



**CITY COMMISSION AGENDA  
CITY HALL COMMISSION CHAMBERS  
300 W. Plant Street  
(\*REVISED ON 5/10/10 and on 5/12/10)**

**REGULAR MEETING**

**MAY 13, 2010**

**6:30 P.M.**

**CALL TO ORDER**

Determination of a Quorum

Invocation and Pledge of Allegiance

1. **APPROVAL OF MINUTES**

Regular Meeting of April 22, 2010

2. **OATHS OF OFFICE AND INTRODUCTION OF NEW POLICE OFFICERS**

3. **PRESENTATIONS**

Annual Drop Saver poster contest winners – Public Services Director Cochran

4. **FOURTH READING AND PUBLIC HEARING OF PROPOSED ORDINANCE**

A. **Ordinance 10-21:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING CHAPTER 78, ARTICLE II, WATER AND SANITARY SEWER SYSTEMS OF THE CITY OF WINTER GARDEN CODE OF ORDINANCES BY REPEALING SECTIONS 78-50 THROUGH 78-60 OF THE CITY OF WINTER GARDEN CODE OF ORDINANCES AND CREATING NEW SECTIONS 78-50 THROUGH 78-63 OF THE CITY OF WINTER GARDEN CODE OF ORDINANCES; REPEALING SECTION 78-243, RECLAIMED WATER RATES AND CHARGES OF THE CITY OF WINTER GARDEN CODE OF ORDINANCES AND CREATING NEW SECTION 78-243 OF THE CITY OF WINTER GARDEN CODE OF ORDINANCES; AMENDING CHAPTER 78, UTILITIES OF THE WINTER GARDEN CODE OF ORDINANCES BY CHANGING REFERENCES OF UTILITIES DEPARTMENT TO PUBLIC SERVICES DEPARTMENT; MODIFYING WATER AND WASTEWATER IMPACT FEE AMOUNTS AND ASSESSMENT METHOD TO A METER BASED IMPACT FEE; PROVIDING FOR WATER AND WASTEWATER IMPACT FEE COLLECTION, ADMINISTRATION, AND DISPOSITION; MODIFYING AND PROVIDING FOR WATER, IRRIGATION AND WASTEWATER CONNECTION FEES; MODIFYING AND PROVIDING FOR SECURITY DEPOSITS, INITIATION OF SERVICE CHARGE, AND MISCELLANEOUS CHARGES AND FEES; MODIFYING AND PROVIDING FOR WATER, IRRIGATION AND WASTEWATER USEAGE RATES, ADMINISTRATION AND COLLECTION; MODIFYING AND PROVIDING FOR FIRE PROTECTION CONNECTION AND SERVICE CHARGES; MODIFYING AND PROVIDING FOR RECLAIMED WATER CONNECTION CHARGES AND USEAGE RATES; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE – Public Services Director Cochran

5. **THIRD READING AND PUBLIC HEARING OF PROPOSED ORDINANCE**

A. **Ordinance 10-22:** AN ORDINANCE PURSUANT TO SECTION 125.01(1)(Q), FLORIDA STATUTES, CONSENTING TO THE ORANGE COUNTY LAKE ROBERTS MUNICIPAL SERVICE BENEFIT UNIT AND THE LEVY OF SPECIAL ASSESSMENTS ON CERTAIN BENEFITTED PROPERTIES LOCATED WITHIN THE MUNICIPAL BOUNDARIES OF WINTER GARDEN, FLORIDA IN ORDER TO PAY A PORTION OF THE COSTS OF LAKE MAINTENANCE AND CLEANING; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE – Public Services Director Cochran

6. **REGULAR BUSINESS**

A. **Resolution 10-07:** A RESOLUTION ADOPTED BY THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, ADOPTING ORANGE COUNTY LOCAL MITIGATION STRATEGY RESOLUTION – Fire Chief Williamson

B. Appointment to the Code Enforcement Board for the unexpired term (until June 2012) of resigning member Charlie Mae Wilder – City Clerk Golden

- C. \*Request by Tony Richardson and Dennis Castle to credit prior service time in the General Employees Pension Plan – Human Resources Director Gilbert (*added May 10, 2010*)
- D. \*Recommendation to approve an agreement with Bradford Properties of Central FL, LLC and Bradford Development Corporation to acquire additional right-of-way from two parcels identified as 13-22-27-0000-00-039 and 13-22-27-0000-00-008, for East Plant Street improvements – Planning Consultant Williams (*added May 10, 2010*)

***Dispense as the City Commission and convene as the Community Redevelopment Agency***

- E. \*Request to fund up to \$120,000 to build four affordable houses on Tenth and Center Streets by the Arts and Architecture Group – City Manager Bollhoefer (*added May 10, 2010*)

***Adjourn as the Community Redevelopment Agency and reconvene as the City Commission***

**7. MATTERS FROM CITIZENS** (*Limited to 3 minutes per speaker*)

**8. MATTERS FROM CITY ATTORNEY** – Kurt Ardaman

- A. \*Recommendation to approve a tri-party agreement with Orange County and the Orlando-Orange County Expressway Authority for right-of-way parcels and drainage easements (*added May 12, 2010*)

**9. MATTERS FROM CITY MANAGER** – Mike Bollhoefer

- A. Discussion on street paving projects

**10. MATTERS FROM MAYOR AND COMMISSIONERS**

**ADJOURN** to a regular City Commission meeting on May 27, 2010 at 6:30 p.m. in City Hall Commission Chambers, 300 W. Plant Street, 1st floor

Please Note: In accordance with Florida Statutes 286.0105: Any person who desires to appeal any decision at this meeting will need a record of the proceedings and for this purpose may need to ensure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal is based, which such written record is not provided by the City of Winter Garden.

Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained at the meeting from the Information Technology Director.

Also, in accordance with Florida Statute 286.26: Persons with disabilities needing assistance to participate in any of these proceedings should contact the Office of the City Clerk, 300 W. Plant Street, Winter Garden, FL 34787, (407) 656-4111 x 2254 48 hours in advance of the meeting.

**ORDINANCE 10-21**

**AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING CHAPTER 78, ARTICLE II, WATER AND SANITARY SEWER SYSTEMS OF THE CITY OF WINTER GARDEN CODE OF ORDINANCES BY REPEALING SECTIONS 78-50 THROUGH 78-60 OF THE CITY OF WINTER GARDEN CODE OF ORDINANCES AND CREATING NEW SECTIONS 78-50 THROUGH 78-63 OF THE CITY OF WINTER GARDEN CODE OF ORDINANCES; REPEALING SECTION 78-243, RECLAIMED WATER RATES AND CHARGES OF THE CITY OF WINTER GARDEN CODE OF ORDINANCES AND CREATING NEW SECTION 78-243 OF THE CITY OF WINTER GARDEN CODE OF ORDINANCES; AMENDING CHAPTER 78, UTILITIES OF THE WINTER GARDEN CODE OF ORDINANCES BY CHANGING REFERENCES OF UTILITIES DEPARTMENT TO PUBLIC SERVICES DEPARTMENT; MODIFYING WATER AND WASTEWATER IMPACT FEE AMOUNTS AND ASSESSMENT METHOD TO A METER BASED IMPACT FEE; PROVIDING FOR WATER AND WASTEWATER IMPACT FEE COLLECTION, ADMINISTRATION, AND DISPOSITION; MODIFYING AND PROVIDING FOR WATER, IRRIGATION AND WASTEWATER CONNECTION FEES; MODIFYING AND PROVIDING FOR SECURITY DEPOSITS, INITIATION OF SERVICE CHARGE, AND MISCELLANEOUS CHARGES AND FEES; MODIFYING AND PROVIDING FOR WATER, IRRIGATION AND WASTEWATER USAGE RATES, ADMINISTRATION AND COLLECTION; MODIFYING AND PROVIDING FOR FIRE PROTECTION CONNECTION AND SERVICE CHARGES; MODIFYING AND PROVIDING FOR RECLAIMED WATER CONNECTION CHARGES AND USAGE RATES; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Winter Garden, Florida (“City”) owns and operates a water and wastewater system within an exclusive water and wastewater service area;

**WHEREAS**, the City has adopted a comprehensive plan containing various elements, including a capital improvements element, which projects significant expansions to the City’s water and wastewater system;

**WHEREAS**, Florida law authorizes cities to fund capital expansion by imposing and collecting impact fees;

**WHEREAS**, the City desires to change its method of assessment of water and wastewater impact fee to a water meter based assessment system; and

**WHEREAS**, the City has engaged a consultant who has analyzed the data, applied the dual rational nexus test, and determined that the impact fees adopted by this Ordinance have a reasonable connection, or rational nexus, between the anticipated need for additional capital facilities and the growth in population;

**WHEREAS**, to generate funds for present and future needs, administration, operation and long-range projects, it is necessary to increase water and wastewater user rates, connection fees, tapping charges, fire protection service charges and other miscellaneous charges;

**WHEREAS**, the City has notified each customer of the utility system through the regular utility billing process of this Ordinance in accordance with Section 180.136, Florida Statutes;

**WHEREAS**, the City has given notice no less than ninety (90) days before the effective date of this Ordinance in accordance with Section 163.31801, Florida Statutes; and

**WHEREAS**, the City Commission finds that the charges, rates and fees adopted by this Ordinance are in the best interest of and for the health, safety and welfare of the citizens of the City of Winter Garden and users of the City utility system.

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

**Section I Adoption.** Sections 78-50, 78-51, 78-52, 78-53, 78-54, 78-55, 78-56, 78-57, 78-58, 78-59 and 78-60 of the City of Winter Garden Code are hereby repealed and in their place the following new Sections 78-50 through 78-63 are hereby adopted to read as follows:

**Sec. 78-50. Water and wastewater impact fees.**

(a) *Imposition.* A water and wastewater impact fee is hereby imposed and levied on all development requesting capacity from the city’s water system and/or wastewater system to provide service to their properties and on all properties presently connected to the City’s water system or wastewater collection system when structural changes, additions, or changes in permitted use result in an additional impact to the city’s water system or

wastewater system. The water and wastewater impact fee will be charged based on water meter size to be installed in accordance with the fee schedule adopted in this Section. A water and wastewater impact fee shall be paid for each individual water meter to be installed. When an existing development increases its water meter size, the development shall pay an additional water and wastewater impact fee equal to the difference between the current impact fee charged for the desired increased water meter size and the existing water meter size. The impact fee will be charged over and above any service connection fee, lateral charge, inspection fee, monthly user charge, and monthly service charge as may be established by city from time to time.

