

CITY OF PANAMA CITY BEACH, FLORIDA

**PROCEDURAL ORDINANCE RELATED
TO ASSESSMENTS FOR THE PROVISION AND FUNDING OF STORMWATER
MANAGEMENT RELATED CAPITAL, SERVICES, FACILITIES AND PROGRAMS**

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ORDINANCE NO. 1564

AN ORDINANCE RELATING TO THE PROVISION AND FUNDING OF STORMWATER MANAGEMENT RELATED CAPITAL, SERVICES, FACILITIES, OR PROGRAMS IN THE CITY OF PANAMA CITY BEACH, FLORIDA; AUTHORIZING THE IMPOSITION AND COLLECTION OF STORMWATER MANAGEMENT ASSESSMENTS AGAINST PROPERTY THROUGHOUT THE CITY; PROVIDING CERTAIN DEFINITIONS; ESTABLISHING THE PROCEDURES FOR IMPOSING AND COLLECTING STORMWATER MANAGEMENT ASSESSMENTS; PROVIDING FOR THE ESTABLISHMENT AND NOTICE OF MAXIMUM RATES; PROVIDING THAT STORMWATER MANAGEMENT ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY EQUAL IN RANK AND DIGNITY WITH THE LIENS OF ALL STATE, COUNTY, DISTRICT, OR MUNICIPAL TAXES AND ASSESSMENTS AND ARE SUPERIOR IN DIGNITY TO ALL OTHER PRIOR LIENS, MORTGAGES, TITLES, AND CLAIMS; AUTHORIZING THE ISSUANCE OF OBLIGATIONS SECURED BY ASSESSMENTS; PROVIDING FOR VARIOUS RIGHTS AND REMEDIES OF THE HOLDERS OF SUCH OBLIGATIONS; PROVIDING THAT SUCH OBLIGATIONS WILL NOT CREATE A GENERAL DEBT OR OBLIGATION OF THE CITY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH, FLORIDA:

ARTICLE I

INTRODUCTION

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

“Annual Assessment Resolution” means the resolution described in Article II hereof, establishing the rate or rates at which an Assessment for a specific Fiscal Year will be computed; and the adoption of which, after a duly noticed public hearing, shall be the

final proceeding for the imposition of Assessments related to the provision and funding of stormwater management related capital, services, facilities or programs.

“Assessed Cost” means that portion of the annual budget for any Fiscal Year representing all or some portion of the cost of providing or maintaining stormwater management related capital, services, facilities or programs to Tax Parcels within the City which will be funded through the imposition of Assessments. In the event the City also imposes an impact fee upon new growth or development for capital improvements specifically related to the Assessed Cost, the Assessed Cost shall not include costs attributable to capital improvements necessitated by new growth or development which were included in the computation of such impact fee or which are otherwise funded by such impact fee.

“Assessed Property” means all Tax Parcels of land included in the Stormwater Management Assessment Roll that receive a special benefit from the continual planning, development, maintenance, and operation of stormwater systems and accordingly the availability of stormwater management capital, services, facilities or programs within the City.

“Assessment” or **“Stormwater Management Assessment”** means a special assessment or other authorized funding mechanism imposed by the Council pursuant to this Ordinance, after a public hearing, to fund the stormwater management Assessed Cost.

The term "Assessment" and the reference to special assessments or non-ad valorem assessments herein means those assessments which can become a lien against a homestead as permitted by Article X, Section 4 of the Florida Constitution, as amended. When the context requires, the term is intended to and may include a stormwater utility fee as provided in Section 3.05 hereof.

"Assessment Coordinator" means the City Manager, or such person's designee, responsible for coordinating calculation and collection of Assessments as provided herein.

"Assessment Ordinance" or **"Ordinance"** means this Ordinance.

"Assessment Roll" means the special assessment roll relating to an Assessment confirmed by the City Council after a public hearing required in Article II hereof.

"City" means the City of Panama City Beach, Florida.

"City Clerk" means the Clerk to the City Council, or such person's designee.

"City Council" means the governing body of the City of Panama City Beach, Florida.

"City Manager" means the City Manager of the City.

"Fiscal Year" means that period commencing October 1st of each year and continuing through the next succeeding September 30th, 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 or any agency thereof, a sovereign state or nation, the State of Florida or any agency thereof, a county, a special district or a municipal corporation.

“Obligations” means bonds or other evidence of indebtedness including but not limited to, notes, commercial paper, capital leases or any other obligation issued or incurred to finance stormwater management related capital, equipment, or facilities secured, in whole or in part, by proceeds of the Assessments.

“Pledged Revenue” means, as to any series of Obligations, (A) the proceeds of such Obligations, including investment earnings, (B) proceeds of the Assessments pledged to secure the payment of such Obligations, and (C) any other legally available non-ad valorem revenue pledged, at the City Council’s sole option, to secure the payment of such Obligations, as specified by this Ordinance and any resolution authorizing such Obligations.

“Property Appraiser” means the Property Appraiser of Bay County, Florida.

“Tax Collector” means the Tax Collector of Bay County, Florida.

“Tax Parcel” means a parcel of property to which the Property Appraiser has assigned a distinct ad valorem property tax identification number.

“Tax Roll” means the real property ad valorem tax assessment roll and data base maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

“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 sense indicates otherwise.

