

ORDINANCE C-445

AN ORDINANCE OF THE TOWN OF MEDLEY, FLORIDA, AMENDING CHAPTER 56, ARTICLE III ENTITLED “STORMWATER UTILITY ORDINANCE,” SECTION 56-55, ENTITLED “COLLECTION OF STORMWATER UTILITY FEE; LIENS, DISCONTINUANCE OF SERVICE” OF THE TOWN OF MEDLY CODE OF ORDINANCES RELATING TO THE TOWN’S STORMWATER UTILITY AND COLLECTION METHODS TO PROVIDE FOR THE USE OF THE UNIFORM METHOD OF COLLECTION UNDER 197.3632, FLORIDA STATUTES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in Chapter 166 – Municipalities, Florida Statutes, the Florida State Legislature conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, pursuant to Section 403.0893, Florida Statutes, the Florida State Legislature also conferred upon local governments the authority to create stormwater utilities and adopt stormwater utility fees to plan, construct, operate and maintain stormwater management systems; and

WHEREAS, on March 1, 1999, the Town of Medley, Florida (the “Town”) enacted Ordinance C-284, establishing the Town’s stormwater utility, which is codified in Chapter 56. Article III of the Town’s Code of Ordinances (“Town Code”); and

WHEREAS, the Town currently collects stormwater utility fees from all residential and nonresidential properties in the Town using a direct billing method; and

WHEREAS, pursuant to Section 403.0893(3), Florida Statutes, local governments may choose to collect stormwater utility fees using the uniform method to levy, collect, and enforce non-ad valorem assessments as provided for in Section 197.3632, Florida Statutes (the “Uniform Method”); and

WHEREAS, the Town Council of the Town (“Town Council”) desires to have the option to use the Uniform Method to collect its stormwater utility fees from all residential and nonresidential properties in the Town pursuant to Section 403.0893, Florida Statutes; and

WHEREAS, the Town Council has determined that it is in the public interest to adopt regulations that incorporate use of the Uniform Method in collection of stormwater utility fees; and

WHEREAS, the Town Council finds that adoption of this ordinance is in the best interest and welfare of the Town.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MEDLEY, FLORIDA, AS FOLLOWS:¹

Section 1. **Recitals.** That the above recitals are true and correct and incorporated herein by this reference.

Section 2. **Town Code Amended.** That Chapter 56, Article III Section 56-55 of the Town Code is hereby amended to read as set forth in Exhibit “A” attached hereto and incorporated herein.

Section 3. **Codification.** That it is the intent of the Town Council that the provisions of this ordinance shall become and be made a part of the Town’s Code, and that the sections of this ordinance may be renumbered or relettered and the word “ordinance” may be changed to “section,” “article,” “regulation,” or such other appropriate word or phrase in order to accomplish such intentions.

Section 4. **Severability.** That the provisions of this ordinance are declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicted with **highlighted double strikethrough and double underline**.

Section 5. **Conflicts.** That all ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 6. **Effective Date.** That this ordinance shall be effective immediately upon adoption on second reading.

PASSED on FIRST reading this 22nd day of July, 2020.

PASSED AND ADOPTED on SECOND reading this 19th day of August, 2020.

ROBERTO MARTELL, MAYOR

ATTEST:

VICTORIA MARTINEZ, FRP, CMC, TOWN CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

WEISS SEROTA HELFMAN
COLE & BIERMAN, P.L.
TOWN ATTORNEY

SUMMARY OF THE VOTE

Mayor Roberto Martell	_____
Vice-Mayor Edgar Ayala	_____
Councilperson Griselia DiGiacomo	_____
Councilperson Ivan Pacheco	_____
Councilperson Lily Stefano	_____

EXHIBIT A

ARTICLE III. - STORMWATER UTILITY ORDINANCE

...

Sec. 56-55. - Collection of stormwater utility fee; liens, discontinuance of service.

(a) The Stormwater Utility Fee shall be shown on a separate itemized bill from the Town of Medley to the owner of all parcels of land within the Town of Medley. The Stormwater Utility Bill shall be paid by the owner, tenant or occupant in possession of the premises at the time and in the manner provided for on the bill. The bill (or statement) for the Stormwater Utility Fee shall be sent to the owner of the property as determined from the tax rolls of Miami-Dade County, Florida as may be provided to the Town of Medley from time to time. The Stormwater Utility Fee Bill (or statement) may be rendered on an annual, semi-annual, quarterly or monthly bill (or statement) as determined to be in the best interests of the Town and as set forth from time to time in a Resolution adopted by the Town Council of the Town of Medley.

(b) For the purpose of calculating Stormwater Utility Fees, the calculation of ERUs is based upon property usage. The property usage shall be determined by the Town based on, but not limited by, State and County Land Use Codes, Occupational Licenses, if any and Site Inspections.

(c) Any authorized representative of the Town shall have free access to all parcels of land within the Town at any reasonable time for the purpose of determining property usage for the purpose of calculating Stormwater Utility Fees, obtaining billing account information, and/or obtaining any other lawful information to assist the Town in calculating ERUs.

(d) The number of ERUs calculated for each parcel of land shall be rounded up to the nearest whole number.