(b) *Impact fees.* Water and wastewater impact fees shall be paid in accordance with this subsection.

(1) Impact fee schedule. The following water and wastewater impact fees shall be paid based on water meter size for each water meter to be connected to the city's system:

<b>Impact Fees for Water and Wastewater Service – Water Meter Based</b>			
<b>Water Meter Size</b>	<b>ERUs</b>	<b>Water Impact Fees</b>	<b>Wastewater Impact Fees</b>
3/4" Meter	1.00	\$1,086	\$1,767
1" Meter	2.50	\$2,715	\$4,418
2" Meter	8.00	\$8,688	\$14,136
3" Meter	15.00	\$16,290	\$26,505
4" Meter	25.00	\$27,150	\$44,175
6" Meter	50.00	\$54,300	\$88,350
8" Meter	80.00	\$86,880	\$141,360
10" Meter	115.00	\$124,890	\$203,205

(2) Irrigation meter. For potable or reclaimed water meters used for irrigation only, the water impact fee shall be paid for each irrigation meter based on meter size; however, the wastewater impact fee is not charged.

(3) Connection not provided. In the event that the city provides a connection for only water or wastewater service to a development, only the impact fee applicable to the service provided shall be paid.

(c) *Payment schedule for impact fees.* The water and wastewater impact fees based on water meter size as described in this Section shall be due and payable as follows:

(1) New residential development. For proposed residential development, except development described in subsection (c)(2), an amount equal to fifty (50) percent of the water and wastewater impact fees based on all requested water meters for the proposed development shall be due and payable to the city at the time of application for a FDEP permit and prior to issuance of the FDEP permit in order to temporarily reserve water and wastewater capacity for the development. When fifty (50) percent of the water and wastewater impact fees are paid at the time of application for a FDEP permit, the remaining fifty (50) percent of the water and wastewater impact fees shall be paid at the time of application for each building permit requested commencing with the first building permit issued and continuing until one-hundred (100) percent of the water and wastewater impact fees have been paid for the requested water meters which are reserved. The water and wastewater impact fee payment made at the time of application for each building permit shall equal one-hundred (100) percent of the impact fees for water meters associated with the building permit requested, so that the city collects the full amount of water and wastewater impact fees for the development when approximately half of the building permits for the development have been sought. Any sewer and water reserve capacity for and any partial impact fee payment previously made concerning any remaining water meters for the project for which water and wastewater impact fees have not been paid in full shall be forfeited by the applicant unless one-hundred (100) percent of the entire projects' water and wastewater impact fees have been paid no later than 24 months after the date of issuance of the FDEP permit or 12 months from the date of final plat approval, whichever comes first. The applicant may choose to pre-pay remaining impact fees for the development in order to avoid forfeiture of reserve capacity and partial impact fee payments. In the event additional water meters are requested for the development that were not originally contemplated when applying for the FDEP permit, one-hundred (100) percent of water and wastewater impact fee associated with such additional water meters shall be paid to the city at the earlier of at the time of application for a building permit associated with water meter requested, and prior to installation of the water meter requested.

(2) De minimus new residential development. For the following residential development, one-hundred (100) percent of water and wastewater impact fees based on all requested water meters shall be paid at the time application is made to the city for a building permit that requires use of a water meter(s) and prior to issuance of a building permit: (i) a single user individual lot; or (ii) residential development where no FDEP permit for water or wastewater is required.

(3) New non-residential development. The water and wastewater impact fees for one-hundred (100) percent of the water meters for a commercial or industrial development are due and payable to the city at the time of application for a FDEP permit, or, if no such permit is required, at the time application is made to the city for a building permit that requires use of the water meter and prior to the issuance of a building permit.

(4) Existing development. When an existing development increases its water meter size, the development shall pay an additional water and wastewater impact fee as specified in this Section at the earlier of (i) the time application is made to the city for a building permit that requires use of the larger water meter and

prior to the issuance of such building permit; and (ii) prior to the installation of the water meter. When an existing development that is not currently connected to the city's system desires to connect to the city's water and/or wastewater system, the development shall pay the city the applicable impact fees based on water meter size prior to connection to the city's system.

(5) Non-transferable. Reserved water and wastewater capacity is not transferable to any other property or development. Water and wastewater impact fee payments or credits are not transferable to any other property or development and cannot be applied towards other types of impact fees.

(6) Administrative policies. The city shall have the right to adopt and enforce policies and rules consistent with this Section in order to administer the collection of water and wastewater impact fees.