SECTION 1.03. FINDINGS. It is hereby ascertained, determined, and declared that:

(A) Pursuant to Article VIII, Section 2(b) of the Florida Constitution, and Sections 166.021 and 166.041, Florida Statutes, the City Council 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 City ordinances.

(B) The City Council may exercise any governmental, corporate, or proprietary power for a municipal purpose except when expressly prohibited by law, and the City Council 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 assessments related to stormwater management related capital, services, facilities or programs.

(C) The special benefits to affected lands provided as a result of an Assessment include by way of example and not limitation, the continual availability of stormwater management to each Tax Parcel within the City, protection of public safety, a potential increase in value to property, and an assured level of service to property owners and tenants.

(D) Special benefits from stormwater management related capital, services, facilities or programs to affected lands provided as a result of an Assessment include, by way of example and not limitation, stormwater management and capacity, improved use of right of ways, bettering a sense of place and tourism market competitiveness for properties, assured development capacity by connectivity to the City's stormwater system, better ingress and egress to properties, better capacity to evacuate and protect properties and improvements during storm events, enhancements to quality and

superiority of place, visual improvements (including landscaping and hard infrastructure), thoughtful interaction with and connection to the City's transportation system, and the introduction and continual availability of such benefits can serve to address and remediate instances of documented and recognized blighted area conditions. Such special benefits to property protect and increase the value and use of developable properties and create economic advantage to properties within the City.

(E) This economic advantage inuring to properties can be logically and directly measured by the annual or periodic monitoring of public data as market transactions occur.

(F) The means of determining relative contribution to need for stormwater management, including the benefits addressed, is immaterial and may vary so long as such method used provides a reasoned and proportional allocation of the benefit to each property assessed or charged as compared to other assessed properties.

(G) The continued annual preparedness to provide and enhance the City's stormwater system, stormwater management operations, administration, maintenance, and the provision of related capital, services, facilities or programs possess a logical relationship to the value, use and enjoyment of real property by: (1) protecting the value of the improvements and structures on Assessed Properties through the continual availability and provision of stormwater management and associated services within the

City; (2) fundamentally enhancing the ability to improve and deploy undeveloped property, or engage in redevelopment; and (3) protecting the life and safety of residents, intended occupants, visitors, and tourists in the use and enjoyment of such real property. Such benefits occur on both vacant and undeveloped property reasonably available for development.

(H) The association of benefits and burdens to properties affected are strengthened and enhanced by the general law responsibility of the City to plan and cooperate with the Florida Department of Environment Protection, the Northwest Florida Water Management District and Bay County to develop mutually compatible stormwater management programs.

(I) The stormwater management planning statutorily required in Section 403.0891, Florida Statutes, is further confirmed by the relationship of delivering, providing, and maintaining stormwater management related capital and services to increase the value, use and enjoyment of the parcels of property within the City.

(J) The Assessment imposed pursuant to this Ordinance is imposed by the City Council, not the Property Appraiser or Tax Collector. Any activity of the Property Appraiser or Tax Collector under the provisions of this Ordinance shall be construed as ministerial.

(K) The annual Assessments to be imposed pursuant to this Ordinance are

special assessments and may also constitute and be described as non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.

(L) The purpose of this Ordinance is to: (1) provide procedures and standards for the imposition of city-wide Assessments under both general law and the home rule powers of a municipality to impose special assessments, or in some instances stormwater utility fees, (2) authorize a procedure for the funding of stormwater management related capital, services, facilities or programs providing special benefits to property within the City, and (3) establish a dedicated non-ad valorem revenue or tax equity tool in lieu of the property taxes or other general fund revenue for funding stormwater management related capital, services, facilities or programs, reduce demand on other legally available funds, allow for local policy discretion as difficult overall budget choices are made by the City Council each year, and give the community a more equitable, balanced, sustainable and dedicated means of funding essential stormwater management related capital, services, facilities or programs.

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ARTICLE II

**ANNUAL ASSESSMENT FOR STORMWATER MANAGEMENT
ASSESSED COSTS**

SECTION 2.01. GENERAL AUTHORITY.

(A) The City Council is hereby authorized to impose an annual Assessment to fund all or any portion of the Assessed Cost upon benefitted property at a rate of assessment based on the special benefit accruing to such property from the City's provision of stormwater management related capital, services, facilities, or programs. For purposes of this Ordinance, references to 'benefit', 'special benefit', 'benefited property' or the like also include reference to the relief of a burden to continually plan, provide, enhance, operate and maintain the City's stormwater system and stand in readiness to serve the demands of real property as well as improvements thereon to continually modify, improve, operate, and maintain a stormwater system. The cost to construct, operate and maintain any stormwater system obviously necessitates dedicated annual funding to stormwater management related capital, services, facilities or programs resulting from or associated with, among other things, required general law, mandated comprehensive planning and cooperation with the State, its water management district and Bay County, as well as the needs and demands of both developed and undeveloped property owners. All Assessments shall be imposed in conformity with the procedures set forth in this Article II.

