

ORDINANCE NO. 06-13

AN ORDINANCE RELATING TO THE PROVISION OF SERVICES AND CAPITAL FACILITIES FOR STORMWATER MANAGEMENT AND THE IMPOSITION OF STORMWATER CHARGES RELATED TO THOSE SERVICES AND FACILITIES WITHIN ALACHUA COUNTY; REPEALING EXISTING CHAPTER 44 OF THE ALACHUA COUNTY CODE RELATING TO STORMWATER MANAGEMENT IN ITS ENTIRETY; CREATING A NEW CHAPTER 44 OF THE ALACHUA COUNTY CODE RELATING TO STORMWATER MANAGEMENT; PROVIDING DEFINITIONS AND FINDINGS; PROVIDING FOR APPLICABILITY IN THE UNINCORPORATED AREA OF THE COUNTY AND WITHIN DESIGNATED MUNICIPALITIES; ESTABLISHING A STORMWATER MANAGEMENT UTILITY AND PROVIDING ITS RESPONSIBILITIES; ESTABLISHING A STORMWATER MANAGEMENT UTILITY FUND; AUTHORIZING THE IMPOSITION AND COLLECTION OF STORMWATER CHARGES TO FUND THE COST OF PROVIDING SERVICES AND CAPITAL FACILITIES FOR STORMWATER MANAGEMENT; ESTABLISHING PROCEDURES FOR NOTICE AND ADOPTION OF STORMWATER ASSESSMENT ROLLS AND FOR CORRECTING ERRORS AND OMISSIONS; PROVIDING THAT STORMWATER ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF THE STORMWATER ROLLS; ESTABLISHING PROCEDURES AND METHODS FOR THE COLLECTION OF STORMWATER ASSESSMENTS; ESTABLISHING THE PRIORITY OF THE STORMWATER LIEN OVER PRIOR RECORDED LIENS OR MORTGAGES; PROVIDING FOR THE IMPOSITION OF STORMWATER FEES AGAINST GOVERNMENT PROPERTY; PROVIDING FOR ENFORCEMENT OF STORMWATER CHARGES; PROVIDING FOR REVISIONS AND CORRECTIONS TO STORMWATER CHARGES; PROVIDING FOR MITIGATION CREDIT AGAINST STORMWATER CHARGES; AUTHORIZING THE IMPOSITION OF INTERIM CHARGES; PROVIDING A REVIEW PROCESS FOR STORMWATER CHARGES; AUTHORIZING THE ISSUANCE OF OBLIGATIONS SECURED BY STORMWATER ASSESSMENTS; PROVIDING FOR

VARIOUS RIGHTS AND REMEDIES OF THE HOLDERS OF SUCH OBLIGATIONS; PROVIDING THAT SUCH OBLIGATIONS WILL NOT CREATE A GENERAL DEBT OR OBLIGATION OF THE COUNTY; PROVIDING FOR SEVERABILITY AND RULES OF CONSTRUCTION; PROVIDING FOR INCLUSION IN THE COUNTY CODE OF LAWS AND ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA:

SECTION A

Chapter 44 of the Alachua County Code as adopted by Ordinance No. 93-19, is hereby repealed in its entirety.

SECTION B

A new Chapter 44 of the Alachua County Code is hereby adopted to read:

Chapter 44

Stormwater Management Program

Article I

Introduction

Section 44.101. Definitions. When used in this Ordinance, the following terms shall have the following meanings, unless the context clearly requires otherwise:

"Assessed Property" means all parcels of real property included on the Stormwater Roll that receive a special benefit from the Stormwater Improvements and Stormwater Management Services identified in a Final Stormwater Resolution.

"Benefitted Property" means property that causes a burden on or receives a special benefit from the Stormwater Improvements and Stormwater Management Services identified in a Final Stormwater Resolution.

"Board" means the Board of County Commissioners of Alachua County, Florida.

"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 Stormwater Improvements under generally accepted accounting principles and including reimbursement to the County for any moneys advanced for Capital Cost and interest on any inter-fund or intra-fund loan for such purposes.

"Clerk" means the clerk of the board of county commissioners, Alachua County, Florida.

"Comprehensive Plan" means the comprehensive plan adopted by the County pursuant to Chapter 163, Part II, Florida Statutes.

"County" means Alachua County, Florida.

"County Manager" means the chief administrative officer of the County, or such person's designee.

"Designated Municipality" means a municipality whose governing board has adopted an ordinance consenting for Benefitted Property within its incorporated area to be included within a Stormwater Improvement Area and subject to Stormwater Charges that may be imposed pursuant to this ordinance.

"ERU" means "equivalent residential Stormwater unit," 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.

"Final Stormwater Resolution" means the resolution described in Section 44.405 hereof, which shall confirm, modify or repeal the Initial Stormwater Resolution and which shall be the final proceeding for the imposition of the initial Stormwater Assessment.

"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.

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

"Initial Stormwater Resolution" means the resolution described in Section 44.401 hereof, which shall be the initial proceeding for the imposition of the Stormwater Assessment.