(d) *Disposition of revenues imposed by water impact fee.* All revenues derived from the water impact fees imposed by this Section shall be accounted for separately in a capital fund of the public services department enterprise fund. All water impact fee revenues expended from the impact fee capital fund shall be used for the purpose of providing growth necessitated capital improvements and extending, oversizing, or separating existing water system improvements, or constructing new additions to the water plant, distribution or transmission systems or part thereof as authorized by the city commission, including, but not limited to expenses for: (i) design or construction plan preparation; (ii) permitting and related fees; (iii) land or utility system acquisition, including acquisition or condemnation costs; (iv) construction and design of water systems buildings, facilities, or improvements and additions thereto; (v) design and construction of drainage facilities reasonably required by, or convenient to, the construction of water systems buildings, facilities, or improvements and additions thereto; (vi) relocating utilities required by the construction of water systems buildings, facilities, or improvements and addition thereto; (vii) construction management, inspection, or both; (viii) surveying, soils and material testing, and the evaluation and development of raw water, alternative water, and reuse water resources and supplies; (ix) acquisition of plant or equipment necessary or convenient to expand the water system; and (x) payment of principal and interest, reserves and costs of issuance under any bonds or other indebtedness issued by the city to fund growth impacted improvements, and additions to the water system. No part of such water impact fee revenues shall be budgeted or used for the operating expenses of the water system.

(e) *Disposition of revenues imposed by wastewater impact fee.* All revenues derived from the wastewater impact fees imposed by this Section shall be accounted for separately in a capital fund of the public services department enterprise fund. All wastewater impact fee revenues expended from the impact fee capital fund shall be used for the purpose of providing growth necessitated capital improvements and extending, oversizing, or separating existing wastewater system improvements, or constructing new additions to the sewer plant, distribution or transmission systems or part thereof as authorized by the city commission, including, but not limited to expenses for: (i) design or construction plan preparation; (ii) permitting and related fees; (iii) land or utility system acquisition, including acquisition or condemnation costs; (iv) construction and design of wastewater systems buildings, facilities, or improvements and additions thereto; (v) design and construction of drainage facilities reasonably required by, or convenient to, the construction of wastewater systems buildings, facilities, or improvements and additions thereto; (vi) relocating utilities required by the construction of wastewater systems buildings, facilities, or improvements and addition thereto; (vii) construction management, inspection, or both; (viii) surveying, soils and material testing, and the evaluation and development of reuse water resources and supplies; (ix) acquisition of plant or equipment necessary or convenient to expand the wastewater system; and (x) payment of principal and interest, reserves and costs of issuance under any bonds or other indebtedness issued by the city to fund growth impacted improvements, and additions to the wastewater system. No part of such wastewater impact fee revenues shall be budgeted or used for the operating expenses of the wastewater system.

(f) *Disposition of funds not expended.* If the impact fees have not been expended or encumbered by the end of the calendar quarter immediately following six years from the date the fees were paid, upon application of the fee payer of proof of payment or the development for which the fees were paid was never begun, the fees shall be returned with interest at the rate determined by the city based upon the average interest earning rate incurred by the city in accordance with the following procedure:

- (1) The then present owner must petition the city commissioners for the refund within one year following the end of the calendar quarter immediately following six years from the date on which the fee was received.
- (2) The petition must be submitted to the city manager and must contain:
  - (i) A notarized sworn statement that the petitioner is the current owner of the property;
  - (ii) A copy of the dated receipt issued for payment of the fee;
  - (iii) A certified copy of the latest recorded deed; and
  - (iv) A copy of the most recent ad valorem tax bill.
- (3) If reimbursement is approved, the city shall remit to the present owner of the petition within 60 days of approval.

(g) *Disposition of funds on deposit.* Any funds on deposit in the utilities impact fee fund not immediately necessary for expenditure shall be invested in interest-bearing accounts up to and including interfund loans. Interfund loans shall be made by resolution by the city commission payable in full over time at the prevailing interest rate. Applicants shall not receive a credit for or be entitled to interest from the investment of funds except as provided in section (f) above.

#### **Sec. 78-51. Collection of past due impact fees.**

In the event that the water and/or wastewater impact fee, or any portion thereof, is not paid when due for any reason, including by mistake or inadvertence, the city shall proceed to collect the impact fee as follows:

(1) The city shall serve, by certified mail, return receipt requested, an impact fee statement notice upon the applicant at the address set forth in the application for the building permit, and the owner at the address appearing on the most recent records maintained by the property appraiser of the county. Service of the impact fees statement notice shall be deemed notice of the impact fees due and service shall be deemed effective on the date the return receipt indicates the notice was received by either the applicant or the owner or the date said notice was attached to the building permit, whichever occurs first.

(2) The impact fee statement notice shall contain a description of the property and shall advise the applicant and the owner as follows:

- (i) The amount due and the general purpose for which the impact fee was imposed.
- (ii) That a hearing before the city commission to challenge the impact fee assessed may be requested within 30 calendar days from the date of receipt of the impact fee statement notice, by filing a written application to the office of the city manager. The written application shall state with specificity the basis of the challenge.
- (iii) That the impact fee shall be delinquent if not paid and received by the city within 30 calendar days of the date the impact fee statement notice, or if a hearing is not requested pursuant to subsection (2) ii. above and, upon becoming delinquent, shall be subject to the imposition of a delinquent fee and interest on the unpaid amount until paid.
- (iv) That in the event the impact fee becomes delinquent, a lien against the applicable property for which the building permit was secured shall be recorded in the official records book of the county.

