

**ORDINANCE NO. 20-46**

**AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING THE CITY CODE WITH RESPECT TO STORMWATER UTILITY FEES AND USE THEREOF; PROVIDING FOR INCREASE OF THE STORMWATER UTILITY FEE FOR THE YEARS 2021 THROUGH 2025; CLARIFYING CITY AUTHORITY TO MAINTAIN, REPAIR, AND REPLACE CERTAIN NON-PUBLIC STORMWATER IMPROVEMENTS AND TO EXPEND FUNDS COLLECTED VIA THE CITY'S STORMWATER FEE THEREON; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Winter Garden has commissioned a stormwater rate study and has concluded that certain increases to the City's stormwater utility fee are necessary to fund the City's future stormwater management activities; and

**WHEREAS**, the City also finds that it is necessary to amend the City Code to clarify the City's authority to maintain, repair, and replace certain non-public stormwater improvements, and to expend funds collected via the City's stormwater utility fee thereon; and

**WHEREAS**, the City finds that this Ordinance advances the interests of the public health, safety, and welfare.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA:**

**SECTION 1. Recitals.** The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this ordinance.

**SECTION 2. City Code Amendment.** Sections 78-203 and 78-205 of the City Code are hereby amended as follows (words that are stricken out are deletions; words that are underlined are additions; stars \* \* \* \* indicate breaks between sections or subsections and do not indicate changes to the City Code):

**Sec. 78-203. - Findings, determination and intent.**

For the purposes of this article, it is found, determined and declared as follows:

- (1) Those elements of the stormwater system for the collection, transmission and disposal of stormwater and surface water are of benefit and provide services to all real property not served by the stormwater elements of the system.
- (2) The cost of operating and maintaining the city's stormwater management utility system and financing necessary repairs, replacements, improvements and extension thereof should, to the extent practicable, be allocated in relationship to user impacts, based upon contributions to stormwater runoff, and benefits and services received therefrom.
- (3) All property within the city demonstrates a hydrologic response to rainfall events which generates stormwater runoff. The volume, rate, and quality of this runoff will vary with the soil type, land use conditions, topographic conditions, and other variables. In particular, the construction of nonresidential units on previously undeveloped property will generally increase the volume and rate of stormwater runoff, and adversely affect its water quality.

(4) The city has certain rights, but not obligations, pursuant to recorded plats, non-exclusive drainage easements and declarations of covenants, conditions and restrictions to maintain, repair and replace certain private stormwater improvements if the city determines such improvements are not being properly maintained, repaired and replaced and such failure may cause harm to the public. The fees collected hereunder may provide a funding source for such purposes if the city determines such to be in the public's interest.

(45) It is the intent of this article to establish stormwater management as a city utility and to establish a program of service charges and fees for stormwater management services, which charges and fees are to be charged against all property within the city to accomplish the purpose of the utility.

(56) The city's stormwater utility fees shall be fair and reasonable and shall bear substantial relationship to the cost of providing services and facilities in that similar property shall pay similar stormwater utility fees. A rate study shall be conducted periodically to ensure the equity of the service charges.

\* \* \* \* \*

**Sec. 78-205. - Schedule of fees.**

The city commission may by resolution modify or amend the uniform schedule of charges and fees as established in this section. The uniform schedule of charges and fees is as follows:

(1) *Residential.* Each single-family residential unit shall be assessed and billed at a flat fee based upon one equivalent drainage unit (EDU) per dwelling unit. Each mobile home unit shall be assessed and billed at a flat fee based upon 0.89 equivalent drainage unit (EDU) per dwelling unit. Each multifamily residential unit shall be assessed and billed at a flat fee based upon 0.62 EDU per dwelling unit.

(2) *Nonresidential.* All nonresidential properties shall be assessed and billed based on the total applicable contributing area of the property divided by the equivalent drainage unit factor rounded to the nearest one-tenth of an EDU. This result shall then be multiplied by a mitigation credit factor, which product shall then be multiplied by the rate established for an EDU. Gross area and applicable contributing area may be determined for each parcel using surveys, site plans, tax maps, REDI maps, aerial photos, and any other appropriate readily available information. For nonresidential properties, the bill for the stormwater management utility fee shall be sent to the property owner as determined by the city.

