



1  
2 WHEREAS, those elements of the village storm and surface water management  
3 system that provide for collection, storage, treatment, and conveyance of stormwater are  
4 a benefit to all of the citizens, residents, and property owners of the Village of Palmetto  
5 Bay; and,  
6

7 WHEREAS, through the creation of the village Stormwater Management Utility,  
8 the village will become responsible for the ownership, maintenance, and expansion of the  
9 existing stormwater management system located within the village's limits for the  
10 purpose of collecting and disposing of storm and other surface water; and,  
11

12 WHEREAS, the Village Council of the Village of Palmetto Bay finds that  
13 although each developed property in the village has varying degrees of water retention,  
14 all properties contribute to some extent to the village's stormwater drainage issues and  
15 that all citizens and property owners of the village will benefit from the establishment of  
16 a village Stormwater Management Utility; and,  
17

18 WHEREAS, the cost of operating and maintaining the Stormwater Management  
19 System and the financing of existing and future repairs, replacement, improvements, and  
20 extensions thereof should, to the extent practicable, be allocated in relationship to the  
21 contribution to the need for services; and,  
22

23 WHEREAS, the Stormwater Management System requires scheduled  
24 maintenance, rehabilitation and replacement; and,  
25

26 WHEREAS, public health, safety, and welfare are adversely affected by poor  
27 water quality and flooding resulting from inadequate stormwater management practices;  
28 and,  
29

30 WHEREAS, use of the Stormwater Management System is dependent on factors  
31 that influence runoff, including land use and impervious areas; and,  
32

33 WHEREAS, the fee structure contained in this ordinance is a logical, reasonable,  
34 and rational basis and means for allocating the costs for a Stormwater Management  
35 Utility to the several types of developed properties located within the village, and is  
36 based on the relative contribution of such developed properties to the need for the  
37 Stormwater Management System; and,  
38

39 WHEREAS, the Florida legislature, through the adoption of section 403.0893,  
40 Florida Statutes, specifically authorizes and encourages local governments to provide

1 stormwater management services as a utility function for which service charges may be  
2 levied; and,  
3

4 WHEREAS, the Federal Clean Water Act (33. U.S.C. § 1251, *et. seq.*) and  
5 implementing regulations, adopted by the Federal Environmental Protection Agency  
6 (EPA), requires permitting of the village's municipal separate stormwater system to  
7 ensure that minimum water quality standards are met; and,  
8

9 WHEREAS, the adoption of an Stormwater Management Utility program shall  
10 generate fees needed to implement the level of service (LOS) standards contained in the  
11 village's Comprehensive Plan's Capital Improvement, Conservation Element and  
12 Infrastructure Elements, adopted in conformance with the requirements of Chapter 163,  
13 Florida Statutes; and,  
14

15 WHEREAS, local natural resources features (such as waterways, lakes,  
16 mangroves, wetlands, and groundwater supplies) can be protected and enhanced as part  
17 of the Stormwater Management Utility program; and,  
18

19 WHEREAS, the Mayor and Village Council desire to create stormwater  
20 management regulations in its Code of Ordinances as it finds it to be in the best interest  
21 of the health, safety, and general welfare of the residents and citizens of the village to  
22 provide for a municipal stormwater management utility to maintain and operate the  
23 Stormwater Management System.  
24

25 BE IT ENACTED BY THE MAYOR AND VILLAGE COUNCIL OF THE  
26 VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:  
27

28 Section 1. The above whereas clauses are incorporated by reference.  
29

30 Section 2. Chapter \_\_\_\_ of the Code of Ordinances of the Village of Palmetto  
31 Bay is created and entitled "Village of Palmetto Bay's Stormwater Management" to read  
32 as follows:  
33

34 **VILLAGE OF PALMETTO BAY'S**  
35 **STORMWATER MANAGEMENT ORDINANCE**  
36

37     .1 *Purpose.*  
38

39 It is the purpose and intent of the village to create a municipal stormwater utility  
40 pursuant to Section 403.0893(1), Florida Statutes, as amended from time to time, and to

1 establish stormwater utility fees to be levied against all developed property in the village  
2 in the amounts sufficient to plan, control, operate and maintain the village's Stormwater  
3 Management System pursuant to section 403.0891(3), Florida Statutes.

4  
5 .2 Construction.

6  
7 This ordinance shall be liberally construed to protect the public health, safety, and  
8 welfare, and to effectuate the purposes set forth herein.