"Mitigation Credit" means a credit applied to a Stormwater Charge for a Benefitted 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 an non-County stormwater system or for the conveyance and/or treatment of Stormwater.

"Mitigation Facility" means a manmade facility or structure on the site of a Benefitted Property which, by its design and function, retains Stormwater on-site and

thus generates less volume of Stormwater from the site or produces Stormwater runoff at a lower rate or with less pollutants than would be the case in the absence of such facilities or structure.

"Municipality" means any of the municipalities within the County, including the City of Alachua, the City of Archer, the City of Gainesville, the City of Hawthorne, the City of High Springs, the City of La Crosse, the Town of Micanopy, the City of Newberry and the City of Waldo.

"Notice Of Proposed Property Taxes" means the notice of proposed ad valorem taxes prepared by the Alachua County Property Appraiser as required by section 200.069, Florida Statutes.

"Obligation" means a bond or 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 Stormwater Improvement and secured, in whole or in part, by proceeds of the Stormwater Improvement Assessments.

"Ordinance" means this Stormwater Ordinance as it may be amended from time to time.

"Pledged Revenue" means, as to any Obligation, (A) the proceeds of such Obligation, including investment earnings, (B) proceeds of the Stormwater Improvement Assessments pledged to secure the payment of such Obligation, and (C) any other legally available non-ad valorem revenue pledged to secure the payment of such Obligation, as specified by the resolution authorizing such Obligation.

"Project Cost" means (A) the Capital Cost of a Stormwater Improvement, (B) the Transaction Cost associated with the Obligations to finance the Stormwater Improvement, (C) interest accruing on such Obligations for such period of time as the County deems appropriate, (D) the debt service reserve fund or account, if any, established for the Obligations which financed the Stormwater Improvement, and (E) any other costs or expenses related thereto.

"Property Appraiser" means the Alachua County Property Appraiser.

"Stormwater" means the flow of water which results from, and which occurs following, a rainfall event.

"Stormwater Assessment" means either a Stormwater Improvement Assessment, a Stormwater Service Assessment, or both.

"Stormwater Assessment Coordinator" means the person designated by the County Manager to administer the Stormwater Charge program.

"Stormwater Charge" means the Stormwater Assessment or the Stormwater Fee or both.

"Stormwater Fee" means a fee reasonably related to service provided by the County to fund all or any portion of the Stormwater 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 Stormwater Management Services to such property. The Stormwater Fee imposed against Government Property is not a special assessment; it is a regulatory fee imposed for the Stormwater Management Service provided to

Government Property as Benefitted Property by the County's Stormwater Management Utility.

"Stormwater Improvement" means land, capital facilities and improvements acquired or provided to detain, retain, convey or treat Stormwater.

"Stormwater Improvement Area" means one or more Stormwater Basins, or any portion or portions thereof, as identified in the Initial Stormwater Resolution and Final Stormwater Resolution, encompassing those parcels of property specially benefitted by the construction, reconstruction or installation of all or any portion of a Stormwater 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 Benefitted Property. Each Stormwater Improvement Area will include either (A) the property which is hydrologically connected, directly or indirectly, to the Stormwater Improvement, or (B) all property located within a hydrologically defined area in which the County constructs one or more Stormwater Improvements pursuant to a Stormwater Basin Plan to correct existing deficiencies with respect to a specific level of service and provide a consistent level of Stormwater management.

"Stormwater Improvement Assessment" means a special assessment imposed by the County within a Stormwater Improvement Area to fund the Capital Cost or the debt service and related cost of an Obligation issued to finance the Project Cost of a Stormwater Improvement.

"Stormwater Management Service" means (A) management and administration of the County's Stormwater Management Utility; (B) Stormwater program engineering; (C) Stormwater Basin planning; (D) Stormwater Improvements to be

acquired or constructed during a single Fiscal Year without the issuance of any Obligations; (E) operating and maintaining the County's capital facilities for Stormwater management, including extraordinary maintenance; (F) billing and collection of Stormwater Assessments, including customer information services and reserves for statutory discounts; and (G) legal, engineering and other consultant services.

"Stormwater Management Utility" means the entity established by Section 44.201 hereof to implement the Stormwater management program of the County.

"Stormwater Master Plan" means a policy document 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 Stormwater Master Plan shall designate those Stormwater Basins for which a Stormwater Basin Plan will be prepared.

"Stormwater Roll" means the roll created that includes all parcels within the County and their assigned Stormwater Charge relating to Stormwater Improvements or Stormwater Management Services approved by a Final Stormwater Resolution pursuant to Section 44.405 hereof.

"Stormwater Service Area" means the geographic area described in the Initial Stormwater Resolution and Final Stormwater Resolution that encompasses all parcels within the County which specially benefit from the Stormwater Management Service.

"Stormwater Service Assessment" means a special assessment imposed by the County within the Stormwater Service Area to fund the Stormwater Service Cost.

