

**ORDINANCE NO. 20—\_\_\_\_**

AN ORDINANCE OF THE COUNTY OF PINELLAS, PROVIDING THAT THE PINELLAS COUNTY CODE BE AMENDED BY REPEALING ARTICLE II (PUBLIC LAKE IMPROVEMENTS) OF CHAPTER 130 (WATERWAYS) AND BY REVISING CHAPTER 110 (SPECIAL ASSESSMENTS); PROVIDING FOR LAKE IMPROVEMENTS AND OTHER CAPITAL IMPROVEMENTS TO BE ASSESSED USING THE UNIFORM NON-AD VALOREM COLLECTION METHOD UNDER CHAPTER 110; PROVIDING FOR OTHER REVISIONS TO CHAPTER 110 THAT ARE CONSISTENT WITH THE UNIFORM NON-AD VALOREM COLLECTION METHOD; PROVIDING FOR OTHER REVISIONS TO CHAPTER 110 FOR STYLE AND CLARITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCORPORATION INTO THE COUNTY CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 130 (Waterways), Article II (Public Lake Improvements) of the Pinellas County Code (the “Code”) provides a process to fund lake improvements via special assessment;

WHEREAS, Chapter 130, Article II of the Code was adopted in 1976 prior to State adoption of the Uniform Method for Collection of Non-Ad Valorem Assessments codified at F.S. §§ 197.3632, 197.3635 (the “Uniform Method”);

WHEREAS, the Uniform Method—which authorizes non-ad valorem assessment inclusion on tax bills—offers a highly convenient and effective method to collect special assessments;

WHEREAS, the Board of County Commissioners (the “Board”) utilizes the Uniform Method to collect special assessments for surface water management pursuant to Chapter 58 (Environment), Article XVII (Surface Water Management) of the Code, as well as street, drainage, and dredging improvements pursuant to Chapter 110 of the Code (Special Assessments);

WHEREAS, the Board similarly wishes to utilize the Uniform Method to collect special assessments for lake improvements;

WHEREAS, the Board accordingly wishes to repeal Chapter 130, Article II of the Code and amend Chapter 110 of the Code to authorize special assessments for lake improvements to be collected via the Uniform Method;

WHEREAS, the Board wishes to collect special assessments for all (capital) improvements—not just street, drainage, dredging, and lake improvements—via the Uniform Method;

WHEREAS, the Board accordingly wishes to strike the subsections referencing specific improvements in Chapter 110 and instead refer to improvements generally therein; and

WHEREAS, the Board also wishes to delete language in Chapter 110 of the Code that is superfluous or unnecessary.

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

Section 1. Chapter 130 (Waterways), Article II (Public Lake Improvements) of the Pinellas County Code is hereby repealed. Chapter 130 (Waterways), Article III (Boats and Water Safety) of the Pinellas County Code is hereby renumbered Chapter 130 (Waterways), Article II (Boats and Water Safety) of the Pinellas County Code.

Section 2. Chapter 110 (Special Assessments), Article II (Street Improvements, Storm Sewers, and Dredging) is hereby amended as follows:

Chapter 110 – SPECIAL ASSESSMENTS

Article II. ~~–STREET IMPROVEMENS, –STORM SEWERS, –AND DREDGING IMPROVEMENTS~~

Sec. 110-31. - Initial proceedings.

(a) By a written petition setting forth the legal description of the boundaries of the proposed special improvement district, the owners of 60 percent of the land area of the proposed district, abutting upon the proposed improvements or otherwise specially benefited thereby, may request the board of county commissioners to establish a special improvement district ~~and for~~ the construction of any ~~one or a combination of the following~~ improvements, or combination thereof, including but not limited to road, sidewalk, streetlighting, drainage, dredging, lake, and beach improvements.;

~~(1) Street improvements, which may include, including, but not limited to, the grading, widening, drainage, paving, curbing, roadway underdrain, or guttering of any continuous portion of a street, or two or more connecting streets. Sidewalks and bike paths may be included, where feasible, at the option of the board of county commissioners.~~