9  
10 .3 Definitions.

11  
12 For purposes of this article, the following definitions shall apply unless the context  
13 clearly indicates or requires a different meaning:

14  
15 (a) *Developed Property*: Real property within the village on which  
16 improvements have been made to foster commercial, residential or civic use, and/or any  
17 property on which impervious structures have been placed. For new construction, a  
18 property shall be considered developed for purposes of this ordinance: (1) upon issuance  
19 of a certificate of occupancy or upon completion of construction or final inspection if no  
20 such certificate is issued; or (2) where construction is at least 50 percent complete and  
21 construction is halted for a period of three (3) months.

22  
23 (b) *Equivalent Residential Unit ("ERU")*: The representative average  
24 impervious area of single family residential property located in the village.

25  
26 (c) *Impervious Area*: Any part of any parcel of land that has been modified by  
27 the action of persons to reduce the land's natural ability to absorb and hold rainfall. This  
28 includes areas that have been cleared, graded, paved, graveled, or compacted, or covered  
29 with structures. Excluded are all lawns, landscape areas, and gardens or farming areas.

30  
31 (d) *Manager*: The village manager or his/her designee.

32  
33 (e) *Multi-family Property*: All residential development not classified as single-  
34 family residential.

35  
36 (f) *Nonresidential Property*: All property not zoned or used as single-family  
37 or multi-family residential property as defined in this ordinance.

38  
39 (g) *Residential Property*: Any later parcel developed exclusively for  
40 residential purposes, including but not limited to, single-family homes, manufactured

1 homes, multi-family apartment buildings and condominiums and transient rentals such as  
2 hotels and motels.

3  
4 (h) *Single-family Property*: All single-family detached residential dwelling  
5 structures. All other residential development shall be classified as multifamily.

6  
7 (i) *Stormwater*: The part of precipitation that travels over natural, altered, or  
8 improved surfaces to the nearest stream, canal, or channel or impoundment and may  
9 appear in surface waters.

10  
11 (j) *Stormwater Management Plan*: An approved plan for receiving, handling,  
12 and transporting storm and surface waters within the village Stormwater Management  
13 System.

14  
15 (k) *Stormwater Management Utility Director*: The designee of the village  
16 manager responsible for implementing the Stormwater Management Utility function.

17  
18 (l) *Stormwater Management System*: All natural and man-made elements used  
19 to convey stormwater from the first point of impact with the surface of the earth to a  
20 suitable outlet location internal or external to the boundaries of the village. The  
21 Stormwater Management System includes all pipes, channels, streams, canals, ditches,  
22 wetlands, sinkholes, detention/retention basins, ponds, secondary canals and their rights-  
23 of-way, and other stormwater conveyance and treatment facilities, whether public or  
24 private.

25  
26 (m) *Undeveloped Property*: All real property within the village which does not  
27 meet the definition of developed property.

28  
29 4 *Utility Established.*

30  
31 (a) There is hereby created and established a Stormwater Management Utility  
32 program, which shall provide the operational means of implementing and carrying out the  
33 functional requirements of the Stormwater Management System. The Stormwater  
34 Management Utility program shall be part of the overall utility systems of the village.

35  
36 (b) The governing body of the stormwater utility program shall be the Village  
37 Council.

38  
39 (c) The utility, acting through its governing body, shall be responsible for the  
40 operation, maintenance, and governance of the village stormwater utility to plan,

1 construct, operate and maintain stormwater management systems set forth in the local  
2 program required pursuant to section 403.0891(3), Florida Statutes.

3  
4 (d) The village manager shall be the director of the utility.

5  
6 (e) The organization and operating procedures of the utility shall be prescribed  
7 by administrative orders and regulations of the village manager.

8  
9     .5 *Customer Base.*

10  
11 All real property within the jurisdictional boundaries of the village shall be subject  
12 to Stormwater Management Utility fees unless specifically exempted. The fees shall  
13 apply to all tax-exempt properties, including properties of federal, state, village, and  
14 county agencies and nonprofit organizations.

15  
16     .6 *Utility Fee Categories.*

17  
18 (a) Stormwater Management Utility fees are established and amended as  
19 necessary to be sufficient to plan, construct, operate and maintain the stormwater  
20 management system, as required by Section 403.0891(3), Florida Statutes. The  
21 Stormwater Management Utility fee(s) shall be used exclusively to pay for these  
22 identified costs, in compliance with Chapter 403, Florida Statutes. All lots and parcels  
23 subject to Stormwater Management Utility fees in the village are divided into three (3)  
24 classes as follows:

25  
26 (1) Single-family Property: Each single-family property shall be  
27 considered one (1.0) ERU for billing purposes.

