

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, RELATING TO THE PROVISION OF SERVICES AND CAPITAL FACILITIES FOR STORMWATER MANAGEMENT AND THE IMPOSITION OF STORMWATER ASSESSMENTS RELATED TO THOSE SERVICES AND FACILITIES WITHIN CITY OF LIGHTHOUSE POINT; PROVIDING DEFINITIONS AND FINDINGS; ESTABLISHING A STORMWATER UTILITY AND PROVIDING ITS RESPONSIBILITIES; ESTABLISHING A STORMWATER UTILITY FUND; AUTHORIZING THE IMPOSITION AND COLLECTION OF STORMWATER ASSESSMENTS TO FUND THE COST OF PROVIDING SERVICES AND CAPITAL FACILITIES FOR STORMWATER MANAGEMENT; ESTABLISHING PROCEDURES FOR NOTICE AND ADOPTION OF THE STORMWATER ASSESSMENT ROLL AND FOR CORRECTING ERRORS AND OMISSIONS; PROVIDING THAT STORMWATER ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF THE STORMWATER ASSESSMENT ROLL; 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 SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA:

ARTICLE 1.0 - INTRODUCTION

SECTION 1.01. DEFINITIONS. When used in this Ordinance, the following terms shall have the following meanings, unless the context clearly requires otherwise:

“Annual Rate Resolution” means the Resolution described in Section 3.09 hereof, approving a Stormwater Assessment Roll for a specific Fiscal Year.

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

“Assessed Property” means all parcels of real property included on the Stormwater Assessment Roll that receives a special benefit from the Stormwater Improvements and Stormwater Management Services identified in an Annual Rate Resolution.

“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 City for any moneys advanced for Capital Cost and interest on any interfund or intrafund loan for such purposes.

“City” means City of Lighthouse Point, Florida.

“City Administrator” means the Chief Administrative Officer of the City or such person's designee.

“City Commission” means the City Commission for the City.

“Clerk” means the City Clerk, or such other person as may be duly authorized to act on such person's behalf.

“Comprehensive Plan” means the Comprehensive Plan adopted by the City pursuant to Chapter 163, Part II, Florida Statutes.

“County” means Broward County, Florida.

“Developed Property” means property that has been developed with impervious area including, but are not limited to, rooftops, sidewalks, walkways, patio areas,

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

driveways, parking lots, storage areas, and other surfaces which similarly impact the natural infiltration or runoff patterns which existed prior to development.

“ESU” means "equivalent 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 Assessment Resolution” means the Resolution described in Section 3.07 hereof, which shall confirm, modify, or repeal the Initial Assessment 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 City.

“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 Assessment Resolution” means the Resolution described in Section 3.03 hereof, which shall be the initial proceeding for the imposition of the Stormwater Assessment.

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

“Mayor” means the Mayor of the City.

“Obligations” mean a series of bonds or other evidence of indebtedness, including, but not limited to, notes, commercial paper, capital leases or any other obligations of the City 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 Assessments.

“Ordinance” means this Stormwater Ordinance as amended from time to time.

“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 City 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 Broward County Property Appraiser.

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

“Stormwater Assessment” means a special assessment imposed by the City within a Stormwater Improvement and Service Area to fund the Capital Cost or the debt service and related cost of Obligations issued to finance the Project Cost of a Stormwater Improvement, and the Stormwater Service Costs.

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

“Stormwater Assessment Roll” means the roll created that includes all parcels within the City and their assigned Stormwater Assessment relating to Stormwater Improvements or Stormwater Management Services approved by a Final Assessment Resolution or an Annual Rate Resolution pursuant to Sections 3.07 and 3.09 hereof.

“Stormwater Basin” means 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 Basin Plan” means a document that is adopted by the City Commission as part of the Stormwater Master Plan in which Stormwater Improvements are proposed.