(3) The impact fee shall be delinquent if, within 30 calendar days from the date of the impact fee statement notice, or the date said notice was attached to the building permit, neither the impact fees have been paid and received by the city, nor a hearing requested pursuant to subsection (2)(ii) above. In the event a hearing is requested pursuant to subsection (2)(ii), the impact fees shall become delinquent if not paid within 30 calendar days from the date the City Commission determines the amount of impact fees due upon the conclusion of such hearing. Said time periods shall be calculated on a calendar day basis, including Sundays and legal holidays, but excluding the date of said impact fee statement notice or the hearing date of the city commission's decision in the event of an appeal. In the event the last day falls on a Sunday or legal holiday, the last due date prior to becoming delinquent shall be the next business day. Upon becoming delinquent, a delinquency fee equal to ten percent of the total impact fee imposed shall be assessed. Such total impact fee, plus delinquency fee, shall bear interest at the statutory rate for final judgments calculated on a calendar day basis, until paid.

(4) Should the impact fee become delinquent, the city shall serve, by certified mail, return receipt requested, a "notice of lien" upon the delinquent applicant at the address indicated in the application for the building permit, and upon the delinquent owner at the address appearing on the most recent records maintained by the property appraiser of the county. The notice of lien shall notify the delinquent applicant and owner that due to their failure to pay the impact fee, the city shall record a claim of lien in the official public records of the county.

(5) Upon mailing of the notice of lien, the city attorney shall cause the recording of a claim of lien in the official public records of the county. The claim of lien shall describe the property, the amount of the delinquent impact fees and the date of their imposition. Once recorded, the claim of lien shall constitute a lien against the property described therein. The city attorney shall proceed expeditiously to collect or otherwise enforce said lien.

(6) After the expiration of three (3) months from the date of recording of the claim of lien, a suit may be filed to foreclose said lien. Such foreclosure proceedings shall be instituted, conducted and enforced in conformity with the procedures for the foreclosure of municipal special assessment liens, as set forth in F.S. §§ 173.04 through 173.12, inclusive, which provisions are hereby incorporated herein in their entirety to the same extent as if such provisions were set forth herein verbatim.

(7) The liens for delinquent impact fees imposed hereunder shall remain liens, coequal with the liens of all state, county, district and municipal taxes, superior in priority to all other recorded liens and claims whether recorded prior to or after the city's lien, except as otherwise provided by law, until paid as provided herein.

(8) The owner shall be responsible for and the city shall be entitled to reimbursement for the payment of all administrative expenses and costs, including attorney's fees and litigation costs and recording and filing fees, incurred by the city in the collection of impact fees, filing of liens and in actions to foreclose such liens or actions for a monetary judgment.

(9) The collection and enforcement procedures set forth in this section shall be cumulative with, supplemental to and in addition to, any applicable procedures provided in any other ordinance or administrative regulations of the city or any applicable law or administrative regulation of the state. Failure of the city to follow the procedure set forth in this section shall not constitute a waiver of its rights to proceed under any other ordinances or administrative regulations of the city or any applicable law or administrative regulation of the state.

#### **Sec. 78-52. Impact fee protest and appeals.**

(a) A person may protest or challenge the imposition of or a decision on an impact fee imposed pursuant to this article by filing with the city manager, within 30 days from the occurrence of the decision, event, or imposition of an impact fee sought to be challenged, a written notice of protest containing the following minimum information:

- (i) The name and address of the person protesting and property owner;
- (ii) The legal description of the property at issue;
- (iii) If issued, the date of the building permit(s) issued for the property at issue; (iv) If paid, the date of and the amount of the impact fee paid; and
- (v) A full statement of the reasons why the person is protesting.

The person who files the protests bears the burden of proof to demonstrate that the fee, decision or matter challenged is improper and/or should be modified.

(b) Upon receipt of such protest, including all the information required pursuant to subsection (a), the city manager or his designee shall review the protest, and within forty-five (45) days of the receipt of the complete request, approve or deny the request. If the person making the protest disagrees with the determination of the city manager or his designee, such person may appeal the decision to the city commission, provided a written appeal is filed with the city clerk within ten (10) days from the issuance of the city manager's decision.

(c) Upon receipt of an appeal, a hearing shall be scheduled before the city commission at a regularly scheduled meeting or a special meeting called for the purpose of conducting the hearing and shall provide the person who filed the appeal written notice of the time and place of the hearing. Such hearing shall be held within sixty (60) days of the date the appeal was filed. The determination of the city commission shall be final.

(d) Any judicial action or proceeding to attack, review, set aside or annul the reasonableness, legality, or validity of any impact fee or decision related thereto must be filed within thirty (30) days following the date of the imposition of the impact fee or the final determination of the city commission on an appeal, which occurs later.

(e) Failure to timely file a protest, appeal or judicial action in accordance with these procedures shall constitute a waiver and invalidation of any protest, appeal or challenge to the applicable imposition of an impact fee or decision concerning an impact fee.

**Sec. 78-53. Water and wastewater connection charges.**

(a) *Water connection fee.* There shall be charges for tapping water mains for each tap and water connection fees shall be charged and paid as follows:

Meter Size	Meter Installation Charge	Meter Installation & Connection Fees (Tap-In Charge)
3/4"	\$404.00	\$656.00
1"	\$482.00	\$824.00
2"	\$832.00	\$1,384.00
Above 2"	Direct Costs Plus 20%	Direct Costs Plus 20%

Charges for a meter above two inches in size shall be the direct cost, as determined by the city, of labor, materials and equipment for said tapping, together with a surcharge of an additional twenty (20) percent of such costs to cover engineering and administrative costs, but in no event shall the amount charged be less than the amount charged for a two inch size meter.