28  
29 (2) Multifamily: Each multifamily unit shall be considered as 0.6  
30 ERU's for billing purposes.

31  
32 (3) Houses of Worship (religious facilities) classified by the Miami-  
33 Dade County Property Appraiser as land use type "71" shall be assessed a  
34 monthly utility fee which is 50 percent of the fee for nonresidential  
35 developed property calculated pursuant to subsection     .6 (a)(4) below.

36  
37 (4) Nonresidential Property: The monthly utility fee for all  
38 nonresidential properties shall be billed and calculated in accordance with  
39 the following formula:  
40

1 The value of one ERU for non-residential property is hereby determined to  
2 be 1,548 square feet of impervious area (1,548 square feet of impervious  
3 area = 1.0 ERU). In instances where multiple utility customers occupy a  
4 developed property, the village shall implement a rational and equitable  
5 proration related to the occupancy contained thereon for billing purposes.  
6

7 The Utility Fee Shall = (Number of non-residential ERUs) x (rate per ERU)  
8

9 A minimum value of one (1.0) ERU shall be assigned to each  
10 nonresidential property.  
11

- 12 (b) For the purposes of calculating Stormwater Management Utility fees, the  
13 calculation of ERUs is based upon property usage, as determined by the  
14 village and based on, but not limited by, state and county land use codes,  
15 occupational licenses, village land development regulations, and site  
16 inspections.  
17
- 18 (c) The number of ERUs calculated for each account shall be rounded to the  
19 nearest one hundredth of a whole number.  
20

21 .7 Fee Schedule and Payment.  
22

23 (a) The village service fee per ERU billing shall be \$4.00, per month.  
24 Stormwater Management Utility fees shall be invoiced and collected as a separate line  
25 item on utility account bills. The village is authorized to utilize Miami-Dade County as  
26 an acceptable third-party to perform billing services.  
27

28 (b) Invoices for Stormwater Management Utility fees shall be payable at the  
29 same time and in the same manner as other utilities, and subject to the enforcement  
30 procedures and penalties provided in section .12, infra.  
31

32 (c) Separate accounts for stormwater utility services only may be established if  
33 other utilities are not furnished to the property.  
34

35 (d) The owner of the property is ultimately responsible for all Stormwater  
36 Management Utility fees imposed under this chapter.  
37  
38  
39  
40

1     \_\_\_8 *Exemptions.*

2  
3         The following real property located in the village shall be exempt from the  
4 imposition of Stormwater Management Utility fees:

- 5  
6         (a)    Undeveloped property;  
7  
8         (b)    Paved or improved public rights-of-way; and  
9  
10        (c)    Agriculture-classified properties under agriculture uses.

11  
12     \_\_\_9 *Stormwater Utility Special Revenue Funds..*

13  
14         (a)    An Stormwater Management Utility Special Revenue Fund (the "Fund")  
15 account into which all revenues from Stormwater Management Utility fees, connection  
16 charges, grants, or other funding sources shall be deposited and from which all  
17 expenditures related to the Stormwater Management Utility shall be paid, is hereby  
18 established.

19  
20         (b)    Accounting and reporting procedures shall be consistent with the General  
21 Law of Florida. Expenditures from the Fund for activities that are not related to the  
22 village Stormwater Management Utility shall not be permitted, except for a prorated  
23 charge for general government services as is in effect for other village utility operations.

24  
25         (c)    The monies within the Fund shall be used for the exclusive use of the  
26 village's Stormwater Management Utility, including but not limited to the following:

- 27  
28             (1)   stormwater management services, such as studies, design, permit  
29 review, planned preparation, and development review;  
30  
31             (2)   operation, maintenance, repair, and replacement of the stormwater  
32 collection, storage, treatment, and conveyance infrastructure;  
33  
34             (3)   project cost related to constructing major or minor structural  
35 improvements to the stormwater-related infrastructure as provided in  
36 any village Stormwater Management Plan;  
37  
38             (4)   administrative costs associated with the management of the  
39 Stormwater Management Utility fee;  
40