~~(2) Drainage improvements, which may include including, but not limited to, pavement, the construction or maintenance of storm sewers and related stormwater attenuation and treatment facilities, the reconstruction, where necessary, of streets, including pavement and sidewalks necessarily damaged in the course of such construction, or the building of culverts or enclosing of open conveyances streams where necessary or advisable to carry off stormwater.~~

~~(3) Dredging improvements consistent with Section 2.04(u) of the Pinellas County Charter.~~

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

- (b) The board, upon finding that the petition for improvements under this section is sufficient in form, substance and execution, and finding a public purpose for the proposed improvements, may ~~by preliminary resolution order the improvements to be made and may assess against the benefited properties that portion of the cost which the board designates, paying as a county charge any remaining cost.~~ adopt a non-ad valorem assessment roll, pursuant to the Uniform Assessment Collection Act codified in F.S. ch. 197, for the construction of the proposed improvements.

~~(Such special assessments shall be levied upon the benefited properties in general proportion to the benefits to be derived. Such special benefits may be determined and prorated according to the foot frontage of the properties or by such other method as the board may prescribe.~~

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

- ~~(cd)~~ All assessments levied pursuant to this section shall be levied and collected as non-ad valorem assessments pursuant to and in compliance with the Uniform Assessment Collection Act of F.S. ch. 197.

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

- ~~(a) The special improvement programs enumerated in this article may be initiated by the board of county commissioners may, at any time, without the filing of the petition provided for in section 110-31, adopt a non-ad valorem assessment roll, pursuant to the Uniform Assessment Collection Act codified in F.S. ch. 197, for the construction of any improvement, or combination thereof, including but not limited to road, sidewalk, streetlighting, drainage, dredging, lake, and beach improvements. To adopt such a roll, so long as the board must finds that there is a public purpose for said improvements, and must establish a special improvement district, which shall include the properties abutting upon said improvements or otherwise specially benefited thereby. Such action shall be evidenced by an initial resolution ordering the construction of the improvement and describing the property bounding or abutting the improvement or otherwise specially benefited thereby. The resolution shall state the nature and location of the improvement together with that portion of the cost thereof to be assessed against the benefited property and that portion, if any, to be paid by the county.~~

—All assessments levied pursuant to this section shall be levied and collected pursuant to and in compliance with the Uniform Assessment Collection Act~~Method of Collection prescribed by F.S. ch. 197.~~

(b)

~~Sec. 110-33. Estimate of cost.~~

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

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

~~After the construction of the project, the designated county engineer and the clerk shall prepare and present to the board of county commissioners a report of cost of the improvement. The report of cost shall show the total cost of the improvement, including incidental expenses. The board of county commissioners shall credit to each of the assessments the difference in the assessment as originally made, approved, and recorded and the proportionate part of the actual cost as finally determined. The levied assessment shall be amended, if necessary, in accordance with the uniform method for the levy, collection, and enforcement of non-ad valorem assessments should the final cost of the improvement from the preliminary cost, differ from the estimated cost.~~

Sec. 110-~~33~~5. - Lien of improvement assessment.

~~Upon adoption of the assessment resolution,~~ Non-ad valorem assessments ~~to be collected~~levied under this article ~~e Uniform Assessment Collection Act~~ shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, titles and claims, until paid. The lien shall attach to the property included on the district assessment roll as of the prior January 1, the lien date for ad valorem taxes.

Sec. 110-34 through Sec. 110-41. - Reserved.

Sec. 110-~~36~~42. - Revolving fund.

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

~~Sec. 110-37.— Powers cumulative.~~

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

~~Sec. 110-42.— Payment of assessments, collection.~~

~~All assessment liens shall be due and payable to the board of county commissioners and checks delivered to the finance division, clerk of the circuit court, special assessments section, on or before 60 days after the date of notice of payment due, which shall be after completion of the project and adjustment to assessments, if any, have been made. All assessment liens not paid within such period shall become payable in not more than ten annual installments, the first installment to become due on June 30 following the expiration of the 60-day interest-free payment period. The number of installments will be determined by the board at the time of the confirmation and approval of the assessment roll, with interest on the unpaid principal at not more than eight percent per annum from the expiration of the interest-free period; but any assessment lien becoming so payable in installments may be paid in full at any time, together with interest accrued thereon to the date of payment. The assessments shall be collectible and shall be entitled to sale and forfeiture in the same manner and with the same attorney's fee, interest and penalties for default in payment, as general county taxes. Collection may also be effected by foreclosure in a court of equity, according to the laws then existing for the foreclosure of mortgages, or the collection and enforcement of payment thereof may be accomplished by any other method authorized by law. It shall be lawful to join in any such bill for foreclosure any one or more lots or parcels of land, by whomsoever owned, if assessed for the same improvement made under the provisions of this article.~~

Sec. 110-43. - Bonds.