(3) *Charge per EDU.*

(a) The charge per EDU will be \$ 4.13 per month and will consists of a base fee of \$1.16 (\$1.23 on October 1, 2006, \$1.30 on October 1, 2007, \$1.37 on October 1, 2008, and \$1.44 on October 1, 2009) per EDU applicable to all properties, plus a contribution fee of \$ 2.97 (\$3.15 on October 1, 2006, \$3.33 on October 1, 2007, \$3.51 on October 1, 2008, and \$3.69 on October 1, 2009) per EDU, applicable to all properties. The charge per EDU will increase to: \$4.38 on October 1, 2006; \$4.63 on October 1, 2007; \$4.88 on October 1, 2008; and \$5.13 on October 1, 2009.

(b) Beginning on January 1, 2021, the base fee shall increase to \$1.92 and the contribution fee shall increase to \$5.21, for a total EDU of \$7.13. Beginning on October 1, 2021, the base fee shall increase to \$1.98 and the contribution fee shall increase to \$5.40, for a total EDU of \$7.38. Beginning on October 1, 2022, the base fee shall increase to \$2.04 and the contribution fee shall increase to \$5.59, for a total EDU of \$7.63. Beginning on October 1, 2023, the base fee shall increase to \$2.10 and the contribution fee shall increase to \$5.78, for a total EDU of \$7.88. Beginning on October 1, 2024, the base fee shall increase to \$2.16 and the contribution fee shall increase to \$5.97, for a total EDU of \$8.13.

(c) All nonresidential property with site mitigation facilities may be entitled to a reduction in the contribution fee of up to 40 percent of the contribution fee. Additionally, nonresidential property that does not directly or indirectly drain to any city-maintained or city-owned stormwater management system and that does not have frontage on a city-owned or city-maintained right-of-way, easement, or stormwater management system may be entitled to a reduction in the contribution fee of up to 100 percent of the contribution fee. In no event shall any reduction in the contribution fee exceed a proportionate reduction in stormwater quantity and quality from the lot or parcel at issue.

(4) *Administrative charge.* The administrative charge for all billable lots and parcels shall be \$0.87 per lot or parcel.

(5) *Additional charge.* Each lot and parcel of property shall be charged the EDU base rate charge and the administrative charge, regardless of its development character, in addition to any contribution charge which may be rendered. Further, to the extent the city maintains or repairs existing individual stormwater systems for nonpublic, undeveloped or developed property, the actual fees and costs, including but not limited to personnel and administrative costs, shall may be charged to each lot and parcel of property contributing stormwater to such individual stormwater system. If imposed, such This maintenance and repair cost and fee shall be prorated between the contributing lots and parcels based upon the size of the lot or parcel and the estimated contribution to the individual stormwater system.

(6) *Minimum billing.* If the stormwater fee, less the administration charge, would be \$0.87 or less, no stormwater fee will be assessed.

**SECTION 3. Codification.** This Ordinance shall be incorporated into the Winter Garden City Code. Any section, paragraph number, subsection number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this ordinance or City Code may be freely made.

**SECTION 4. Severability.** If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

**SECTION 5. Conflicts.** In the event of a conflict or conflicts between this Ordinance and any other ordinance or provision of law, this Ordinance controls to the extent of the conflict, as allowable under the law.

**SECTION 6. Effective Date.** This Ordinance shall become effective immediately upon

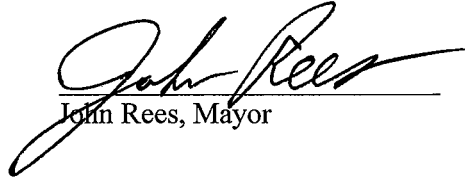
adoption by the City Commission of the City of Winter Garden, Florida.

FIRST READING: OCTOBER 8, 2020

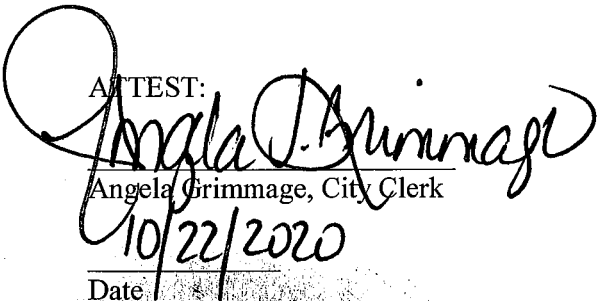
SECOND READING: OCTOBER 22, 2020

ADOPTED this 22<sup>ND</sup> day of OCTOBER, 2020, by the City Commission of the City of Winter Garden, Florida.

CITY COMMISSION  
CITY OF WINTER GARDEN

  
John Rees, Mayor

ATTEST:

  
Angela Grimmage, City Clerk  
10/22/2020  
Date