(b) *Irrigation only meter connection fee.* There shall be charges for tapping water mains for each tap and water connection fees charged and paid equal to the cost, as determined by the city, of labor, materials and equipment for said tapping, together with a surcharge of an additional twenty (20) percent of such costs to cover engineering and administrative costs, but in no event shall the amount charged be less than the amount charged for the 3/4" inch size meter.

(c) *Wastewater connection fee.* There shall be a charge for tapping wastewater mains, which shall be the cost, as determined by the city, of labor, materials and equipment for said tapping, together with a surcharge of an additional twenty (20) percent of such costs to cover engineering and administrative costs, but in no event shall the amount charged be less than \$955.00.

**Sec. 78-54. Utility deposits; refund.**

(a) *Deposit schedule.* The following schedule of deposits for water, sewer, stormwater and solid waste collection shall be known as utility deposits and shall be required prior to service connection on all buildings used for residential, commercial or industrial purposes:

(1) For each habitation (single-family residence) the utility deposit shall be \$190.00. If the prospective user can demonstrate good credit, the deposit may be waived. In order to qualify for the waiver, the prospective user's credit score, as established by a nationally recognized reporting agency, must equal or exceed the benchmark score established by the finance department. The benchmark score will be reviewed by the finance department on a yearly basis to ensure that the established score represents a good credit risk.

(2) Commercial establishments, including multiple habitations under a master meter, service stations, drugstores, cafeterias and restaurants, industrial users and any commercial users shall pay a deposit which will be estimated as the equivalent of three month's water, sewage, solid waste collection and stormwater charge, with a minimum deposit of \$190.00, such estimate to be determined by the public services department.

(b) *Deposit return.* Residential deposits shall be returned to the user, if the user has a good payment history with no late payments or cutoffs for two continuous years.

(c) *Credit interest.* During July of each year, the city shall credit the customer account for interest earnings earned on such deposits of three percent per annum on the deposit.

(d) *Modification of deposit amount.* The amount of any deposit assessed pursuant to this Section may be established and modified by resolution or ordinance of the city commission.

**Sec. 78-55. Initiation of service, service charge, and miscellaneous charges.**

- (a) *Initiation of service request.* There will be a charge of \$10.00 to process a request to initiate service only. This does not include the fee associated with the physical turn-on of utility service.
- (b) *Turn-on fee.* There will be a charge of \$25.00 to turn on the water supply of any user during normal working hours when service has been cut off or discontinued from the applicant's premises for nonpayment of current bills, or the return of a check because of insufficient funds, or when commencing new service, and after normal hours there will be a charge of \$30.00 for turn-on service.
- (c) *Turn-off fee.* There will be a charge of \$25.00 to turn off the water supply of any user during normal working hours, and after normal business hours there will be a charge of \$30.00 for turn-off service.
- (d) *Late fee.* A service charge of \$5.00 will be added to the account of each user whose bill is not paid by the due date.
- (e) *Returned check fee.* A return-check fee of \$25.00 shall be charged to the user in the event a check for payment on the user's account is returned for insufficient funds, stopped payment or closed account.
- (f) *Meter re-read/special read.* There shall be a charge of \$25.00 to the user to read a water meter if the user requests a meter reading more than once per fiscal year.
- (g) *Meter testing.* The public services department shall have the right to test meters to determine their accuracy whenever it sees fit, but if a user demands a test when, in the judgment of the public services department, the meter is operating correctly, the user shall pay a fee of \$50.00 for each test performed by the public services department.
- (h) *Search fee.* The city shall have the right to charge a search fee to conduct research on fees due to the city for a specific parcel serviced by the water and/or waste water system when such information is requested by third parties, including, but not limited to, requests for such information by a title company, closing agent, mortgagee, broker, or potential buyer.
- (i) *Modification of fees.* The amount of any fee or charge assessed pursuant to this Section may be established and modified by resolution or ordinance of the city commission.

**Sec. 78-56. Water meters; stopcock and waste cock or cutoff valve required; exemption; right of access.**

- (a) *Connection to system.* All occupied premises within the city and within 200 feet of a city water line must be connected to city water and shall have a separate meter which shall only meter water servicing such premises.
- (b) *Shutoff or cutoff.* Any new buildings erected and used for residential, commercial or industrial uses must have a shutoff or cutoff valve placed at the property line or at some convenient point on the premises. Such shutoff valve shall be under the control of the tenant or owner and shall be used if a break in the pipes occurs in the building or structure or for other necessity, so that the pipes to be repaired can be shut off without the necessity of using the water shutoff maintained and installed by the city.
- (c) *Upsizing; city property.* All necessary meters will be furnished by the city and shall remain the property of the city. A consumer desiring a meter larger than the size of the meter then in service will be required to pay the difference between the price of the meter then in service and the price of the larger meter and all other fees required for the upsizing. The city shall approve the requested upsizing.
- (d) *Repair.* The public services department is to maintain the proper operation of all meters and has the right to, whenever such meter wears out or becomes incapacitated, install a new meter. No repair or replacement of meters shall be made other than by the public services department.
- (e) *Access.* The officers and employees of the public services department shall have the right of access to the premises of a consumer at any reasonable hour for the purpose of conducting the normal business of the public services department, such as making tests and inspections. Through connection to and use of the water and/or wastewater system, customer consents to such right of access to the premises for such purposes.
- (f) *Landscaping restriction.* The consumer shall not cause any plant, tree, shrub, weeds, trash, mulch, fence, vehicle, pet, or structure to grow or to be placed within three feet of the water meter box and shall not do anything which would cause the public services department any difficulty in locating, reading, or maintaining the water meter and box located on the consumer's property. The public services department shall have the right to refuse service to any premises when the contracting party of such premises, after 20 days from rendition of a written notice to the consumer specifying the problem, has failed to correct the condition causing the public services department difficulty in reading or maintaining the water meter or box.
- (g) *Damage.* Where meters or appurtenances are broken or damaged by the negligence of the owner, tenant or occupant of the premises, the cost of repair or replacement shall be paid by the owner or occupant of the premises, and if the cost is not paid upon repair or replacement, the water supply shall be turned off and shall not be turned on again until payment of such amount due is made.

