ORDINANCE NO. 15-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 18, ARTICLE IV, DIVISION 3 OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA, ENTITLED "STORMWATER MANAGEMENT SYSTEM"; AMENDING SECTION 18-134.4, STORMWATER UTILITY FUNDING; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

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

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

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

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

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

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

Sec. 18-134.4. Stormwater utility funding.

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

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

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

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

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

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

(b) *General authority.*

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

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

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

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

(4~~2~~) All stormwater assessments shall be imposed in a subsequently adopted stormwater assessment rate resolution. Such stormwater assessment rate resolution shall determine the amount to be assessed against developed property pursuant to an apportionment methodology based upon a classification of property designed to provide a fair and reasonable apportionment of the stormwater management system costs among developed properties on a basis reasonably related to the benefit provided by stormwater management services and facilities.

* * *

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

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

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

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

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County, Florida, this _____ day of _____, 2015.

LEON COUNTY, FLORIDA

BY:_____
MARY ANN LINDLEY, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS

ATTESTED BY:
BOB INZER, CLERK OF THE CIRCUIT
COURT AND COMPTROLLER

BY:_____
CLERK

APPROVED AS TO FORM:
COUNTY ATTORNEY'S OFFICE
LEON COUNTY, FLORIDA

BY:_____
HERBERT W.A. THIELE, ESQ.
COUNTY ATTORNEY