“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 Assessment Resolution, encompassing those parcels of property specially benefited 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 Assessed Property. Each Stormwater Improvement Area will include either (A) the property which is hydrologically connected, directly or indirectly, to the Stormwater Improvement; or (B)

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

all property located within a hydrologically defined area in which the City 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 Management Service” means (A) management and administration of the City's Stormwater Utility; (B) Stormwater program engineering; (C) Stormwater Basin planning; (D) Stormwater Improvements to be acquired or constructed during a single Fiscal Year; (E) operating and maintaining the City'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 Master Plan” means a policy document adopted by the City Commission which identifies the levels of service for water quality and quantity management in the City, based upon the criteria in the Comprehensive Plan and applicable state and federal law, and the methods for prioritizing expenditures within the City.

“Stormwater Service Area” means the geographic area described in the Initial Assessment Resolution that encompasses all parcels within the City which specially benefit from the Stormwater Management Service and all parcels to which Stormwater Management Services are provided.

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

“Stormwater Service Assessment” means a special assessment imposed by the City 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 City for any moneys advanced for the Stormwater Management Service, and interest on any interfund or intrafund loan for such purpose.

“Stormwater Utility” means the entity established by Section 2.01 hereof to implement the Stormwater management program of the City.

“Tax Collector” means the Broward County Division of Financial Management, which performs tax collection duties in Broward County.

“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 City in connection with the issuance and sale of any series of Obligations, 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 City's financial advisor; (E) the costs of preparing or printing the Obligations and the documentation supporting issuance of the Obligations; (F) the fees payable in respect of

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

any municipal bond insurance policy; and (G) any other costs of a similar nature incurred in connection with issuance of such Obligations.

“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 1.02. 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 1.03. GENERAL FINDINGS. It is hereby ascertained, determined, and declared that:

(A) Pursuant to Article VIII, Section 2(b), Florida Constitution, and Sections 166.021 and 166.041, Florida Statutes, the City has all powers of local self-government to perform municipal functions and render municipal services except when prohibited by law, and such power may be exercised by the enactment of legislation in the form of City ordinances.

(B) The City Commission may exercise any governmental, corporate, or proprietary power for a municipal purpose except when expressly prohibited by law, and

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

the City Commission may legislate on any subject matter on which the Florida Legislature may act, except those subjects described in (a), (b), (c), and (d) of Section 166.021(3), Florida Statutes. The subject matter of paragraphs (a), (b), (c), and (d) of Section 166.021(3), Florida Statutes, are not relevant to the imposition of Stormwater Assessments by the City.

(C) The purpose of this Ordinance is to (1) provide procedures and standards for the imposition of Stormwater Assessments under the constitutional and statutory power of the City; (2) authorize a procedure for the funding of Stormwater Management Services, facilities, or programs provided to properties within the Stormwater Service Area; and (3) legislatively determine the special benefit provided to Assessed Property from the Stormwater Utility.

(D) The Florida Legislature has mandated that local governments in the State of Florida, including the City, have the responsibility for developing mutually compatible Stormwater management programs consistent with the rules and regulations of the Florida Department of Environmental Protection, the Federal Clean Water Act, and the water management districts and the Stormwater management programs established and maintained by other local governments.

(E) 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 a municipality.

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

ARTICLE 2.0 - STORMWATER UTILITY

SECTION 2.01. STORMWATER UTILITY. There is hereby established a Stormwater Utility, which shall be the operational means of implementing and otherwise carrying out the functional requirements of the City's Stormwater Management System to construct or acquire Stormwater Improvements and provide Stormwater Management Services. The Stormwater Utility shall provide (A) administration and management services in the operation and maintenance of the City's capital facilities for Stormwater management; (B) the preparation of Stormwater studies and the implementation of the Stormwater Utility; (C) the regulation of Stormwater Basins; and (D) the repair, replacement, improvement and extension, of the City's capital facilities for Stormwater management. The Stormwater 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 City Administrator shall be responsible for administration of the Stormwater Utility.

