

ORDINANCE NO. 15-\_\_\_\_\_

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3 **AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF**  
4 **LEON COUNTY, FLORIDA, AMENDING CHAPTER 18, ARTICLE IV,**  
5 **DIVISION 3 OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA,**  
6 **ENTITLED “STORMWATER MANAGEMENT SYSTEM”; AMENDING**  
7 **SECTION 18-134.4, STORMWATER UTILITY FUNDING; PROVIDING**  
8 **FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING**  
9 **AN EFFECTIVE DATE.**

10  
11 WHEREAS, Chapter 18, Article IV, Division 3 of the Code of Laws of Leon County  
12 authorizes and provides procedures and standards for the imposition of stormwater assessments  
13 under the constitutional and statutory power of the County; and

14  
15 WHEREAS, Chapter 718, Florida Statutes, the “Condominium Act,” provides that every  
16 condominium created and existing in the state shall be subject to the provisions of the Act; and

17  
18 WHEREAS, pursuant to Section 718.120, Florida Statutes, a taxing authority is prohibited  
19 from separately assessing common elements of condominiums if said common elements are owned  
20 by the condominium association or are owned jointly by the owners of the condominium parcels; and

21  
22 WHEREAS, pursuant to Section 718.120, Florida Statutes, a taxing authority can only  
23 impose a lien upon the condominium parcel assessed and is prohibited from imposing a lien upon the  
24 common elements of the condominium property; and

25  
26 WHEREAS, Chapter 193, Florida Statutes, sets forth various provisions pertaining to  
27 assessments; and

28  
29 WHEREAS, pursuant to Section 193.0235, Florida Statutes, a taxing authority is prohibited  
30 from separately assessing common elements of a platted residential subdivision if said common  
31 elements are used exclusively for the benefit of the lot owners within the subdivision, regardless of  
32 ownership; and

33  
34 WHEREAS, pursuant to Section 193.0235, Florida Statutes, a taxing authority can only  
35 impose a lien upon the lots within a subdivision as prorated by the property appraiser; and

36  
37 WHEREAS, the Board desires to amend Section 18-134.4 of the Code of Laws of Leon  
38 County to comport with Sections 718.120 and 193.0235, Florida Statutes;

39  
40 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON  
41 COUNTY, FLORIDA, that:

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43 **Section 1.** Chapter 18, Article IV, Division 3, Section 18-134.4 of the Code of Laws of Leon  
44 County, Florida, is hereby amended to read as follows:  
45

1 **Sec. 18-134.4. Stormwater utility funding.**  
2

3 (a) *Legislative determination of special benefit.* It is hereby ascertained, found, and  
4 declared that the stormwater utility funding for the stormwater management system, providing  
5 stormwater management services and facilities, confers a special benefit to developed property based  
6 upon the following legislative determinations:  
7

8 (1) The stormwater management system possesses a logical relationship to the  
9 use and enjoyment of developed property by treating and controlling  
10 stormwater generated by improvements constructed on developed property.  
11

12 (2) Since developed property in the stormwater services area generates and  
13 contributes more stormwater runoff than does undeveloped property,  
14 developed property shall be benefitted by an adequately funded stormwater  
15 management system.  
16

17 (3) The creation and maintenance of the stormwater management system is  
18 designed to implement federal and state policies mandating stormwater  
19 management programs by local governments.  
20

21 (4) The special benefits provided by the stormwater management system to all  
22 developed property include, but are not limited to: (a) the provision of  
23 stormwater management services and the availability and use of stormwater  
24 facilities by the owners and occupants of developed property to properly and  
25 safely detain, retain, convey and treat stormwater discharged from developed  
26 property; (b) stabilization of or the increase in developed property values; (c)  
27 increased safety and better access to developed property; (d) alleviation of the  
28 burdens caused by stormwater runoff and accumulation attendant with the use  
29 of developed property; and (e) fostering the enhancement of environmentally  
30 responsible use and enjoyment of the natural resources within the stormwater  
31 services area.  
32