- 1 (5) debt service financing of stormwater-related capital improvements  
2 defined in any village stormwater management plan including  
3 village's pro rata share of the Miami-Dade County Stormwater  
4 Utility Revenue Bond Series 1999 and Series 2004; and  
5  
6 (6) funding of any studies, including water quantity and quality  
7 monitoring aerial photography and geotechnical work associated  
8 with the planning of stormwater-related infrastructure.  
9

10 .10 Request for Adjustment.  
11

12 All requests for adjustment of the Stormwater Management Utility fee shall be  
13 submitted to the Stormwater Management Utility Director and shall be reviewed as  
14 follows:  
15

16 (a) All requests shall be in writing and set forth in detail the grounds upon  
17 which an adjustment is sought. All requests shall be judged on the basis of the amount of  
18 impervious area on the lot or parcel, and/or additional or enhanced stormwater facility on  
19 or serving the lot or parcel. No credit shall be given for the installation of facilities  
20 required by county or village development codes or state stormwater regulations.  
21

22 (b) All adjustment requests made during the first calendar year that the fee is  
23 imposed shall be reviewed by the Stormwater Management Utility Director within a one-  
24 year period from the date of submission. Any adjustments resulting from such requests  
25 shall be retroactive to the effective date of this ordinance.  
26

27 (c) All adjustment requests received after the first calendar year that the fee is  
28 imposed shall be reviewed by the Stormwater Management Utility Director within a four  
29 (4) month period from the date of submission. Any adjustments resulting from such  
30 requests shall be retroactive to the date of submission of the adjustment request, but shall  
31 not exceed one (1) year.  
32

33 (d) The customer or property-owner requesting the adjustment may be  
34 required, at his own cost, to provide supplemental information to the Stormwater  
35 Management Utility Director including but not limited to, backup information and  
36 analysis, historical, geological and other fact information, expert opinions, survey data,  
37 and engineering reports to substantiate customer's case. Failure to provide such  
38 information may result in a denial of the adjustment request.  
39

1 (e) The Stormwater Management Utility Director shall provide the person  
2 requesting the adjustment with a written determination of the request within the time  
3 provided herein. Any adjustment shall be prorated monthly.  
4

5 .11 Appeal Process.  
6

7 Any customer or property owner who disputes the result of a request made to the  
8 Stormwater Management Utility Director for adjustment may petition in writing to the  
9 village manager for a review of the Stormwater Management Utility fees. The decision  
10 of the village manager shall be final.  
11

12 .12 Enforcement and Penalties.  
13

14 (a) Stormwater Utility Fees shall be payable when due and, if late, shall be  
15 subject to a 10 percent late charge. Any unpaid balance for such fees and late charges  
16 shall be subject to an interest charge at the rate of eight (8) percent, per annum.  
17 Imposition of the interest charge shall commence 60 days after the past due date of the  
18 fees set forth on the utility bill. Nonpayment of any portion of the Stormwater Utility Fee  
19 shall be considered as nonpayment of all other utilities appearing on the bill and may  
20 result in the termination of all utility services appearing on the bill.  
21

22 (b) All fees, late charge(s) and interest accruing, thereupon due and owing to  
23 the utility which remain unpaid 60 days after the past due date of the fees shall become a  
24 lien against and upon the developed property for which the fees are due and owing to the  
25 same extent and character as a lien for a special assessment. Until fully paid and  
26 discharged, said fees, late charges, and interest accrued thereupon shall be, remain, and  
27 constitute a special assessment lien equal in rank and dignity with the lien of ad valorem  
28 taxes and superior in rank and dignity to all other liens, encumbrances, titles, and claims  
29 in, to or against the developed property involved for the period of five years from the date  
30 said fees, late charges, and interest accrued thereupon, become a lien as set forth in this  
31 chapter. The lien(s) may be enforced and satisfied by the village on behalf of the  
32 Stormwater Management Utility, pursuant to Chapter 173, Florida Statutes, as amended  
33 from time to time, or any other method permitted by law. The lien(s) provided for herein  
34 shall not be deemed to be in lieu of any other legal remedies available to the village and  
35 utility for recovery of the Stormwater Management Utility fee(s), late charge(s), and  
36 accrued interest.  
37

38 (1) Notice. For fees which become more than 60 days past due and  
39 unpaid, the village or the Stormwater Management Utility shall cause to be  
40 filed in the office of the Clerk of the Circuit Court of Miami-Dade County,