SECTION 2.02. STORMWATER UTILITY FUND. The City Commission intends to fund the cost of providing services and capital facilities for Stormwater management through Stormwater Assessments. The City Commission 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 City's Stormwater Utility and will facilitate implementation of the City Commission's funding

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

policy for Stormwater management. Accordingly, there shall be established a Stormwater Utility Fund. From an accounting perspective, the Stormwater Utility Fund shall be established as an “Enterprise Fund.” Proceeds of the Stormwater Assessment shall be used for payment of the Stormwater Service Cost, the payment of the Capital Cost of Stormwater Improvements, and the payment of debt service on obligations issued to finance Stormwater Improvements.

ARTICLE 3.0 - STORMWATER ASSESSMENTS

SECTION 3.01. LEGISLATIVE DECLARATIONS OF SPECIAL BENEFIT. It is hereby ascertained and declared that the Stormwater Utility, the Stormwater Management Services, and the Stormwater Improvements provide a special benefit to the Assessed Property based upon the following legislative determinations:

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

(B) The special benefit received by Assessed Property is the control, management and treatment of the Stormwater burden generated by the improvements on Developed Property.

(C) Substantially all of the Stormwater burden managed, controlled, and treated by the Stormwater Utility is generated by Developed Property and the amount of

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

Stormwater generated by property in its natural state that is managed, controlled, and treated by the Stormwater Utility is inconsequential.

(D) The City has adopted the Infrastructure Element of the Comprehensive Plan which sets forth goals that make it necessary and essential to construct improvements and extensions to the existing Stormwater system so the collection, storage, treatment, and conveyance of Stormwater within the City adequately protects the health, safety, and welfare of the citizens of the City. The creation and maintenance of the Stormwater Utility is designed to implement the Stormwater sub-element of the Infrastructure Element and other municipal, federal, and state policies mandating Stormwater management programs by local governments.

SECTION 3.02. STORMWATER SERVICE ASSESSMENTS.

(A) The City Commission is hereby authorized to impose Stormwater Assessments against property located within the Stormwater Service Area. The Stormwater Service Cost may be assessed against Developed 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 City, measured by the number of ESUs attributable to each parcel or classification of property.

(B) Notwithstanding the foregoing, if the City Commission 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

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

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 separately assessed against the portion of the Stormwater Service Area receiving the distinct special benefit.

(C) The Stormwater Assessments shall also 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 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 ESUs attributable to each parcel or classification of property.

(D) If Stormwater 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 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.

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

SECTION 3.03. INITIAL ASSESSMENT RESOLUTION. The initial proceeding for imposition of the Stormwater Assessments shall be the City Commission's adoption of an Initial Assessment Resolution. The Initial Assessment Resolution shall (A) describe the Stormwater Improvement or Stormwater Management Service proposed for funding from the proceeds of the Stormwater Assessments and Stormwater Fees; (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 Assessments, 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 City Commission may adopt separate Initial Assessment Resolutions for the Stormwater Assessment and each separate Stormwater Assessment.

SECTION 3.04. STORMWATER ASSESSMENT ROLL

(A) The City Administrator shall prepare, or direct the preparation of, a preliminary Stormwater Assessment 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;

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

- (2) the name of the owner of record of each parcel as shown on the Tax Roll;
- (3) the number of ESUs (or other units used to determine the amount of the Stormwater Assessment) attributable to each parcel;
- (4) the estimated maximum Stormwater Assessment to become due in the Fiscal Year for each ESU or other units used to determine the amount of the Stormwater Assessment;
- (5) the estimated maximum Stormwater Assessment to become due in the Fiscal Year for each parcel; and
- (6) at the option of the City Commission the Stormwater Assessment Roll may also include the estimated maximum annual Stormwater Assessment to become due in any future Fiscal Year for each ESU (or other units used to determine the amount of the Stormwater Assessment) and each parcel.