"Stormwater Service Cost" means the estimated amount for any Fiscal Year of all expenditures and reasonable reserves that are properly attributable to the Stormwater Management Service provided within the Stormwater 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 Stormwater Management Service, and interest on any inter-fund or intra-fund loan for such purpose.

"Stormwater Watershed Basin" and **"Stormwater Basin Plan"** mean 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.

"Stormwater Watershed Basin Plan" and **"Stormwater Basin Plan"** mean a policy document that is adopted by the Board for each Stormwater Basin or hydrologic sub-area thereof in which Stormwater Improvements are proposed and that provides for implementation of the Stormwater Master Plan.

"Tax Collector" means the Alachua County Tax Collector.

"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 Obligation, 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 Obligation and the documentation supporting issuance of the Obligation; (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 Obligation.

"Uniform Assessment Collection Act" means sections 197.3632 and 197.3635, Florida Statutes, 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.

Section 44.102. 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 44.103. General Findings. It is hereby ascertained, determined, and declared that:

(A) Pursuant to Article VIII, section 1, Florida Constitution, and section 125.01, Florida Statutes, and the County Charter, the Board has all powers of local self-government to perform county functions and to render services in a manner not inconsistent with general law and such power may be exercised by the enactment of County ordinances.

(B) The purpose of this Ordinance is to (1) provide procedures and standards for the imposition of Stormwater Charges under the constitutional and statutory home rule power of the County; (2) authorize a procedure for the funding of Stormwater Management Services, facilities, or programs providing special benefit to Assessed

Property within the Stormwater Service Area; (3) legislatively determine the special benefit provided to Assessed Property from the Stormwater Management Utility; and (4) provide procedures and standards to determine the fair, equitable, and reasonable charge for the Stormwater Fees charged to Government Property to fund the regulation of Stormwater Management Services provided to such property.

(C) 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.

(D) The Stormwater Assessments imposed hereby are consistent with the authority granted in section 403.0893, Florida Statutes. That statutory provision is additional and supplemental authority to the constitutional and statutory power of self-government granted to the County.

(F) 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.

(G) Those elements of the county stormwater and surface water management system that provide for the collection, storage, treatment, and conveyance of stormwater are of benefit and provide services to Benefitted Property within the County.

(H) The cost of operating and maintaining the stormwater management system 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.

(I) To be properly maintained, the County's stormwater management system needs enhanced maintenance, so rehabilitation and replacement may be required.

(J) Water quality may be degrading because of erosion and the discharge of nutrients, metals, oil, grease, and other substances into and through the stormwater system.

(K) Public health, safety, and welfare are adversely affected by poor water quality and flooding resulting from inadequate stormwater management practices.

(L) Benefitted Property either uses or benefits from the presence and operation of the stormwater management system. Those benefits include, by way of example and not limitation, (1) the provision of Stormwater management services and the availability and use of facilities or improvements by owners and occupants of such property to properly and safely detain, retain, convey or treat Stormwater discharged from such property, (2) stabilization of or the increase of property values, (3) increased safety and better access to property, (4) improved appearance, (5) rendering property more adaptable to a current or reasonably foreseeable new and higher use, (6) alleviation of the burdens caused by Stormwater runoff and accumulation attendant with the present or projected use of property, and (7) fostering the enhancement of environmentally responsible use and enjoyment of the natural resources within the County.

(M) Use of the stormwater management system is dependent on factors that influence runoff. The benefits provided by the Stormwater Environmental Utility bear a logical relationship to the value, use and characteristics of the property located within the Stormwater Service Area.

(N) The Stormwater Charges authorized by this Ordinance provide an equitable method of funding the Capital Cost of Stormwater Improvements and the Stormwater Service Cost, by fairly and reasonably allocating such costs to specially benefitted property classified on the basis of the Stormwater burden expected to be generated by the physical characteristics and use of such property.

(O) Section 403.0893, Florida Statutes, specifically authorizes and encourages local governments to provide stormwater management services and create stormwater programs and adopt stormwater charges sufficient to plan, construct, operate and maintain stormwater management systems.

(P) New and dedicated funding for the stormwater management program of the County is needed, and the levy of Stormwater Charges is the most equitable method of providing this funding.

(Q) Adoption of a stormwater management program will generate revenues needed to implement the level of service standards contained in the Stormwater Management Element and the Capital Improvement Element of the Comprehensive Plan.

(R) Local natural resource features can be protected and enhanced as part of the stormwater management program.

Section 44.104. Legislative Determinations Of Special Benefit. It is hereby ascertained and declared that the Stormwater Management Services and the Stormwater Improvements provide a special benefit to the Assessed Property and Government Property based upon the following legislative determinations:

(A) The Stormwater Management Utility possesses a logical relationship to the use and enjoyment of Benefitted Property by treating and controlling contaminated Stormwater generated by improvements constructed on Benefitted Property, which resulted in the alteration of such property from its natural state to accommodate such improvements.

(B) The special benefit received or burden created by Benefitted Property or the reasonable relationship to the benefit received or burden created by Government Property is the collection, storage, control, management, treatment and conveyance of the Stormwater burden generated by the improvements on Benefitted Property.

