. Alternative method of collection of surface water assessments.**

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In lieu of using the Uniform Assessment Collection Act, the county may elect to collect ~~at the~~ surface water assessment by any other method which is authorized by law or under an alternative collection method provided by this section.

(a) The county shall provide surface water assessment bills by first class mail to the owner of each affected parcel of property, other than government property. The bill or accompanying explanatory material shall include (1) a brief explanation of the surface water assessment, (2) a description of the ERU calculation used to determine the amount of the assessment, (3) the number of ERUs attributed to the parcel, (4) the total amount of the parcel's surface water assessment for the appropriate period, (5) the location at which payment will be accepted, (6) the date on which the surface water assessment is due, and (7) a statement that the surface water assessment constitutes 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.

(b) A general notice of the lien resulting from imposition of the surface water assessments shall be recorded in the Official Records of Pinellas County, Florida. Nothing herein shall be construed to require that individual liens or releases be filed in the official records.

(c) The county shall have the right to appoint or retain an agent to foreclose and collect all delinquent surface water assessments in the manner provided by law. A surface water assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The county or its agent shall notify any property owner who is delinquent in payment of his or her surface water assessment within 60 days from the date the surface water assessment was due. Such notice shall state in effect that the county or its agent will initiate a foreclosure action

and cause the foreclosure of such property subject to a delinquent surface water assessment in a method now or hereafter provided by law for foreclosure of mortgages on real estate, or otherwise as provided by law.

(d) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the county may be the purchaser to the same extent as an individual person or corporation. ~~The county may join in one foreclosure action.~~ The collection of surface water assessments against any or all property assessed in accordance with the provisions hereof may be joined in one foreclosure action by the county. All delinquent property owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the county and its agents, including reasonable attorney fees, in collection of such delinquent surface water assessments and any other costs incurred by the county as a result of such delinquent surface water assessments including, but not limited to, costs paid for draws on a credit facility and the same shall be collectible as a part of or in addition to, the costs of the action.

(e) In lieu of foreclosure, any delinquent surface water assessment and the costs, fees and expenses attributable thereto, may be collected pursuant to the Uniform Assessment Collection Act; provided however, that (1) notice is provided to the owner in the manner required by law and this ordinance, and (2) any existing lien of record on the affected parcel for the delinquent surface water assessment is supplanted by the lien resulting from certification of the surface water roll to the tax collector.

SECTION 25. Sec. 166-563 of the Code is hereby retained in its entirety as follows:

**Sec. 166-563.            Responsibility for enforcement.**

The county and its agent, if any, shall maintain the duty to enforce the prompt collection of surface water assessments and surface water fees by the means provided herein. The duties related to collection of surface water assessments and surface water fees may be enforced at the suit of any holder of obligations in a court of competent jurisdiction by mandamus or other appropriate proceedings or actions.

SECTION 26. Sec. 166-564 of the Code is hereby amended to read as follows:

**Sec. 166-564. Collection of surface water fees.**

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(a) If surface water fees are imposed against government property, the county shall provide surface water fee bills by first class mail to the owner of each affected parcel of government property. The bill or accompanying explanatory material shall include (1) a brief explanation of the surface water fee, (2) a description of the ERUs used to determine the amount of the surface water fee, (3) the number of ERUs attributed to the parcel, (4) the total amount of the parcel's surface water fee for the appropriate period, (5) the location at which payment will be accepted, and (6) the date on which the surface water fee is due.

(b) Surface water fees imposed against government property shall be due on the same date as all surface water assessments and, if applicable, shall be subject to the same discounts for early payment.

(c) A surface water fee shall become delinquent if it is not paid within 30 days from the date any installment is due. ~~The county shall notify the owner of any government property that is delinquent in payment of its surface water fee within 60 days from the date the surface water fee was due. Such notice shall state in effect that the county will initiate a mandamus or other appropriate judicial action to compel payment.~~

(d) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any mandamus or other action ~~as described herein~~ pursued to recover delinquent

[surface water fees](#) shall be included in any judgment or decree rendered therein. All delinquent owners of government property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the county, including reasonable attorney fees, in collection of such delinquent surface water fees and any other costs incurred by the county as a result of such delinquent surface water fees including, but not limited to, costs paid for draws on a credit facility and the same shall be collectible as a part of or in addition to, the costs of the action.

(e) As an alternative to the foregoing, a surface water fee imposed against government property may be collected on the bill for any utility service provided to such government property. The board may contract for such billing services with any utility not owned by the county.

SECTION 27. Sec. 166-591 of the Code is hereby retained in its entirety as follows:

**Sec. 166-591. Applicability.**

This ordinance and the county's authority to impose surface water assessments and surface water fees pursuant hereto shall be effective in the unincorporated areas of the county.

SECTION 28. Sec. 166-592 of the Code is hereby retained in its entirety as follows:

**Sec. 166-592. Alternative method.**

This ordinance shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence.

SECTION 29. Sec. 166-593 of the Code is hereby retained in its entirety as follows:

**Sec. 166-593. Severability.**

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The provisions of this ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this ordinance shall not be affected thereby.

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SECTION 30. Inclusion in Land Development Code.

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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 Land Development 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 31. Filing of Ordinance; Effective Date.

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Pursuant to Section 125.66, Florida Statutes, 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 of the Ordinance with the Department of State.

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