(B) Copies of the Initial Assessment Resolution and the preliminary Stormwater Assessment Roll shall be on file in the office of the City Clerk and open to public inspection. The foregoing shall not be construed to require that the Stormwater Assessment 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 3.05. NOTICE BY PUBLICATION. After filing the Stormwater Assessment Roll in the office of the City Clerk, as required by Section 3.04 hereof, the City Administrator shall cause to be published once in a newspaper of general

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

circulation within the City a notice stating that a public hearing of the City Commission will be held on a certain day and hour, not earlier than twenty (20) calendar days from such publication, at which hearing the City Commission will receive written comments and hear testimony from all interested persons regarding adoption of the Final Assessment Resolution and approval of the Stormwater Assessment Roll. Notwithstanding that the City may use a different collection procedure in any fiscal year, the published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act for purposes of the Stormwater Assessments.

SECTION 3.06. NOTICE BY MAIL. In addition to the published notice required by Section 3.05, the City Administrator shall cause to be provided notice of the proposed Stormwater Assessments to the owner of each parcel of property subject to the Stormwater Assessments. The form of such notice shall conform to the requirements set forth in the Uniform Assessment Collection Act, notwithstanding that the City may use a different collection procedure in any fiscal year. The notice shall be mailed by either first class mail, or by use of the Annual Truth in Millage Notices, should the City utilize the Uniform Assessment Collection Act, at least twenty (20) calendar days prior to the hearing to each property owner, at such address as is shown on the Tax Roll at the time the notices are prepared for mailing. Notice shall be deemed mailed upon delivery thereof to the possession of the U.S. Postal Service. Failure of the owner to receive such notice due to mistake or inadvertence shall not affect the validity of the Stormwater

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

Assessment Roll nor release or discharge any obligation for the payment of a Stormwater Assessment imposed by the City Commission pursuant to this Ordinance.

SECTION 3.07. FINAL ASSESSMENT RESOLUTION. At the time named in such notice, or such time to which an adjournment or continuance may be taken, the City Commission shall receive written objections and hear testimony of interested persons and may then, or at any subsequent meeting of the City Commission, adopt the Final Assessment Resolution which shall (A) confirm, modify, or repeal the Initial Assessment Resolution with such amendments, if any, as may be deemed appropriate by the City Commission; (B) approve the Stormwater Assessment Roll, with such amendments as it deems just and right; and (C) determine the method of collection. All objections to adoption of the Final Assessment Resolution shall be made in writing, and filed with the Clerk at or before the time or adjourned time of such hearing.

SECTION 3.08. PRELIMINARY RATE RESOLUTION. Prior to the adoption of the Annual Assessment Rate Resolution pursuant to Section 3.09 herein, the City Commission shall adopt a Preliminary Resolution, which shall include without limitation:

(A) A brief description of the Stormwater Management Services to be provided by the City;

(B) The amount of the cost of providing Stormwater Management Services to be assessed upon specially benefited properties within the City;

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

(C) Setting forth the date, time and location for the City Commission to consider public comments on the adoption of the Annual Assessment Rate Resolution;

(D) Directing the Mayor, or his or her designee, to update the Assessment Roll; and,

(E) Directing the requisite notice be provided to affected property owners for a public hearing to adopt the Annual Rate Resolution.

SECTION 3.09. ANNUAL RATE RESOLUTION. During its budget adoption process, the City Commission shall adopt an Annual Rate Resolution for each Fiscal Year following adoption of the Final Assessment Resolution. The Final Assessment Resolution shall constitute the Annual Rate Resolution for the initial Fiscal Year. The Annual Rate Resolution shall approve the Stormwater Assessment Roll for such Fiscal Year. The Stormwater Assessment Roll shall be prepared in accordance with the Preliminary Assessment Resolution, as confirmed or amended by the Annual Assessment Resolution. The City shall provide notice to the owner of such property in accordance with Section 3.07 hereof and conduct a public hearing prior to adoption of the Annual Rate Resolution; provided that should the City use the Uniform Assessment Collection Act, a public hearing is necessary only when such is required under the Act. Failure to adopt an Annual Rate Resolution during the budget adoption process for a Fiscal Year may be cured at any time.