(B) The amount of the annual Assessment imposed each Fiscal Year against each parcel of Assessed Property shall be determined pursuant to an apportionment methodology based upon a fair and reasonable apportionment of the Assessed Cost among properties on a basis reasonably related to the special benefit provided by the availability of stormwater management related capital, services, facilities or programs funded with Assessment proceeds. The amount of the annual Assessment imposed each Fiscal Year shall include administration and collection costs associated with the annual Assessment. In the event the Assessments are collected pursuant to the Uniform Assessment Collection Act, the amount of the annual Assessment will also include fees imposed by the Property Appraiser and Tax Collector and will be adjusted as necessary to account for any statutory discounts which are necessitated when employing the efficiencies of collecting the Assessments annually on the same bill as property taxes. Nothing contained in this Ordinance shall be construed to require the imposition of Assessments against Government Property.

SECTION 2.02. PROCEEDINGS.

(A) The proceedings for the imposition of an Assessment shall include a public hearing noticed in the manner set forth in Section 2.04 hereof, and the adoption at or anytime thereafter of an Annual Assessment Resolution which shall (A) contain a brief and general description of the stormwater management related capital, services, facilities

or programs to be provided or made available, (B) describe the method or methods of apportioning the Assessed Cost among affected Tax Parcels, (C) describe the Tax Parcels, if any, to be exempted from the Assessment for legal or public policy purposes, (D) identify the rate or rates of assessment and approve and adopt the annual Assessment Roll, consistent with the requirements of Section 2.03 hereof, and (E) determine the method of collecting the Assessment.

(B) So long as the development and articulation of any method of apportionment, rates of assessment, the Assessment Roll or methods of notice have been reasonably undertaken and otherwise promulgated to the public in accordance with the time periods and provisions hereof, the Annual Assessment Resolution may be adopted at the same meeting of the City Council, or at any subsequent meeting of the City Council, immediately after adoption of this Ordinance, or any amendment hereto.

SECTION 2.03. ASSESSMENT ROLL.

(A) The Assessment Coordinator shall prepare, or direct the preparation of, the Assessment Roll, which shall contain the following:

(1) A summary description of all Assessed Property by Tax Parcel conforming to the description contained on the Tax Roll.

(2) The name of the owner of the Assessed Property.

(3) The extension or application of the rates of the proposed Assessment to be imposed against each such Tax Parcel of Assessed Property.

(B) The Assessment Roll shall be retained by the Assessment Coordinator and shall be open to public inspection. The foregoing shall not be construed to require that the Assessment Roll be in printed form if the amount of the Assessment for each Tax Parcel of property can be determined by use of the internet, a computer terminal available to the public or similar technology available to the public.

SECTION 2.04. NOTICE. At least twenty (20) days prior to the public hearing, the City shall notice the public hearing by publication in a newspaper generally circulated within the boundaries of the City. The notice shall provide the date, time and place of the hearing. The notice shall contain a general statement that the City Council will consider imposing a special assessment throughout the City or otherwise on various parcels of property within the City to fund all or a portion of the cost to provide stormwater management related capital, services, facilities or programs, the proposed rates or explanation of the schedule of Assessments and include general information pertaining to the proposed apportionment methodology, the method of collection and a statement that all affected property owners have a right to appear at the public hearing and the right to file written objections within twenty (20) days of the publication of the notice. The notice shall direct all interested persons to the Assessment Roll and

information concerning the amount of the proposed Assessment applicable to each parcel of property; provided, however, that such Assessment Roll need not be in printed form if the amount of the Assessment for each parcel of property can be determined by use of the internet, a computer terminal available to the public, or similar technology available to the public.

SECTION 2.05. ANNUAL ASSESSMENT RESOLUTION. At the time named in such notice, or to which an adjournment or continuance may be taken by the City Council, the City Council shall receive any written comments or objections of interested persons and may then, or at any subsequent meeting of the City Council, adopt the Annual Assessment Resolution which shall (A) establish the rate or rates of assessment to be imposed in the designated Fiscal Year; (B) approve and adopt the Assessment Roll, with such amendments and directions as it deems just and right; and (C) provide direction as to the method of collection. All parcels assessed shall derive a special benefit from the stormwater management related capital, services, facilities or programs or facilities to be provided, acquired or constructed and the Assessment shall be fairly and reasonably apportioned between the properties that receive the special benefit. All objections to the Annual Assessment Resolution shall be made in writing, and filed with the Assessment Coordinator at or before the time or adjourned time of

such hearing. The Annual Assessment Resolution as confirmed shall constitute the final action necessary annually to impose or re-impose Assessments hereunder.

SECTION 2.06. EFFECT OF ANNUAL ASSESSMENT RESOLUTION.

The Assessments for the initial Fiscal Year and each subsequent Fiscal Year shall be established upon adoption and confirmation of the Annual Assessment Resolution. The adoption and confirmation of the Annual Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the benefits and burdens attributable to affected parcels, the method or basis of apportionment and assessment, the rate or rates imposed, the validity of the rates, fees or charges which comprise the Assessment, the Assessment Roll, and the levy and lien of the Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within twenty (20) days from the date of the City Council action adopting and confirming the Annual Assessment Resolution. The initial Assessment Roll, as approved by the Annual Assessment Resolution, shall be delivered for collection using the uniform method of collection described in Section 3.03 hereof to collect the Assessments, or such other method as the City Council by resolution shall designate.