(C) The Stormwater Fee as authorized to be calculated herein and charged to Government Property bears a reasonable relationship to the cost of providing Stormwater Management Services, including of Stormwater generated by Government Property.

(D) The creation and maintenance of the Stormwater Management Utility is designed to implement County and state policies mandating Stormwater management programs by local governments.

Article II

Stormwater Management Utility

Section 44.200. Applicability. This Ordinance and the County's authority to impose Stormwater Charges pursuant hereto shall be applicable throughout the unincorporated area of the County and within incorporated areas of Designated Municipalities.

Section 44.201. Stormwater Management Utility. There is hereby established a Stormwater Management Utility, which shall be the operational means of implementing and otherwise carrying out the functional requirements of the County's Stormwater management system to construct or acquire Stormwater Improvements and provide Stormwater Management Services. The Stormwater Management Utility shall provide administration and management services in the operation and maintenance of the County's capital facilities for Stormwater management; the preparation of Stormwater studies and the implementation of the Stormwater Management Utility; the regulation of Stormwater Basins; and the repair, replacement, improvement and extension of the County's capital facilities for Stormwater management. The Stormwater Management 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 County Manager shall be responsible for administration of the Stormwater Management Utility.

Section 44.202. Stormwater Management Utility Fund. The Board intends to fund the cost of providing services and capital facilities for Stormwater management through Stormwater Charges. 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 Stormwater management will enhance accountability and management control of the County's Stormwater Management Utility and will facilitate implementation of the Board's funding policy for Stormwater management. Accordingly, there shall be established a Stormwater Management Utility Fund. From an accounting perspective, the Stormwater Management Utility Fund shall be established as a "special revenue fund." Proceeds of the Stormwater Service Assessment and the Stormwater Fees shall be used for payment of the Stormwater Management Costs. Expenditures from the Stormwater Management Utility Fund for activities that are not related to the County Stormwater management program shall not be permitted. Interest earned on Stormwater Charges shall not accrue to the County general fund, but shall remain with the Stormwater Management Utility Fund.

Article III

Imposition Of Stormwater Charges

Section 44.301. Stormwater Charges In The Unincorporated Area And In Designated Municipalities. Stormwater Charges are composed of Stormwater Assessments (which includes Stormwater Service Assessments or Stormwater Improvement Assessments, or both) and Stormwater Fees. Stormwater Charges may be imposed throughout all or a portion of the unincorporated area of the County and may also be imposed throughout all or a portion of the incorporated area of Designated Municipalities.

Section 44.302. Stormwater Service Assessments. The Board is hereby authorized to impose Stormwater Service Assessments against property located within the Stormwater Service Area. The Stormwater Service Cost may be assessed against Assessed Property located within the Stormwater Service Area at a rate of assessment based upon the special benefit accruing to such property from the Stormwater Management Service provided by the County, measured by the number of ERUs attributable to each parcel or classification of property. Notwithstanding the foregoing, if the Board specifically determines that any portion of the Stormwater Service Area receives a distinct special benefit from any component of the Stormwater Management Service that is materially different in kind or degree from the special benefit received by other portions of the Stormwater Service Area, the Stormwater Service Cost related to such component shall be assessed against the portion of the Stormwater Service Area receiving the distinct special benefit.

Section 44.303. Stormwater Improvement Assessments. The Board is hereby authorized to impose Stormwater Improvement Assessments to fund all or any portion of the Capital Cost or the debt service and related cost of Obligations issued to finance the Project Cost of a Stormwater Improvement identified in any Stormwater Basin Plan. Stormwater Improvement Assessments to fund the Capital Cost or the debt service and related cost of Obligations issued to finance the Project Cost of each Stormwater Improvement may be imposed against all parcels of property within the Stormwater Improvement Area at a rate of assessment based upon the special benefit accruing to such property from the Stormwater Improvement, measured by the number of ERUs attributable to each parcel or classification of property. If Stormwater Improvement Assessments are imposed to fund the debt service and related cost of Obligations issued to finance the Project Cost of a Stormwater Improvement, the Stormwater Improvement Assessment may include the amount 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.

Section 44.304. Imposition Of Stormwater Fees Against Government Property. The Board may levy on and collect from all Government Property that is Benefitted Property within the Stormwater Service Area to fund all or a portion of the Stormwater Service Cost for Government Property at a just, fair, reasonable, and equitable rate based upon such property's Stormwater burden and the reasonable cost of providing Stormwater Management services to such property. The rate of the

Stormwater Fee for each classification of Government Property shall be determined based upon each property's individual number of ERUs.