**Sec. 78-57. Responsibility for damages by hot water heaters or steam boilers.**

Persons using hot water heaters or steam boilers which take a supply of water directly from the service pipes of the public services department will do so at their own risk, as the public services department shall not be responsible for accidents or damages resulting in such cases. If the hot water backs up in the water pipes, damaging the meters or other connections, the costs of all necessary repairs to such equipment shall be paid by the consumer responsible therefor.

**Sec. 78-58. Private fire hydrants, sprinkler systems, hose racks.**

(a) *Inspection; maintenance.* Fire hydrants, fire sprinkler systems or hose racks may be established on private property by the owner thereof at his own cost for equipment, pipes, valves, fittings and connections to water mains, etc., provided such shall be done under the supervision and subject to the inspection of and in accordance with the requirements of the public services and fire departments. The maintenance of such mains, valves and hydrants shall be at the cost and expense of the owner of the property. The regular established rate for such connection for such fire hydrants, fire sprinkler systems and hose racks shall be paid, and if not, such shall be disconnected from the water system by the public services department.

(b) *Connection to system.* Any person establishing fire hydrants, fire sprinkler systems or hose racks shall have the right to have such connected with the city's water system and have installed and maintained at his own cost by the public services department a water meter and to pay therefore the regularly established charge for water service as listed in the published rates, whether water has been used for fire or any other purpose. No fixture whatsoever, other than fire hydrants, sprinkler connections and hose racks, used for fire only, shall be connected on such fire lines.

(c) *No pressure guarantee.* The city guarantees no certain water pressure and shall not in any way be liable or responsible to any person whomsoever, in case of fire, for any damage that may result from any alleged insufficiency of such fire protection, either from want of pressure or volume, accessibility or for any other cause.

(d) *Sprinkler service charge.* The service charge for fire sprinkler systems, within or without the city, not metered, is prescribed and fixed as follows:

- (i) \$50.00 per year for each sprinkler connection less than four inches.
- (ii) \$95.00 per year for each four-inch sprinkler system connection.
- (iii) \$145.00 per year for each six-inch sprinkler system connection.
- (iv) \$190.00 per year for each eight-inch sprinkler system connection.

Each of these charges shall be made payable annually in advance on August 1 to the city public services department. No water is to be used from sprinkler systems at any point on the line except for fire, nor are any fixtures whatsoever to be connected to such fire line.

(e) *Hydrant service charge.* The service charge for fire hydrants which are the property of the city and located on private property within or without the city, which are utilized for fire protection is \$70.00 per year per hydrant, payable annually in advance of August 1st, to the public services department. No water is to be used from fire hydrants or from the service line on which they are situated, unless metered, except for fire, nor are any other fixtures whatsoever to be connected to such fire line. If the fire hydrant is metered as approved by the city, for the provision of water service, exclusive of fire, all applicable commercial rates in accordance with this ordinance shall apply.

(f) *Hose racks service charge.* Hose racks on private property within or without the city, connected to city mains not metered, shall have a service charge of \$35.00 per year per hose rack located within the city, payable annually in advance of August 1st. No water shall be used from such hose rack or from the line upon which it is situated, unless metered, except for a fire, nor are any other fixtures whatsoever to be connected to such fire line.

(g) *Modification of charge.* The amount of any fee or charge assessed pursuant to this Section may be established and modified by resolution or ordinance of the city commission.

**Sec. 78-59. Basic rate schedule for water and wastewater service.**

(a) *Water service rates.* The basic rate for water service shall be as follows:

Description	2010	Rates Effective July 1 of each Year				
		2011	2012	2013	2014	2015
<b>DOMESTIC / INDOOR WATER SERVICES</b>						
<b>Single-Family</b>						
<u>Monthly Service Charge</u>						
All Meter Sizes	\$6.18	\$6.24	\$6.30	\$6.36	\$6.42	\$6.48
<u>Usage per 1,000 gallons</u>						
0 -10,000 Gal.	\$1.03	\$1.05	\$1.06	\$1.07	\$1.08	\$1.09
10,001 - 15,000 Gal.	1.27	1.31	1.32	1.33	1.34	1.35
15,001 - 35,000 Gal.	1.53	1.58	1.60	1.62	1.64	1.66
Above 35,000 Gal.	1.53	1.89	1.91	1.93	1.95	1.97
<b>Multi-Family</b>						
<u>Monthly Service Charge (Per Unit)</u>						
All Meter Sizes	\$4.32	\$4.37	\$4.41	\$4.45	\$4.49	\$4.53
<u>Usage per 1,000 gallons (Per Unit)</u>						
0 -7,000 Gal.	\$1.03	\$1.05	\$1.06	\$1.07	\$1.08	\$1.09
7,001 - 10,000 Gal.	1.27	1.31	1.32	1.33	1.34	1.35
10,001 - 25,000 Gal.	1.53	1.58	1.60	1.62	1.64	1.66