SECTION 2.07. ADOPTION OF SUBSEQUENT ANNUAL ASSESSMENT RESOLUTIONS. The City Council may adopt subsequent Annual Assessment Resolutions as a part of and during its budget adoption process for each Fiscal Year

following the initial Fiscal Year for which an Assessment is imposed hereunder. The Annual Assessment Resolution shall approve the Assessment Roll for the upcoming Fiscal Year. The Assessment Roll may be prepared in accordance with the methods of apportionment set forth in the prior Assessment Resolution but may include modifications as a matter of policy as to what, if any, portion or portions of the City's budget is paid for from legally available funds other than Assessment revenues. Failure to adopt an Annual Assessment Resolution during the budget adoption process may be cured at any time.

SECTION 2.08. ALTERNATIVE USE OF UNIFORM ASSESSMENT COLLECTION ACT.

(A) The City may determine to use the uniform method of collection provided for in the Uniform Assessment Collection Act; provided, however that all of the extraordinary procedures required by the Uniform Assessment Collection Act can be and are timely complied with.

(B) In the event the uniform method of collection provided for in the Uniform Assessment Collection Act is determined to be used, the Assessment Coordinator shall publish notice which shall conform to the requirements set forth in the Uniform Assessment Collection Act and, in addition to the requirements set forth in this Ordinance, the Assessment Coordinator shall provide notice of the proposed Assessment

by first class mail to the owner of each parcel of property subject to the Assessment which shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such mailed notice may be provided by including the Assessment in the Property Appraiser's notice of proposed property taxes and proposed or adopted non-ad valorem assessments under Section 200.069, Florida Statutes, or its successor in function. Such mailed notice, including any indexed maximum rate of assessment, may also be provided in advance and combined with any notice or bill associated with the traditional direct billing method of collection, or any other reasonable means of mailed notice. In such a circumstance no additional mailed notices shall be required for increases within or less than such indexed annual increases in rates so noticed previously by mail. Failure of the owner to receive notice due to mistake or inadvertence shall nevertheless not affect the validity of the Assessment Roll nor release or discharge any obligation for payment of an Assessment imposed by the City Council pursuant to this Ordinance.

(C) The City Council may also establish by resolution or directive such reasonable procedures or directions to confirm and comply with the Uniform Assessment Collection Act as may be practicable and necessary.

(D) Nothing herein shall preclude the City Council from establishing by resolution a maximum rate of assessment provided that notice of such maximum assessment rate is provided pursuant to the Uniform Assessment Collection Act. In the

event that the uniform method of collection provided for in the Uniform Assessment Collection Act is used and (1) the proposed Assessment for any Fiscal Year exceeds the maximum rate of assessment adopted by the City Council and included in notice previously provided to the owners of Assessed Property by law and pursuant to the Uniform Assessment Collection Act, or, (2) the method of apportionment is changed or the purpose for which the Assessment is imposed is substantially changed from that represented by notice previously provided to the owners of Assessed Property pursuant to the Uniform Assessment Collection Act, notice and opportunity to be heard shall be provided to the owners of such Assessed Property. Such notice shall substantially conform to the notice requirements set forth in the Uniform Assessment Collection Act and inform the owner of the time, date and place for adoption of the Annual Assessment Resolution. The failure of an owner to receive such notice due to mistake or inadvertence shall not affect the validity of the Assessment Roll nor release or discharge any obligation for payment of an Assessment imposed by the City Council pursuant to this Ordinance.

(E) Without additional individual notice the maximum rate of assessment established by resolution may include and be expressed by a cognizable independent indexing feature or reference as the maximum annual increase from year to year, and shall be deemed the maximum rate of assessment authorized herein by law at the time of the initial imposition or subsequent mailed notice of the Assessment.

(F) No subsequent additional individual notice shall be required or necessary, where the method of apportionment and rate of assessment at the time of initial imposition or after a subsequent mailed notice establishing or changing the rate of assessment remains unchanged and was otherwise previously noticed, or where the attributes of any individual tax parcel may change from year to year. Provided, however, implementation of any annual increases in accord with any established maximum rate of assessment shall be noticed by publication in conformance with Section 2.04 hereof.

(G) The Assessment Roll, as approved by the Annual Assessment Resolution, shall be certified and delivered to the Tax Collector as required by the Uniform Assessment Collection Act.

SECTION 2.09. LIEN OF ASSESSMENTS. Upon the adoption of the Assessment Roll, all Assessments shall constitute a lien against such property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments. Except as otherwise provided by law, until paid such lien shall be superior in dignity to all other prior liens, mortgages, titles, and claims. The lien for an Assessment shall be deemed perfected upon adoption by the City Council of the Annual Assessment Resolution. The lien for an Assessment collected under the Uniform Assessment Collection Method shall attach to the property included on the Assessment Roll as of the prior January 1, the lien date for ad valorem taxes imposed under the Tax Roll. The lien

for an Assessment collected under the traditional method of collection provided in Section 3.02 hereof shall be deemed perfected upon adoption and confirmation by the City Council of the Annual Assessment Resolution, after a public hearing, and shall attach to the property on such date of each such Annual Assessment Resolution.