Article IV

Procedures For The Adoption And Collection Of Stormwater Charges

Section 44.401. Initial Stormwater Resolution. The initial proceeding for imposition of a Stormwater Charge shall be the Board's adoption of an Initial Stormwater Resolution. The Initial Stormwater Resolution shall (A) describe the Stormwater Improvement or Stormwater Management Service proposed for funding from the proceeds of the Stormwater Charge; (B) estimate the Capital Cost or Stormwater Service Cost; (C) describe with particularity the proposed method of apportioning the Capital Cost or Stormwater Service Cost among the parcels of property located within the Stormwater Improvement Area or Stormwater Service Area, as applicable, such that the owner of any parcel of property can objectively determine the amount of the Stormwater Charge, based upon its value, use or physical characteristics; and (D) 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 Stormwater Improvement or Stormwater Management Service. At its option, the Board may adopt separate Initial Stormwater Resolutions for the Stormwater Service Assessment, each Stormwater Improvement Assessment and the Stormwater Fee.

Section 44.402. Stormwater Roll.

(A) The County Manager shall prepare, or direct the preparation of, a preliminary Stormwater Roll that contains the following information:

(1) a summary description of each parcel of property (conforming to the description contained on the Tax Roll) subject to the Stormwater Assessment;

(2) the name of the owner of record of each parcel as shown on the Tax Roll;

(3) the number of ERUs attributable to each parcel;

(4) the estimated maximum Stormwater Improvement Assessment to become due in any Fiscal Year for each ERU;

(5) the estimated maximum Stormwater Service Assessment to become due in any Fiscal Year for each parcel; and

(6) at the option of the Board, the Stormwater Roll may also include the estimated maximum annual Stormwater Charge to become due in any Fiscal Year for each ERU and each parcel.

(B) Copies of the Initial Stormwater Resolution and the preliminary Stormwater Roll shall be on file in the office of the Stormwater Assessment Coordinator and open to public inspection. The foregoing shall not be construed to require that the Stormwater Roll be in printed form if the amount of the Stormwater Assessment for each parcel of property can be determined by use of a computer terminal available for use by the public.

Section 44.403. Notice By Publication. After filing the Stormwater Roll in the office of the Stormwater Assessment Coordinator, as required by Section 44.402 hereof, the County Manager shall publish once in a newspaper of general circulation within the County a notice stating that a public hearing of the Board will be held on a certain day and hour, not earlier than 20 calendar days from such publication, at which hearing the Board will receive written comments and hear testimony from all interested persons regarding adoption of the Final Stormwater Resolution and approval of the

Stormwater Roll. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act for the purposes of the Stormwater Assessments

Section 44.404. Notice By Mail.

(A) In addition to the published notice required by Section 44.403, the Stormwater Assessment Coordinator shall provide notice of the proposed Stormwater Charges by first class mail to the owner of each parcel of property subject to the Stormwater Charge. Such notice, which may be included on the notice of proposed property taxes, shall include:

- (1) The purpose of the stormwater assessments;
- (2) The total amount to be levied against each parcel of property;
- (3) The unit of measurement applied to determine the Stormwater Assessment;
- (4) The number of such units contained in each parcel of property;
- (5) The total revenue to be collected by the County from the Stormwater Assessment;
- (6) 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
- (7) The date, time and place of the hearing.

(B) For the first fiscal year in which a Stormwater Assessment is imposed against Assessed Property, and when the proposed rate of Assessment exceeds the rate included in any notice previously provided pursuant to this section, and when the method of apportionment is changed from that represented by any notice previously

provided by this section, the notice shall conform to the requirements set forth in the Uniform Assessment Collection Act.

(C) Notice shall be mailed at least 20 calendar days prior to the hearing to each property owner at such address as is shown on the Tax Roll on the twentieth calendar day prior to the date of mailing. Notice shall be deemed mailed upon delivery thereof to the possession of the U.S. Postal Service. The Stormwater Assessment Coordinator shall 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 Stormwater Roll nor release or discharge any obligation for the payment of a Stormwater Charge imposed by the Board pursuant to this Ordinance.

Section 44.405. Final Stormwater Resolution. At the time named in such notice, or such time to which an adjournment or continuance may be taken, the Board shall receive written objections and hear testimony of interested persons and may then, or at any subsequent meeting of the Board, adopt the Final Stormwater Resolution which shall (A) confirm, modify or repeal the Initial Stormwater Resolution with such amendments, if any, as may be deemed appropriate by the Board; (B) approve the Stormwater Roll, with such amendments as it deems just and right; and (C) determine the method of collection. All objections to adoption of the Final Stormwater Resolution shall be made in writing, and filed with the Clerk at or before the time or adjourned time of such hearing.

Section 44.406. Effect Of Stormwater Resolutions. The adoption of the Final Stormwater Resolution shall be the final adjudication of the issues presented (including, but not limited to, the apportionment methodology, the rate of assessment,

the adoption of the Stormwater Roll and the levy and lien of the Stormwater Assessments), 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 Stormwater Resolution. The Stormwater Roll, as approved by the Final Stormwater Resolution, shall be delivered to the Tax Collector, or such other official as the Board, by resolution, deems appropriate.

Section 44.407. Lien Of Stormwater Assessments.

(A) Upon adoption of the Final Stormwater Resolution for each Fiscal Year, Stormwater 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 Stormwater Resolution and shall attach to the property included on the Stormwater Roll as of the prior January 1, the lien date for ad valorem taxes.

