ORDINANCE NO. 63-12

AN ORDINANCE AMENDING SEC. 82-200, CITY CODE, IMPOSITION OF UTILITY FEES AND RATE SCHEDULE, BY INCREASING THE STORMWATER UTILITY FEE FROM $5.00 PER EDU (EQUIVALENT DRAINAGE UNIT) TO $7.00 PER EDU; PROVIDING FOR CODIFICATION; PROVIDING FOR PUBLIC HEARING; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, New Smyrna Beach, Fla., Ordinance 93-95 (Nov. 28, 1995), Stormwater Utility Ordinance, established a stormwater utility fee in the City of New Smyrna Beach; and

WHEREAS, New Smyrna Beach, Fla., Ordinance 93-95 (Nov. 28, 1995), Stormwater Utility Ordinance, provided that the rate and method of collection shall be established by the City Commission; and

WHEREAS, the City Commission deems it is in the best interests of the citizens of the City of New Smyrna Beach to increase the stormwater utility fee, as more particularly set forth hereinafter.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF NEW SMYRNA BEACH, FLORIDA:

SECTION 1: ***Amendment.*** That Section 82-200, City Code, Imposition of Utility Fees and Rate Schedule, is hereby amended to read as follows: **(Note: Deletions from text are indicated by ~~strikeout~~, additions to text are indicated by underline, and omissions in text are indicated by [...].)**

CHAPTER 82 UTILITIES

...

ARTICLE VI. STORMWATER UTILITY

...

Sec. 82-200. Imposition of utility fees and rate schedule.

...

(b) **For the fiscal year commencing on October 1, 2012,** ~~T~~the city commission adopts ~~$60.00~~ **$84.00** per EDU per fiscal year as the stormwater utility fee. ~~This rate shall be reviewed annually and adjusted by ordinance in accordance with the adoption of the annual stormwater management utility operating budget including funding the stormwater capital improvement program and debt service, if any.~~ **For the fiscal year commencing on October 1, 2013 and each year thereafter, the annual adjustment to the stormwater utility fee shall be calculated using the percentage of the CPI as calculated in subsection (c) of this section unless the city commission adopts an ordinance specifically superseding the application of these subsections.**

(c) The annual adjustment to the stormwater utility fee using CPI shall be calculated as follows:

1. The CPI to be used shall be the Consumer Price Index - All Urban Consumers - Not Seasonally Adjusted - All Items, as published by the United States Department of Labor for U.S. City Average.

2. Multiply the percentage change of the CPI-U NSA from June 1 of the preceding calendar year through May 31 of the present calendar year times the existing annual Equivalent Drainage Unit (EDU) stormwater utility fee. Add the result of this calculation to the existing stormwater utility EDU fee and round to the nearest dollar.

3. In the event the calculations used to formulate the annual adjustment to the stormwater utility fee results in an increase to the fee of greater than 3 percent, then the annual adjustment to the stormwater fee shall be capped at 3 percent.

4. In the event the calculations used to formulate the annual adjustment to the stormwater utility fee results

in a decrease in the fee, then the previous year's stormwater utility fee shall be used.

SECTION2: ***Codification.*** Following adoption of this ordinance, the City Attorney shall transmit a copy of this ordinance to Municipal Code Corporation of Tallahassee, Florida, to be codified into the City's Code of Ordinances. Municipal Code Corporation's usual and customary fee for said codification service is hereby approved.

SECTION 3: ***Public Hearing.*** That a public hearing considering the adoption of this ordinance held June 26, 2012, in the City Commission Chambers, 210 Sams Avenue (south entrance on Julia Street), New Smyrna Beach, Florida, after notice published, is found to comply with §166.041(3)(a), F.S.

SECTION 4: ***Conflicting Ordinances.*** That any ordinances that are in conflict with this ordinance are hereby rescinded and repealed.

SECTION5: ***Severability.*** That if any section, sentence, clause or phrase of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 6: ***Effective Date.*** That this ordinance shall take effect immediately upon its final adoption.

APPROVED AS TO FORM AND CORRECTNESS:

FRANK B. GUMMEY, III
City Attorney

DATE: 6/15/12

Ordinance No. 63-12 of the City of New Smyrna Beach, Florida, was introduced before the City Commission at its Regular Meeting June 12, 2012, and read by title only. Motion was made by Vice Mayor Reiker, and seconded by Commissioner Grasty, the vote thereon being as follows:

MAYOR ADAM BARRINGER	Yes
VICE MAYOR JUDY REIKER	Yes
COMMISSIONER J. S. GRASTY	Yes
COMMISSIONER JAMES W. HATHAWAY	No
COMMISSIONER LYNNE PLASKETT	Absent

Ordinance No. 63-12 was read by title only at the Regular Meeting held by the City Commission on June 26, 2012, Motion was made by Commissioner Plaskett, and seconded by Commissioner Grasty, that Ordinance No. 63-12 be adopted on second and final reading, the vote thereon being as follows:

MAYOR ADAM BARRINGER	Yes
VICE MAYOR JUDY REIKER	Yes
COMMISSIONER J. S. GRASTY	Yes
COMMISSIONER JAMES W. HATHAWAY	No
COMMISSIONER LYNNE PLASKETT	Yes

The City Clerk noted the passage of Ordinance No. 63-12 in the minutes of this meeting by its title only and recorded the same in full in the Ordinance Records of the City.

The Mayor of the City of New Smyrna Beach has hereunto set his official signature, duly attested by the City Clerk, and has caused the Official Seal of said City to be hereunto affixed for the purpose of authenticity as required by law.

(OFFICIAL SEAL)

As City Clerk of the City of
New Smyrna Beach, Florida

Adam Barringer

As Mayor of the City of New Smyrna
Beach, Florida