SECTION 2.10. REVISIONS TO ASSESSMENTS. If any 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 Council is satisfied that any such Assessment is so irregular or defective that the same cannot be enforced or collected, or if the City Council has omitted any property on the Assessment Roll which property should have been so included, the City Council may take all necessary steps to impose a new Assessment against any property benefited by the assessed costs, following as nearly as may be practicable, the provisions of this Ordinance and in case such second Assessment is annulled, vacated, or set aside, the City Council may obtain and impose other Assessments until a valid Assessment is imposed.

SECTION 2.11. PROCEDURAL IRREGULARITIES. Any informality or irregularity in the proceedings in connection with the levy of any Assessment under the provisions of this Ordinance shall not affect the validity of the same after the approval thereof, and any Assessment as finally approved shall be competent and sufficient evidence that such Assessment was duly levied, that the Assessment was duly made and

adopted, and that all other proceedings adequate to such 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 thereby. Notwithstanding the provisions of this Section, any party objecting to an Assessment imposed pursuant to this Ordinance must file an objection with a court of competent jurisdiction within the time periods prescribed herein.

SECTION 2.12. CORRECTION OF ERRORS AND OMISSIONS.

(A) No act of error or omission on the part of the Property Appraiser, Tax Collector, Assessment Coordinator, City Council, or their deputies, employees, or agents shall operate to release or discharge any obligation for payment of an Assessment imposed by the City Council under the provision of this Ordinance.

(B) When it shall appear that any Assessment should have been imposed under this Ordinance against a parcel of property specially benefited by the provision of stormwater management related capital, services, facilities or programs, but that such property was omitted from the Assessment Roll, the City Council may, upon provision of notice to the owner by first class mail, impose the applicable Assessment for the Fiscal Year in which such error is discovered, in addition to the applicable Assessment due for the prior two Fiscal Years. Such total Assessment shall become delinquent if not fully paid upon the expiration of sixty (60) days from the date of the adoption of said

resolution. The Assessment so imposed shall constitute a lien against such property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments, and superior in rank and dignity to all other prior liens, mortgages, titles and claims in and to or against the real property involved and may be collected as provided in Article III hereof.

(C) The Assessment Coordinator shall have the authority at any time, upon his or her own initiative or in response to a timely filed petition from the owner of any property subject to an Assessment, based upon presentation of competent and substantial evidence, to correct any error in annually applying the Assessment apportionment method to any particular parcel of property not otherwise requiring the provision of mailed notice pursuant to this Ordinance or the Uniform Assessment Collection Act. Additionally, because the size and nature of the Tax Roll may yield anomalies, the Assessment Coordinator is authorized to apply sound public administration judgment and delete or remove individual Tax Parcels from the Assessment Roll that due to specific circumstances do not receive a special benefit, reasonably considered otherwise not feasible to assess, or are not developable (e.g. subsurface rights, submerged, slivers, right-of-way, common elements) or are reasonably determined to be inappropriate, infeasible or impracticable to assess, and do not merit the expenditure of public funds and resources to impose or collect such Assessments. Unless the Assessment Coordinator determines

that a Tax Parcel otherwise does receive benefit, for any Tax Parcel with a minimum or nominal just value set by City Resolution (using the just value reference from public records determined solely by the Property Appraiser), such value may be used as a prima facie determination that the Tax Parcel need not be included on the Assessment Roll. Any such corrections shall be considered valid *ab initio* and shall in no way affect the enforcement of the Assessment imposed under the provisions of this Ordinance. All requests from affected property owners for any such changes, modifications or corrections shall be referred to, and processed by, the Assessment Coordinator and not the Property Appraiser or Tax Collector.

(D) After the Assessment Roll has been delivered to the Tax Collector in accordance with the Uniform Assessment Collection Act, any changes, modifications, or corrections thereto shall be made in accordance with the procedures applicable to correcting errors and insolvencies on the Tax Roll upon timely written request and direction of the Assessment Coordinator.

SECTION 2.13. INTERIM ASSESSMENTS.

(A) An interim Assessment may be imposed against all property for which a Certificate of Occupancy is issued after adoption and confirmation of the Annual Assessment Resolution. The amount of the interim Assessment shall be calculated upon a monthly rate, which shall be one-twelfth of the annual rate for such property computed

in accordance with the Annual Assessment Resolution for the Fiscal Year in which the Certificate of Occupancy is issued. Such monthly rate shall be imposed for each full calendar month remaining in the Fiscal Year. In addition to the monthly rate, the interim Assessment shall also include an estimate of the subsequent year's Assessment. If the Council determines to impose an interim Assessment, no Certificate of Occupancy shall be issued until full payment of the interim Assessment is received by the City. Issuance of the Certificate of Occupancy by mistake or inadvertence, and without the payment in full of the interim Assessment, shall not relieve the owner of such property of the obligation of full payment. For the purpose of this provision, such interim Assessment shall be deemed due and payable on the date the Certificate of Occupancy was issued and shall constitute a lien against such property as of that date. Said lien shall be equal in rank and dignity with the liens of all State, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved.

(B) Exclusive of property for which an interim Assessment was paid pursuant to subsection (A) hereof, an interim Assessment may also be imposed against any property which for any reason was omitted from the Assessment Roll or was not listed on the Tax Roll as an individual Tax Parcel as of the effective date of the Assessment Roll approved by the Annual Assessment Resolution for any upcoming Fiscal Year. For the purpose of

this provision, such interim Assessment shall be deemed due and payable and shall constitute a lien against such property for which it is imposed. Said lien shall be equal in rank and dignity with the liens of all State, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved.