(e) Each parcel of land shall be assigned an account number which shall be the same number as the Property Appraiser's Property Identification Number assigned by Miami-Dade County, Florida. If such a Property Identification Number has not been assigned to a parcel of land the Town may assign an alternate account number until such time as a Property Appraiser's Property Identification Number has been assigned by Miami-Dade County, Florida. It shall be the responsibility of the owner of each parcel of land within the Town receiving a Stormwater Utility Fee Bill (or statement) to report any errors thereon to the Town of Medley Stormwater Utility.

(f) The minimum charge for a Stormwater Utility Fee assessed against each parcel of land, notwithstanding the use thereof shall be one ERU.

(g) The Stormwater Utility Fee shall be billed to the owner of each parcel of land. If the Stormwater Utility Fee is not fully paid by the owner on or before the past due date set forth on the owner's bill (or statement) a late charge equal to ten percent of the amount of the bill shall be added to the bill. Any unpaid balance of the Stormwater Utility Fee or late charge shall be

subject to an interest charge at the rate of eight percent per annum. Imposition of this interest charge shall commence 60 days after the past due date of the Stormwater Utility Fee set forth on the bill (or statement) issued to the owner of the parcel of land. Unpaid Stormwater Utility Fees, late charges and any interest charges, shall be debts due and owing the Town of Medley and all of same shall be recoverable by the Town in a Court of competent jurisdiction.

(h) All Stormwater Utility Fees, late charges and interest accruing thereon due and owing to the Town's Stormwater Utility which remain unpaid 60 days after the past due date shall become a lien against and upon the parcel of land for which the Stormwater Utility Fees are due and owing to the same extent and character as a lien for a special assessment. Until fully paid and discharged, such Stormwater Utility Fees, late charges and interest accrued shall constitute a special assessment lien equal in rank and dignity with the liens of Town of Medley Ad Valorem Taxes and superior in rank and dignity to all other liens, encumbrances, titles, claims in, to or against the parcel of land involved for the period of five years from the date such Stormwater Utility Fees, late charges, and interest accrued thereupon became a lien as set forth in this article.

This lien may be enforced and satisfied by the Town pursuant to F.S. Ch. 173 as amended from time to time, or by any other method permitted by law, including the right of the Town of Medley to cease providing the services of the Town of Medley Public Works Department and the Utilities Department to be shut off from service to the subject parcel of land. All bills (or statements) remaining unpaid pursuant to this subsection 56-55(h) shall be deemed or termed delinquent accounts. The owner of a parcel of land for which there is a delinquent account shall pay all costs of collection, including reasonable attorneys fees and attorney support staff fees (pre-trial, trial, and appellate) incurred in the collection of delinquent accounts whether by suit, settlement, compromise or otherwise. When an owner of a parcel of land vacates or sells such parcel leaving a delinquent account as to such vacated or sold parcel of land the Town of Medley, at its option, may refuse to provide any other Public Works or Utility Service to the same owner for use in the future until the date the original delinquent account is paid regardless of whether the other accounts of the owner for other parcels of land are in good standing.

(i) For Stormwater Utility Fees which become more than 60 days past due and unpaid, the Town shall cause to be filed in the office of the Clerk of the Circuit Court of Miami-Dade County, Florida, a Notice of Lien or statement showing a legal description of the parcel of property against which the lien is claimed, including, if available its location by street and number and including the name and last known address of the owner, together with an accurate statement of the fees, late charges and interest then unpaid. A copy of such Notice of Lien shall be mailed by United States Mail, Postage Prepaid, within a reasonable time to the owner of the parcel of land involved as shown by the records of the Tax Collector of Miami-Dade County, Florida. No such liens shall be enforceable by the Town of Medley unless the Notice described in this within paragraph is filed within six months from the date the unpaid fees, late charges and interest become a lien as established in this section.

(j) Liens may be discharged and satisfied by payment to the Town of the aggregate amounts specified in the Notice of Lien together with interest accrued and all filing and recording fees together with any other costs incurred by the Town as a result of filing the Notice of Lien. If any such lien has been fully paid or discharged, the Town shall cause evidence of the satisfaction and discharge of such lien to be filed with the office of the Clerk of the Circuit Court of Miami-Dade County, Florida.

(k) Notwithstanding other provisions of this article to the contrary, the Town shall have the discretion not to file Notices of Lien for fees, late charges, and accrued interest in an amount less than \$250.00. If the Town elects not to file a Notice of Lien such fees, late charges and accrued interest shall remain as debts due and owing the Town of Medley in accordance with section 56-55(g) hereof.

(l) The owner of any parcel of land assessed with a Stormwater Utility Fee is ultimately responsible for all unpaid fees, late charges and interest established under this section notwithstanding any arrangement between the owner and any other person or entity to pay the Stormwater Utility Fee Bill (or statement) when rendered.

(m) The Town of Medley Finance Director or his designee is authorized and directed to certify, upon request, the amount of fees, late charges and interest accrued, which are due and owing to the Town for any parcel of land which is subject to payment of said fees, or to otherwise certify that no fees, late charges, or accrued interest are due and owing.

(n) Notwithstanding the foregoing, the Town, pursuant to Section 403.0893(3), Florida Statutes, may use the non-ad valorem levy, collection, and enforcement method as provided for in Chapter 197, Florida Statutes, for fees assessed pursuant to this Chapter 56, Article III.