(B) Upon adoption of the Final Stormwater Resolution, Stormwater Assessments to be collected under the alternative method of collection provided in Section 44.502 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 Alachua County, Florida.

Section 44.408. Method Of Collection Of Stormwater Assessments.

Unless directed otherwise by the Board, Stormwater 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 44.409. Responsibility For Enforcement. The County and its agent, if any, shall maintain the duty to enforce the prompt collection of Stormwater Charges by any and all legal means. The duties related to collection of Stormwater Assessments 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 44.410. Revisions To Stormwater Charges. If any Stormwater Charge 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 Stormwater Charge is so irregular or defective that the same cannot be enforced or collected, or if the Board has failed to include any property on the Stormwater Roll that should have been so included, the Board may take all necessary steps to impose a new Stormwater Charge against any such property, following as nearly as may be practicable, the provisions of this Ordinance and in case such new Stormwater Charge is annulled, the Board may obtain and impose other Stormwater Charges until a valid Stormwater Charge is imposed.

Section 44.411. Procedural Irregularities. Any irregularity in the proceedings in connection with the levy of any Stormwater Charge under the provisions of this Ordinance shall not affect the validity of the same after the approval thereof, and any Stormwater Charge as finally approved shall be competent and sufficient evidence that such Stormwater Charge was duly levied, that the Stormwater Charge was duly made and adopted, and that all other proceedings adequate to such Stormwater Charges 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 44.411, any party objecting to a Stormwater Charge imposed pursuant to this Ordinance must file an objection with a court of competent jurisdiction within the time periods prescribed in Section 44.406 of this Ordinance.

Section 44.412. Correction Of Errors And Omissions.

(A) No act of error or omission on the part of the Board, County Manager, Stormwater Assessment 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 Stormwater Charge 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 Stormwater Assessment Coordinator. Any such correction which reduces a Stormwater Charge shall be considered valid from the date on which the Stormwater Charge was imposed and shall in no way affect the enforcement of the Stormwater Charge imposed under the provisions of this Ordinance. Any such

correction which increases a Stormwater Charge or imposes a Stormwater Charge on omitted property shall first require notice to the affected owner in the manner described in Section 44.502 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 Stormwater 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 44.413. Mitigation Credit. The Board may, by separate resolution, or in any Initial or Final Stormwater Resolution, establish a Mitigation Credit for a Stormwater Charge. The calculation of a mitigation credit may be based upon, but not limited to, the following factors: onsite Mitigation Facilities; discharge to a system other than the County's; and the receipt, treatment and collection of Stormwater. In order to qualify for a mitigation credit the property owner may be required to provide the County with an engineering study that demonstrates the extent of the mitigation within not less than sixty (60) days of when the property owner receives notice of the proposed Stormwater Assessment or Stormwater Fee or as otherwise determined in an Initial or Final Resolution. Any reduction which may be necessary after the Stormwater Roll has been adopted will be refunded to the property owner.

Section 44.414. Interim Stormwater Charges.

(A) An interim Stormwater Charge may be imposed against property for which a certificate of occupancy is issued by the County. The amount of the interim Stormwater Charge shall be calculated upon a monthly rate, which shall be one-twelfth

(1/12) of the annual rate for such property computed in accordance with the final rate resolution for the fiscal year in which the certificate of occupancy is issued. Such monthly rate shall be imposed for each full calendar month remaining in the fiscal year. For certificates of occupancy issued on or after June 1 of the fiscal year, the interim Stormwater Charge shall be for each month remaining in the current fiscal year and for the 12 months of the following fiscal year, and shall be at the current fiscal year rate. No certificate of occupancy shall be issued until full payment of the interim Stormwater Charge is received by the County. Issuance of a certificate of occupancy by mistake or inadvertence, and without the payment in full of the interim Stormwater Charge, shall not relieve the property of the obligation of full payment. For the purpose of this provision, such interim Stormwater Charge shall be deemed delinquent on the date the certificate of occupancy was issued and shall constitute a lien against such property as of that date. Such lien shall be equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessment, and superior in rank and dignity to all other liens, encumbrances, titles and claims and to or against the real property involved, and may be enforced in accordance with the provisions of Section 44.502 hereof.

(B) An interim Stormwater Charge may also be imposed against property which for any reason was not listed on the tax roll as an individual parcel of property on the date the annual rate resolution is prepared, and which did not pay an interim Stormwater Charge at the issuance of certificate of occupancy by the County. The amount of the interim Stormwater Charge shall be equal to that imposed against comparable property for the same fiscal year. For the purpose of this provision, such

interim Stormwater Charge shall be deemed delinquent on the date those listed on the Stormwater Roll become delinquent and shall constitute a lien against such property as of that date. Such 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 may be enforced in accordance with the provisions of Section 44.502 hereof.

(C) The County Manager shall administer and provide for the collection of all interim Stormwater Charges.

Section 44.415. Review Process.