SECTION 2.14. ADMINISTRATIVE HARDSHIP DEFERMENT.

(A) Annually upon application of the owner of a Tax Parcel subject to the Assessments contemplated herein, the Assessment Coordinator may grant a hardship deferment, in which case the Tax Parcel in question will receive a deferral. The owner shall be required to execute a binding agreement encumbering the Tax Parcel and otherwise assure the City that payment in full of the Assessment and any recording cost, plus interest at an estimated cost of City funds compounded annually, shall be due over a period of time or upon sale or transfer of the property. Such agreement or a memorandum thereof shall be recorded in the Official Records of Bay County, Florida. Dependent upon the volume or demand for such deferment, the City Council may determine to release such deferments in the future. However, all funding for such hardship deferment, or the consequences of the deferment or any future release, shall be from legally available funds other than direct proceeds of other Assessments. The

Assessment Coordinator is authorized to use sound public administration judgment in applying this authority and considering such applications.

(B) This provision serves to promote a public purpose and the general welfare, morals and contentment of the inhabitants and residents of the City.

[Remainder of page intentionally left blank]

ARTICLE III

COLLECTION OF STORMWATER MANAGEMENT ASSESSMENTS

SECTION 3.01. COLLECTION.

(A) The process of collection is driven by many equitable, practical and economic factors. The traditional direct billing method is initially much less expensive and provides fair and adequate notice and opportunity to be heard through publication in a newspaper of general circulation. The uniform method of collection provides extraordinary notice by individual mailing that is more expensive and is more cumbersome, involves independent third parties, and is not flexible from a timing and budget cycle standpoint. Such individually mailed notice and rigid annual timing required by the Uniform Assessment Collection Act is extraordinary and unique to collection of an Assessment occurring along with and included on the same bill as for ad valorem taxes. However, the uniform method is overall much more efficient, and more fair to individual property owners who do not timely pay their tax bill.

(B) Unless otherwise directed by the City Council, the Assessments shall be collected pursuant to the uniform method provided in Section 3.03 hereof. Any hearing or notice required by this Ordinance may be combined with any other hearing or notice required or allowed by this Ordinance or the Uniform Assessment Collection Act.

SECTION 3.02. TRADITIONAL METHOD OF COLLECTION. The City may elect to collect the Assessments by any other method which is authorized by law or provided by this Section as follows:

(A) The City shall provide Assessment bills by first class mail to the owner of each affected parcel of property, other than Government Property. The bill or accompanying explanatory material shall include (1) a brief explanation of the Assessment, (2) a description of the unit or units of measurement or method used to determine the amount of the Assessment, (3) the number of units attributed to or contained within the Tax Parcel, (4) the rate or rates applied to the units of measurement or method and the total amount of the Assessment imposed against the Tax Parcel for the appropriate period, (5) the location at which payment will be accepted, (6) the date on which the Assessment is due, and (7) a statement that the 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. Such direct bills may also include any other information or notices for a subsequent year.

(B) A general notice of the lien resulting from imposition of the Assessments throughout the City may be recorded in the Official Records of the County. Nothing herein shall be construed to require that individual liens or releases be filed in the Official Records.

(C) The City shall have the right to appoint or retain an agent to collect and foreclose Assessments, including all delinquent Assessments in the manner provided by law.

(D) An Assessment shall become delinquent if it is not paid within thirty (30) days from the date any installment is due. The City or its agent shall notify any property owner who is delinquent in payment of his or her Assessment within ninety (90) days from the date such assessment was due. Such notice shall state in effect that the City or its agent may either (1) initiate a foreclosure action or suit in equity and cause the foreclosure of such property subject to a delinquent Assessment in a method now or hereafter provided by law for foreclosure of mortgages on real property; or (2) cause an amount equivalent to the delinquent Assessment, not previously subject to collection using the uniform method under the Uniform Assessment Collection Act, to be collected on the tax bill for a subsequent year.

(E) 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 Assessments against any or all property assessed in accordance with the provisions hereof. All

delinquent 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 Assessments and any other costs incurred by the City as a result of such delinquent Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(F) In lieu of foreclosure, any delinquent Assessment and the costs, fees and expenses otherwise reasonably attributable thereto, may be collected subsequently pursuant to the Uniform Assessment Collection Act; provided however, that (1) notice is provided to the owner in the manner described by the Uniform Assessment Collection Act and this Ordinance, and (2) any existing lien of record on the affected parcel for the delinquent Assessment is supplanted by the lien resulting from certification of the Assessment Roll, as applicable, to the Tax Collector.

(G) Any City Council action required for the collection of Assessments may be by resolution.

SECTION 3.03. UNIFORM METHOD OF COLLECTION.

(A) In lieu of utilizing any other method of collection available to the City, the City may elect to collect Assessments using the uniform method pursuant to the Uniform Assessment Collection Act; and, for any specific parcel of benefitted property may include an amount equivalent to the payment delinquency, delinquency fees and

expenses and recording costs for a prior years' assessment for a comparable capital cost, service, facility, or program provided, (1) the collection method used in connection with the prior years' assessment did not employ the use of the uniform method of collection authorized by the Uniform Assessment Collection Act, (2) notice is provided to the owner, and (3) any lien on the affected parcel for the prior years' assessment is supplanted and transferred to such Assessment upon certification of a non-ad valorem roll to the Tax Collector by the City.