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

SECTION 3.10. EFFECT OF STORMWATER RESOLUTIONS. The adoption of the Final Assessment Resolution or Annual Rate 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 Assessment 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 twenty (20) days from the date of City Commission adoption of the Final or Annual Assessment Resolution. The Stormwater Assessments for each Fiscal Year shall be established upon adoption of the Annual Rate Resolution. The Stormwater Assessment Roll, as approved by the Final Assessment Resolution or Annual Rate Resolution shall be delivered to the Tax Collector or such other official as the City Commission, by Resolution, deems appropriate.

SECTION 3.11. LIEN OF STORMWATER ASSESSMENTS.

(A) Upon adoption of the Annual Rate 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 City Commission of the Annual Rate Resolution and shall attach to the

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

property included on the Stormwater Assessment Roll as of the prior January 1, the lien date for ad valorem taxes.

(B) Upon adoption of the Final Assessment Resolution, Stormwater Assessments to be collected under the alternative method of collection provided in Section 4.02 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 Broward County, Florida.

ARTICLE 4.0 - COLLECTION OF STORMWATER ASSESSMENTS

SECTION 4.01. METHOD OF COLLECTION OF STORMWATER ASSESSMENTS. Unless directed otherwise by the City Commission, Stormwater Assessments shall be collected pursuant to the Uniform Assessment Collection Act, and the City 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 4.02. ALTERNATIVE METHOD OF COLLECTION OF STORMWATER ASSESSMENTS. In lieu of using the Uniform Assessment Collection Act, the City may elect to collect the Stormwater Assessment by any other method

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

which is authorized by law or under an alternative collection method provided by this Section.

(A) The City may provide for the collection of the Stormwater Assessment through utility bills, mailed to all water utility users on each affected parcel of property, other than Government Property in the City or through an alternative billing method as may be approved by the City Commission. The initial bill may, upon direction of the Mayor, be accompanied by explanatory material that includes: (1) a brief explanation of the Stormwater Assessment; (2) a description of the ESU calculation used to determine the amount of the Assessment; (3) the number of ESUs attributed to the utility user; (4) the total amount of the utility user's Stormwater Assessment payable 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 upon notice to the parcel owner, 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) The City shall have the right to record a lien for unpaid assessments in the public records of Broward County, Florida.

(C) The City 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 thirty (30) days from the date any installment is due. In the event the City exercises its rights to

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

foreclose and collect a delinquent Stormwater Assessment, the City or its agent shall notify any property owner who is delinquent in payment of his or her Stormwater Assessment within sixty (60) days from the date the Stormwater Assessment was due. Such notice shall state in effect that the City 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 City may be the purchaser to the same extent as an individual person or corporation. The City 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 City and its agents, including reasonable attorney fees, in collection of such delinquent Stormwater Assessments and any other costs incurred by the City 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.

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

(E) In lieu of foreclosure, any delinquent Stormwater Assessment and costs, fees, and expenses attributable thereto, may be rolled into the Special Assessment for such parcel in a subsequent fiscal year.

(F) 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 Assessment Roll to the Tax Collector.

SECTION 4.03. COLLECTION OF STORMWATER ASSESSMENTS FROM GOVERNMENT PROPERTY.

(A) City-owned Property. Unless directed otherwise by the City Commission, the City will be responsible for its Stormwater Assessment Evidence of payment for such may be by a transfer of City funds into the Stormwater Utility Fund.

(B) Government Property owned by a Government entity other than the City. Given the minimal amount of property located in the City owned by a governmental entity other than the City, and the fact that the use of such property is typically limited to providing and facilitating services to the City and real property within it, property owned by government entities other than the City shall be exempt from the Stormwater Assessment.