~~After the recording of the assessment roll,~~      †The board of county commissioners may by resolution authorize an issue of revenue bonds of the county for the payment of ~~such portion of any the costs~~ assessed pursuant to this article ~~against the properties specially benefited thereby~~ and for the reimbursement of any fund of the county from which any part of such costs shall heretofore have been paid. The amount of such bonds authorized to be issued under this article shall not exceed in the aggregate the total amount of the assessment liens pledged for their payment. ~~Such bonds shall be dated, shall bear interest at such rate or rates as are established by the board of county commissioners, shall mature at such time or times not later than six months after the maturity of the last installment of the special assessment liens pledged to the payment thereof as may be determined by the board, and may be redeemable before maturity at the option of the board under such terms and conditions as may be fixed by the board prior to the issuance of the bonds. The board shall determine the forms of the bonds, including any interest coupons to be attached thereto and the manner of execution of the bonds and coupons; and shall fix the denomination or denominations of the bonds and the place of payment of principal and interest, which may be at any bank or trust company within or without the state. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.~~

~~All bonds issued under the provisions of this article shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments laws of the state. The bonds may be issued in coupon or in registered form, or both, as the board may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The issuance of such bonds shall not be subject to any limitation or condition contained in any other law. The county may deliver such bonds to the contractor in full payment for his work or may sell such bonds at public or private sale at not less than par plus accrued interest. Prior to the preparation of definitive bonds, the county may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The board may also provide for the replacement of any bonds which shall be mutilated, destroyed or lost~~

Sec. 110-44 through Sec. 110-53. - Reserved.

Sec. 110-54. - Powers cumulative.

The powers conferred by this article shall be cumulative and in addition to any existing powers and shall not be subject to any restriction or limitation appearing in any other law, nor shall anything in this article be construed as being in derogation of authority existing by virtue of any other special, local or general law. Nothing in this article prevents the board of county commissioners from imposing a special assessment under legal authority separate and apart from this article and the Uniform Assessment Collection Act.

Sec. 110-55. - Severability.

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

Sec. 110-56. - Areas embraced.

For an improvement that does not further one of the special powers of the county listed in Section 2.04 of the County Charter, all parcels within the special improvement district improvements authorized under sections 110-31(a)(1), and (2), and (4) shall must lie wholly in unincorporated areas of the county. Notwithstanding, if any such parcel lies in an incorporated area of the county, the board of county commissioners shall be authorized to assess such parcel, so long as, prior to the board of county commissioners' adoption of the preliminary resolution ordering the improvements to be made, the governing body of the affected incorporated area consents at public hearing to the ~~adoption~~assessing of such parcel~~resolution~~.

For an improvement that furthers one of the special powers of the county listed in Section 2.04 of the County Charter, pParcels within a special improvement district created to make a special improvement authorized under section 110-31(a)(3) may lie in unincorporated areas of the county, incorporated areas of the county, or both. No action by the governing body of an

incorporated area of the county is required for the board of county commissioners to assess a parcel in that incorporated area for a special improvement authorized under section 110-31(a)(3).

Section 3. Severability.

If any section, paragraph, clause, sentence, or provision of the Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, nor nullify the remainder of this Ordinance, and the effect therefore shall be confined to the section, paragraph, clause, sentence, or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 4. Inclusion in Code.

The provisions of this Ordinance shall be included and incorporated in the Pinellas County Code, as an amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Code.

Section 5. Filing of Ordinance; Effective Date.

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 days after enactment by the Board of County Commissioners. This Ordinance shall become effective upon filing with the Department of State.