(B) If the City Council determines the Assessments are to be collected on the same bill as for ad valorem taxes, then the Assessment Coordinator shall comply and conform to the extraordinary requirements of the Uniform Assessment Collection Act.

SECTION 3.04. GOVERNMENT PROPERTY.

(A) To the extent permitted by law, the City reserves the right to impose on Governmental Property a charge or fee comparable in amount to Assessments. As used in this section, the context of the term 'Assessment' shall refer to the amount equivalent to such a charge or fee. If Assessments are imposed against Government Property, the City shall provide Assessment bills by first class mail to the owner or agent of each affected parcel of Government Property. The bill or accompanying explanatory material shall include (1) a brief explanation of the Assessment, (2) a description of the unit or units of measurement used to determine the amount of the Assessment, (3) the number

of units contained within the Tax Parcel, (4) the rate or rates applicable to the units of measurement or method and the total amount of the Assessment imposed against the Tax Parcel for the appropriate period, (5) the location at which payment will be accepted, and (6) the date on which the Assessment is due.

(B) Assessments imposed against Government Property shall be due on the same date as all other Assessments and, if applicable, shall be subject to the same discounts for early payment.

(C) An Assessment shall become delinquent if it is not paid within thirty (30) days from the date any installment is due. The City shall notify the owner of any Government Property that is delinquent in payment of its Assessment within ninety (90) days from the date such assessment was due. Such notice shall state that the City will initiate a mandamus or other appropriate judicial action to compel payment.

(D) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any mandamus or other action as described herein shall be included in any judgment or decree rendered therein. All delinquent owners of Government Property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the City, including reasonable attorney fees, in collection of such delinquent Assessments

and any other costs incurred by the City as a result of such delinquent Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(E) As an alternative to the foregoing, an Assessment imposed against Government Property may be collected as a surcharge on a utility bill provided to such Government Property in twelve installments with a remedy of a mandamus action in the event of non-payment. The City Council may also contract for such billing services with any utility not otherwise owned by the City.

SECTION 3.05 ALTERNATIVE USE OF STORMWATER UTILITY FEE.

(A) The City is expressly authorized by general law to adopt a stormwater utility fee in an amount equivalent to any Assessment, and hereby creates and establishes a stormwater utility to supplementally and additionally accomplish the funding provided for herein by Assessments. In this circumstance, such a characterization of a stormwater utility fee to fund the cost of the stormwater management capital, services, facilities or programs provided each year meets the criteria both for a valid fee to fund the cost of government services or facilities expressly authorized by the Legislature, as well as the criteria of a valid special assessment. Further, the Legislature has expressly authorized the similar collection of a stormwater utility fee using the uniform method pursuant to the Uniform Method Collection Act. Accordingly, as used in this section, the context of the term "Assessment" shall refer to the amount equivalent to such charge or fee.

(B) This Ordinance shall be deemed and construed as the concurrent, concomitant, and alternative direction and authorization to accomplish all or any part of the City's annual non-ad valorem funding of its stormwater management related capital, services, facilities or programs. Accordingly, as the context requires to accomplish the foregoing objective, the term 'Assessment' shall be liberally construed to embody such a characterization as a stormwater utility fee.

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**ARTICLE IV
ISSUANCE OF OBLIGATIONS**

SECTION 4.01. GENERAL AUTHORITY.

(A) The City Council shall have the power and is hereby authorized to provide by ordinance or resolution, at one time or from time to time in series, for the issuance of Obligations to fund stormwater management capital or equipment and any amounts to be paid or accrued in connection with issuance of such Obligations including but not limited to capitalized interest, transaction costs and reserve account deposits.

(B) The principal of and interest on each series of Obligations shall be payable from Pledged Revenue. The City Council may agree, by ordinance or resolution, to budget and appropriate funds to make up any deficiency in the reserve account established for the Obligations or in the payment of the Obligations, from other non-ad valorem revenue sources. The City Council may also provide, by ordinance or resolution, for a pledge of or lien upon proceeds of such non-ad valorem revenue sources for the benefit of the holders of the Obligations. Any such ordinance or resolution shall determine the nature and extent of any pledge of or lien upon proceeds of such non-ad valorem revenue sources.

SECTION 4.02. TERMS OF THE OBLIGATIONS. The Obligations shall be dated, shall bear interest at such rate or rates, shall mature at such times as may be determined by ordinance or resolution of the City Council, and may be made redeemable before maturity, at the option of the City, at such price or prices and under such terms and conditions, all as may be fixed by the City Council. Said Obligations shall mature not later than forty (40) years after their issuance. The City Council shall determine by ordinance or resolution the form of the Obligations, the manner of executing such Obligations, and shall fix the denominations of such Obligations, the place or places of payment of the principal and interest, which may be at any bank or trust company within or outside of the State of Florida, and such other terms and provisions of the Obligations as it deems appropriate. The Obligations may be sold at public or private sale for such price or prices as the City Council shall determine by ordinance or resolution. The Obligations may be delivered to any contractor to pay for the provision stormwater management capital or equipment or may be sold in such manner and for such price as the City Council may determine by ordinance or resolution to be for the best interests of the City.