(A) This Section provides a review process for an owner that was denied a change in the number of ERUs on his/her property.

(B) The owner may request a review of any such denial by filing a petition with the County Manager within 30 days of notification of the denial. The County Manager shall review the denial within 30 days of the filing of the request for review, and issue a decision in writing. If the County Manager upholds the denial, the owner shall have a further right of review by the Board. An owner shall file a request for review by the Board with the County Manager within 30 days of the notification of the County Manager's decision. The Board shall review the matter within 90 days of the filing of the request for review.

(C) Failure to request a review within the time permitted shall be deemed a waiver of any right of review.

Article V

Collection Of Stormwater Charges

Section 44.501. Method Of Collection. Unless directed otherwise by the Board, Stormwater 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 44.502. Alternative Method Of Collection. In lieu of using the Uniform Assessment Collection Act, the County may elect to collect the Stormwater 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 Stormwater 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 Stormwater 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 Stormwater Assessment for the appropriate period, (5) the location at which payment will be accepted, (6) the date on which the Stormwater Assessment is due, and (7) a statement that the Stormwater 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 Stormwater Assessments shall be recorded in the Official Records of Alachua 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 Stormwater Assessments in the manner provided by law. A Stormwater 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 Stormwater Assessment within 60 days from the date the Stormwater 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 Stormwater 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 Stormwater Assessments against any or all property assessed in accordance with the provisions hereof. 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 Stormwater Assessments and any other costs incurred by the County as a result of such delinquent Stormwater 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 Stormwater 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 Stormwater Assessment is supplanted by the lien resulting from certification of the Stormwater Roll to the Tax Collector.

Section 44.503. Responsibility For Enforcement. The County and its agent, if any, shall maintain the duty to enforce the prompt collection of Stormwater Assessments by the means provided herein. The duties related to collection of Stormwater Assessments 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 44.504. Collection Of Stormwater Charges Against Government Property.

(A) If, in the discretion of the Board, Stormwater Fees are imposed against Government Property by Resolution, the County shall provide Stormwater 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 Stormwater Fee, (2) a description of the ERUs used to determine the amount of the Stormwater Fee, (3) the number of ERUs attributed to the parcel, (4) the total amount of

the parcel's Stormwater Fee for the appropriate period, (5) the location at which payment will be accepted, and (6) the date on which the Stormwater Fee is due.

(B) Except as may otherwise be provided by resolution, Stormwater Fees imposed against Government Property shall be due on the same date as all other Stormwater Fees and, if applicable, shall be subject to the same discounts for early payment.

(C) A Stormwater 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 Stormwater Fee within 60 days from the date the Stormwater 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 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 Stormwater Fees and any other costs incurred by the County as a result of such delinquent Stormwater 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 Stormwater Fee imposed against Government Property may be collected on a 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.

Article VI

Issuance Of Obligations

Section 44.601. General Authority.

(A) Upon adoption of the Final Stormwater Resolution imposing Stormwater Improvement Assessments or at any time thereafter, the Board shall have the power and is hereby authorized to provide by ordinance or resolution, at one time or from time to time in series, for the issuance of Obligations of the County to fund the Project Cost thereof and any amounts to be paid or accrued in connection with issuance of such Obligations, including, but not limited to capitalized interest, Transaction Costs and reserve account deposits.

(B) The principal of and interest on each series of Obligations shall be payable from Pledged Revenue. At the option of the Board, the County may agree, by ordinance or resolution, to budget and appropriate funds to make up any deficiency in the reserve account established for the Obligations or in the payment of the Obligations, from other non-ad valorem revenue sources. The Board may also provide, by ordinance or resolution, for a pledge of or lien upon proceeds of such non-ad valorem revenue sources for the benefit of the holders of the Obligations. Any such ordinance or resolution shall determine the nature and extent of any pledge of or lien upon proceeds of such non-ad valorem revenue sources.

Section 44.602. Terms Of The Obligations. The Obligations shall be dated, shall bear interest at such rate or rates, shall mature at such times as may be determined by ordinance or resolution of the Board, and may be made redeemable before maturity, at the option of the County, at such price or prices and under such

terms and conditions as may be fixed by the Board. Said Obligations shall mature not later than 40 years after their issuance and may, at the option of the Board, bear interest at a variable rate. The Board shall determine by ordinance or resolution the form of the Obligations, the manner of executing such Obligations, and shall fix the denominations of such Obligations, the place or places of payment of the principal and interest, which may be at any bank or trust company within or outside of the State of Florida, and such other terms and provisions of the Obligations as it deems appropriate. The Obligations may be sold at public or private sale for such price or prices as the Board shall determine by ordinance or resolution. The Obligations may be delivered to any contractor to pay for its work in constructing the Stormwater Improvements or may be sold in such manner and for such price as the Board may determine by ordinance or resolution to be for the best interests of the County.

Section 44.603. Variable Rate Obligations. The County may, at its option, issue Obligations bearing a variable rate of interest.