33 (5) The cost of operating and maintaining the stormwater management system  
34 and financing of existing and future necessary repairs, replacements,  
35 improvements, and extensions thereof should, to the extent practicable, be  
36 allocated in relationship to the benefits enjoyed and services received by  
37 developed property from the stormwater management system.  
38

39 (b) *General authority.*  
40

41 (1) The Board is hereby authorized to impose stormwater assessments against  
42 property located within a stormwater services area. The cost of the  
43 stormwater management system may be assessed against developed property  
44 located within a stormwater service area at a rate of assessment based upon  
45 the special benefits accruing to such property from the stormwater

1 management services and facilities provided by the county, measured by the  
2 number of SFUs attributable to each parcel or classification of property.

3  
4 (2) Stormwater assessments may be levied against the developed property within  
5 common elements of residential and non-residential condominiums. For  
6 purposes of this subsection, the term “common element” shall have the  
7 meaning ascribed to it in F.S. § 718.108, as amended. The individual  
8 condominium parcel owners shall be responsible, jointly with other owners  
9 benefitting from the developed property within the common elements and  
10 based on a *pro rata* share, for payment of the stormwater assessment. A lien  
11 may be placed on the individual condominium parcel, and not upon the  
12 common element itself, should the individual condominium parcel owner fail  
13 to pay the stormwater assessment, and is subject to the sale of the tax deed.

14  
15 (3) Stormwater assessments may be levied against the developed property within  
16 common elements of platted residential subdivisions used exclusively for the  
17 benefit of the lot owners. For purposes of this subsection, the term “common  
18 element” shall have the meaning ascribed to it in F.S. § 193.0235, as  
19 amended. The individual subdivision lot owners shall be responsible, jointly  
20 with other owners benefitting from the developed property within the  
21 common elements and based on a *pro rata* share, for payment of the  
22 stormwater assessment. A lien may be placed on the individual subdivision  
23 lot, and not upon the common element itself, should the individual lot owner  
24 fail to pay the stormwater assessment, and is subject to the sale of the tax  
25 deed.

26  
27 (42) All stormwater assessments shall be imposed in a subsequently adopted  
28 stormwater assessment rate resolution. Such stormwater assessment rate  
29 resolution shall determine the amount to be assessed against developed  
30 property pursuant to an apportionment methodology based upon a  
31 classification of property designed to provide a fair and reasonable  
32 apportionment of the stormwater management system costs among developed  
33 properties on a basis reasonably related to the benefit provided by stormwater  
34 management services and facilities.

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36 \* \* \*

37  
38 **Section 2.** **Conflicts.** All ordinances or parts of ordinances in conflict with the  
39 provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of  
40 any conflicts with the Tallahassee-Leon County 2030 Comprehensive Plan as amended, which  
41 provisions shall prevail over any parts of this ordinance which are inconsistent, either in whole or in  
42 part, with the said Comprehensive Plan.

43  
44 **Section 3.** **Severability.** If any word, phrase, clause, section or portion of this ordinance  
45 shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words

1 shall be deemed a separate and independent provision and such holding shall not affect the validity  
2 of the remaining portions thereof.

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4 **Section 4.** **Effective Date.** This ordinance shall have effect upon becoming law.

5  
6 DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County,  
7 Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

8  
9 LEON COUNTY, FLORIDA

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11  
12 BY: \_\_\_\_\_  
13 MARY ANN LINDLEY, CHAIRMAN  
14 BOARD OF COUNTY COMMISSIONERS

15  
16 ATTESTED BY:  
17 BOB INZER, CLERK OF THE CIRCUIT  
18 COURT AND COMPTROLLER

19  
20  
21 BY: \_\_\_\_\_  
22 CLERK

23  
24 APPROVED AS TO FORM:  
25 COUNTY ATTORNEY'S OFFICE  
26 LEON COUNTY, FLORIDA

27  
28  
29 BY: \_\_\_\_\_  
30 HERBERT W.A. THIELE, ESQ.  
31 COUNTY ATTORNEY