SECTION 4.03. VARIABLE RATE OBLIGATIONS. At the option of the City Council, Obligations may bear interest at a variable rate.

SECTION 4.04. TEMPORARY OBLIGATIONS. Prior to the preparation of definitive Obligations of any series, the City Council may, under like

restrictions, issue interim receipts, interim certificates, or temporary Obligations, exchangeable for definitive Obligations when such Obligations have been executed and are available for delivery. The City Council may also provide for the replacement of any Obligations which shall become mutilated, destroyed or lost. Obligations may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions or things which are specifically required by this Ordinance.

SECTION 4.05. ANTICIPATION NOTES. In anticipation of the sale of Obligations, the City Council may, by ordinance or resolution, issue notes and may renew the same from time to time. Such notes may be paid from the proceeds of the Obligations, the proceeds of the Assessments, the proceeds of the notes and such other legally available moneys as the City Council deems appropriate by ordinance or resolution. Said notes shall mature within five (5) years of their issuance and shall bear interest at a rate not exceeding the maximum rate provided by law. The City Council may issue Obligations or renewal notes to repay the notes. The notes shall be issued in the same manner as the Obligations.

SECTION 4.06. TAXING POWER NOT PLEDGED. Obligations issued under the provisions of this Ordinance shall not be deemed to constitute a general obligation or pledge of the full faith and credit of the City within the meaning of the Constitution of the State of Florida, but such Obligations shall be payable only from

Pledged Revenue and, if applicable, proceeds of the Assessments, in the manner provided herein and by the ordinance or resolution authorizing the Obligations. The issuance of Obligations under the provisions of this Ordinance shall not directly or indirectly obligate the City to levy or to pledge any form of ad valorem taxation whatsoever. No holder of any such Obligations shall ever have the right to compel any exercise of the ad valorem taxing power on the part of the City to pay any such Obligations or the interest thereon or to enforce payment of such Obligations or the interest thereon against any property of the City, nor shall such Obligations constitute a charge, lien or encumbrance, legal or equitable, upon any property of the City, except the Pledged Revenue.

SECTION 4.07. TRUST FUNDS. The Pledged Revenue received pursuant to the authority of this Ordinance shall be deemed to be trust funds, to be held and applied solely as provided in this Ordinance and in the ordinance or resolution authorizing issuance of the Obligations. Such Pledged Revenue may be invested by the City, or its designee, in the manner provided by the ordinance or resolution authorizing issuance of the Obligations. The Pledged Revenue upon receipt thereof by the City shall be subject to the lien and pledge of the holders of any Obligations or any entity other than the City providing credit enhancement on the Obligations.

SECTION 4.08. REMEDIES OF HOLDERS. Any holder of Obligations, except to the extent the rights herein given may be restricted by the ordinance or

resolution authorizing issuance of the Obligations, may, whether at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such ordinance or resolution, and may enforce and compel the performance of all duties required by this part, or by such ordinance or resolution, to be performed by the City.

SECTION 4.09. REFUNDING OBLIGATIONS. The City may, by ordinance or resolution of the City Council, issue Obligations to refund any Obligations issued pursuant to this Ordinance, or any other obligations of the City issued to finance stormwater management capital or equipment, and provide for the rights of the holders hereof. Such refunding Obligations may be issued in an amount sufficient to provide for the payment of the principal of, redemption premium, if any, and interest on the outstanding Obligations to be refunded. If the issuance of such refunding Obligations results in an annual Assessment that exceeds the estimated maximum annual Assessments set forth in an Annual Assessment Resolution or other resolution, the City Council shall provide notice to the affected property owners and conduct a public hearing in the manner required by this Ordinance.

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**ARTICLE V
GENERAL PROVISIONS**

SECTION 5.01. APPLICABILITY. This Ordinance and the City Council's authority to impose assessments pursuant hereto shall be applicable throughout the City.

SECTION 5.02. 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 5.03. 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.

[Remainder of page intentionally left blank.]

SECTION 5.04. EFFECTIVE DATE. This Ordinance shall be in force and take effect immediately upon its passage and adoption by the City Council.

INTRODUCED AND PASSED on first reading in regular session of the City Council of the City of Panama City Beach, this 22nd day of July 2021.

ATTEST: APPROVED:



City Clerk



Mark Sheldon, Mayor

PASSED on second and final reading by the City Council of the City of Panama City Beach, Florida, on the 26th day of August 2021.

**THE CITY OF PANAMA CITY BEACH,
FLORIDA**

By: 

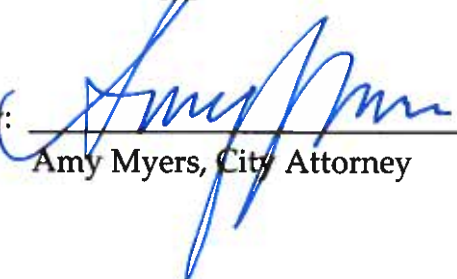
Mark Sheldon, Mayor

ATTEST:



Lynne Fasone, City Clerk

APPROVED AS TO FORM:

By: 

Amy Myers, City Attorney