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

ARTICLE 5.0 - GENERAL PROVISIONS

SECTION 5.01. REVISIONS TO STORMWATER ASSESSMENTS. If any Stormwater Assessment 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 City Commission is satisfied that any such Stormwater Assessment is so irregular or defective that the same cannot be enforced or collected, or if the City Commission has failed to include any property on the Stormwater Assessment Roll that should have been so included, the City Commission may take all necessary steps to impose a new Stormwater Assessment against any such property, following as nearly as may be practicable, the provisions of this Ordinance and in case such second Stormwater Assessment is annulled, the City Commission may obtain and impose other Stormwater Assessments until a valid Stormwater Assessment is imposed.

SECTION 5.02. PROCEDURAL IRREGULARITIES. Any irregularity in the proceedings in connection with the levy of any Stormwater Assessment under the provisions of this Ordinance shall not affect the validity of the same after the approval thereof, and any Stormwater Assessment as finally approved shall be competent and sufficient evidence that such Stormwater Assessment was duly levied, that the Stormwater Assessment was duly made and adopted, and that all other proceedings adequate to such Stormwater Assessment 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

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

thereby. Notwithstanding the provisions of this Section 5.02, any party objecting to a Stormwater Assessment imposed pursuant to this Ordinance must file an objection with a court of competent jurisdiction within the time periods prescribed in Section 3.10 of this Ordinance.

SECTION 5.03. CORRECTION OF ERRORS AND OMISSIONS.

(A) No act of error or omission on the part of the City Commission, Mayor, City Administrator, Property Appraiser, Tax Collector, City Clerk, or their respective deputies, employees or designees, shall operate to release or discharge any obligation for payment of any Stormwater Assessment imposed by the City Commission under the provisions of this Ordinance.

(B) The number of ESUs attributed to a parcel of property may be corrected at any time by the City Administrator. Any such correction which reduces a Stormwater Assessment shall be considered valid from the date on which the Stormwater Assessment was imposed and shall in no way affect the enforcement of the Stormwater Assessment imposed under the provisions of this Ordinance. Any such correction which increases a Stormwater Assessment or imposes a Stormwater Assessment on omitted property shall first require notice to the affected owner in the manner described in Section 3.06 hereof, providing the date, time and place that the City Commission will consider confirming the correction and offering the owner an opportunity to be heard.

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

(C) The City Commission may provide by Resolution each year a process for considering mitigation or exemptions of parcels from the Stormwater Assessment based on criteria established in such Resolution.

(D) After the Stormwater Assessment Roll has been delivered to the Tax Collector, any changes, modifications or corrections thereto shall be made in accordance with the procedures applicable to errors and insolvencies for ad valorem taxes.

SECTION 5.04. APPLICABILITY. This Ordinance and the City's authority to impose Stormwater Assessments pursuant hereto shall be applicable throughout the City.

SECTION 5.05. ALTERNATIVE METHOD. This Ordinance shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as 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 City, shall be liberally construed to effect the purposes hereof.

SECTION 5.06. CODIFICATION. It is the intention of the City Commission that the provisions of this Ordinance shall become a part of the City's Code of Ordinances, as amended. The provisions of this Ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section," "article" or other appropriate word to accomplish such intention.

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2009- 0884

SECTION 5.07. 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 5.08. CONFLICTS. All ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith are hereby repealed to the extent of such conflict.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, ON THE FIRST READING, THIS 27TH DAY OF OCTOBER, 2009.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, ON THE SECOND AND FINAL READING, THIS 10TH DAY OF NOVEMBER, 2009.

BY: /s/ Michael S. Long
MICHAEL S. LONG,
COMMISSION PRESIDENT

ATTEST:

BY: /s/ Carol Landau
CAROL LANDAU, CITY CLERK

APPROVED AS TO FORM:

BY: /s/ Michael D. Cirullo, Jr.
OFFICE OF THE CITY ATTORNEY

	Yes	No	Absent
Commission President Long	x		
Commission Vice President Gordon	x		
Commissioner Hasis	x		
Commissioner Johnson	x		
Commissioner LaMarca	x		