1 Florida, a notice of lien or statement showing a legal description of the  
2 property against which the lien is claimed, its location by street and  
3 number, the name of the owner, and an accurate statement of the fees and  
4 late charges then unpaid. A copy of the notice of lien may be mailed within  
5 a reasonable time to the owner of the property involved as shown by the  
6 records of the tax collector of the county.  
7

8 (2) Satisfaction of Liens. Liens may be discharged and satisfied by  
9 payment to the village, on behalf of the utility, of the aggregate amounts  
10 specified in the notice of lien, together with interest accrued thereon, and all  
11 filing and recording fees. When any such lien has been fully paid or  
12 discharged, the village shall cause evidence of the satisfaction and  
13 discharge of such lien to be filed with the Office of the Clerk of the Circuit  
14 Court of Miami-Dade County, Florida. Any person, firm, corporation, or  
15 other legal entity, other than the present owner of the property involved,  
16 who fully pays any such lien shall be entitled to an assignment of lien and  
17 shall be subrogated to the rights of the village and the utility with respect to  
18 the enforcement of such lien.  
19

20 (3) Exemption to Notice. Notwithstanding other provisions to the  
21 contrary herein, the village on behalf of the Stormwater Management  
22 Utility shall have the discretion not to file notices of lien for fees, late  
23 charges, and interest accrued thereupon in an amount less than \$100.00. If  
24 the village of the Stormwater Management Utility elects not to file a notice  
25 of lien, said fees, late charges, and accrued interest shall remain as debts  
26 due and owing in accordance with the provisions of this ordinance.  
27

28 (4) Certificates Verifying Amount of Debt. The utility is authorized and  
29 directed to execute and deliver upon request, written certificates certifying  
30 the amount of fees(s), late charges(s), and interest accrued thereupon, which  
31 are due and owing to the utility and the village, for any developed property  
32 which is subject to pay the fee(s). The utility is also authorized and  
33 directed to execute and deliver written certificates that no fee(s), late  
34 charge(s) or accrued interest are due and owing. The certificates shall be  
35 binding upon the village and the utility. The village and utility may impose  
36 upon third parties a reasonable service charge based on administration and  
37 clerical time to research, produce and transmit said certificates.  
38

39 Section 3. Pursuant to Section 24-51.2 of the Code of Ordinances of Miami-  
40 Dade County, this ordinance shall become effective immediately upon its passage. The

1 village shall be granted an exemption from the provisions of Article V, Chapter 24 of the  
2 Code of Ordinances of Miami-Dade County.

3  
4 Section 4. All ordinances or parts of ordinances in conflict with the provisions  
5 of this ordinance are repealed.

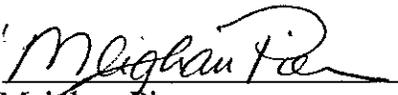
6  
7 Section 5. This ordinance shall be codified and included in the Village of  
8 Palmetto Bay's Code of Ordinances.

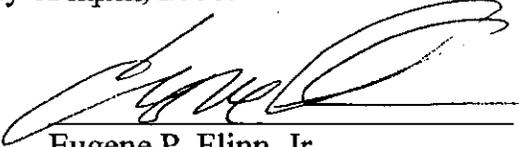
9  
10 Section 6. If any section, clause, sentence, or phrase of this ordinance is for any  
11 reason held invalid or unconstitutional by a court of competent jurisdiction, the holding  
12 shall not affect the validity of the remaining portions of this ordinance.

13  
14 Section 7. This ordinance shall take effect immediately upon enactment.

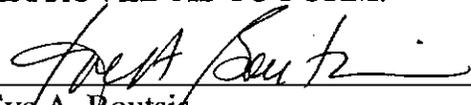
15  
16 PASSED AND ENACTED this [1] day of <sup>May</sup>~~April~~, 2006.

17  
18  
19 Attest:

  
20 Meighan Pier  
21 Village Clerk

  
22 Eugene P. Flinn, Jr.  
23 Mayor

24 APPROVED AS TO FORM:

25   
26 Eve A. Boutsis,  
27 Office of Village Attorney

28  
29  
30 FINAL VOTE AT ADOPTION:

31  
32 Council Member Ed Feller YES  
33  
34 Council Member Paul Neidhart YES  
35  
36 Council Member John Breder YES  
37  
38 Vice-Mayor Linda Robinson YES  
39  
40 Mayor Eugene P. Flinn, Jr. YES