Section 44.604. Temporary Obligations. Prior to the preparation of definitive Obligations of any series, the Board may, under like restrictions, issue interim receipts, interim certificates, or temporary Obligations, exchangeable for definitive Obligations when such Obligations have been executed and are available for delivery. The Board may also provide for the replacement of any Obligations which shall become mutilated, destroyed or lost. Obligations may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this Ordinance.

Section 44.605. Anticipation Notes. In anticipation of the sale of Obligations, the Board may, by resolution, issue notes and may renew the same from time to time. Such notes may be paid from the proceeds of the Obligations, the proceeds of the Stormwater Assessments, the proceeds of the notes and such other legally available moneys as the Board deems appropriate by ordinance or resolution. Said notes shall mature within five years of their issuance and shall bear interest at a rate not exceeding the maximum rate provided by law. The Board may issue Obligations or renewal notes to repay the notes. The notes shall be issued in the same manner as the Obligations.

Section 44.606. Taxing Power Not Pledged. Obligations issued under the provisions of this Ordinance shall not be deemed to constitute a pledge of the faith and credit of the County, but such Obligations shall be payable only from Pledged Revenue and, if applicable, proceeds of the Stormwater Assessments, in the manner provided herein and by the ordinance or resolution authorizing the Obligations. The issuance of Obligations under the provisions of this Ordinance shall not directly or indirectly obligate the County to levy or to pledge any form of ad valorem taxation. No holder of any such Obligations shall ever have the right to compel any exercise of the ad valorem taxing power on the part of the County to pay any such Obligations or the interest thereon or to enforce payment of such Obligations or the interest thereon against any property of the County, nor shall such Obligations constitute a charge, lien or encumbrance, legal or equitable, upon any property of the County, except the Pledged Revenue.

Section 44.607. Trust Funds. The Pledged Revenue received pursuant to the authority of this Ordinance shall be deemed to be trust funds, to be held and applied

solely as provided in this Ordinance and in the ordinance or resolution authorizing issuance of the Obligations. Such Pledged Revenue may be invested by the County, or its designee, in the manner provided by the resolution authorizing issuance of the Obligations. The Pledged Revenue upon receipt thereof by the County shall be subject to the lien and pledge of the holders of any Obligations or any entity other than the County providing credit enhancement on the Obligations.

Section 44.608. Remedies Of Holders. Any holder of Obligations, except to the extent the rights herein given may be restricted by the ordinance or resolution authorizing issuance of the Obligations, may, whether at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such ordinance or resolution, and may enforce and compel the performance of all duties required by this part, or by such ordinance or resolution, to be performed by the County.

Section 44.609. Refunding Obligations. The County may, by ordinance or resolution of the Board, issue Obligations to refund any Obligations issued pursuant to this Ordinance, or any other obligations of the County theretofore issued to finance the Project Cost of a Stormwater Improvement, and provide for the rights of the holders hereof. Such refunding Obligations may be issued in an amount sufficient to provide for the payment of the principal of, redemption premium, if any, and interest on the outstanding Obligations to be refunded. If the issuance of such refunding Obligations results in an annual installment of the Stormwater Assessment that exceeds the estimated maximum annual installment of assessments set forth on the preliminary Stormwater Roll prepared pursuant to Section 44.402 hereof, the Board shall provide

notice to the affected property owners and conduct a public hearing in the manner required by Article III of this Ordinance.

Article VII

General Provisions

Section 44.701. Alternative Method. This Ordinance shall be deemed to be 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. This Ordinance, being necessary for the welfare of the inhabitants of the County, shall be liberally construed to effect the purposes hereof.

Section 44.702. Severability. 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.

Section 44.703. Conflicts. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

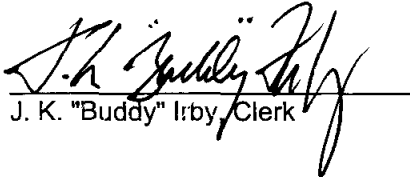
Section 44.704. Inclusion In The Code. It is the intention of the Board of County Commissioners of Alachua County, Florida, and it is hereby provided that the provisions of this ordinance shall become and be made a part of the Code of Laws and Ordinances of Alachua County, Florida; that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section", "article", or other appropriate designation.

Section 44.705. Effective Date. 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, and shall take effect upon filing with the Department of State.

DULY ADOPTED in regular session, this 18th day of July, 2006.

**BOARD OF COUNTY COMMISSIONERS OF
ALACHUA COUNTY, FLORIDA**

ATTEST:


J. K. "Buddy" Irby, Clerk

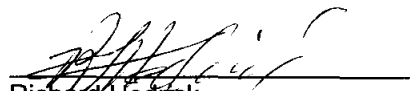
(SEAL)

By: 
Lee Pinkoson, Chair

APPROVED AS TO FORM


Alachua County Attorney

DEPARTMENT APPROVAL
AS TO CORRECTNESS:


Richard Hedrick
Director of Public Works Department

V:\TLW\public\Ords to Clerk\ Stormwater Ordinance Reformatted 07-19-06