Above 25,000 Gal.	1.53	1.89	1.91	1.93	1.95	1.97
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**General Service / Commercial**

Monthly Service Charge

Meter Size:

3/4"	\$6.18	\$6.24	\$6.30	\$6.36	\$6.42	\$6.48
1"	15.43	15.60	15.76	15.92	16.08	16.24
2"	49.39	49.92	50.42	50.92	51.43	51.94
3"	92.60	93.60	94.54	95.49	96.44	97.40
4"	154.33	156.00	157.56	159.14	160.73	162.34
6"	308.66	312.00	315.12	318.27	321.45	324.66
8"	493.85	499.20	504.19	509.23	514.32	519.46
10"	709.91	717.60	724.78	732.03	739.35	746.74

Usage per 1,000 gallons

All Usage	\$1.18	\$1.19	\$1.20	\$1.21	\$1.22	\$1.23
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After July 1, 2015, the basic water rates will remain the same as the 2015 rates indicated in the above table, unless the city commission adopts by resolution or ordinance different basic water rates.

(b) *Wastewater services rates.* The basic rate for wastewater service shall be as follows:

<u>Description</u>	<u>2010</u>	<u>Rates Effective July 1 of each Year</u>				
		<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
<b>WASTEWATER SERVICES</b>						
<b>Single-Family</b>						
<u>Monthly Service Charge</u>						
All Meter Sizes	\$8.84	\$8.93	\$9.02	\$9.11	\$9.20	\$9.29
<u>Usage per 1,000 gallons</u>						
0 - 10,000 gal.	\$3.46	\$3.50	\$3.54	\$3.58	\$3.62	\$3.66
Above 10,000 gal.	0.00	0.00	0.00	0.00	0.00	0.00
<b>Multi-Family</b>						
<u>Monthly Service Charge (Per Unit)</u>						
All Meter Sizes	\$6.19	\$6.25	\$6.31	\$6.37	\$6.43	\$6.49
<u>Usage per 1,000 gallons (Per Unit)</u>						
0 - 7,000 gal.	\$3.46	\$3.50	\$3.54	\$3.58	\$3.62	\$3.66
Above 7,000 gal.	0.00	0.00	0.00	0.00	0.00	0.00
<b>General Service / Commercial</b>						
<u>Monthly Service Charge</u>						
Meter Size:						
3/4"						
"	\$8.84	\$8.93	\$9.02	\$9.11	\$9.20	\$9.29
1"	22.09	22.33	22.55	22.78	23.01	23.24
2"	70.67	71.44	72.15	72.87	73.60	74.34

3"	132.51	133.95	135.29	136.64	138.01	139.39
4"	220.85	223.25	225.48	227.73	230.01	232.31
6"	441.70	446.50	450.97	455.48	460.03	464.63
8"	706.70	714.40	721.54	728.76	736.05	743.41
10"	1,015.90	1,026.95	1,037.22	1,047.59	1,058.07	1,068.65

Usage per 1,000 gallons

All Usage	\$3.46	\$3.50	\$3.54	\$3.58	\$3.62	\$3.66
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After July 1, 2015, the basic wastewater rates will remain the same as the 2015 rates indicated in the above table, unless the city commission adopts by resolution or ordinance different basic water rates.

(c) *Readiness to serve charge.* Whether occupied or unoccupied, all existing structures, once connected to the city's water system by a meter shall incur a monthly water service charge and all structures once connected to the city's wastewater system shall incur a monthly wastewater service charge, unless such structure has been destroyed, condemned or demolished. The monthly readiness to serve charges shall equal the applicable base monthly service charges. The user has the duty to notify the city of a structure that has been destroyed, condemned or demolished in order to avoid the readiness to serve charge. For any month that a metered account has zero water consumption, such account will be not charged a readiness to serve charge.

(d) *Measuring instrument.* If a commercial or residential user receives sewer service from the city but does not receive water service from the city, the water meter used for such units shall be the measuring instrument, unless it shall be found to be faulty or inaccurate by a qualified representative of the city;

(1) Commercial. If a commercial user's meter proves to be faulty or inaccurate or if there is no meter, the director of the public services department shall estimate the sewage rate by using a figure of water flow at 25 gallons per day, per employee, or the city may install a meter at its option and at the expense of the consumer. All expenses incurred for the purposes of inspecting, testing, repairing and replacing of meters is to be borne by the user. All meters so installed must be compatible with the city's system, installed in a location approved by the city, and the city, at all times, shall have access to such meters for the purpose of inspecting, testing, repairing, replacing or reading such meter.

(2) Residential. If a residential user does not have a water meter, the residential user shall pay the maximum rate for sewer service. The maximum rates shall be assessed until the user installs at the user's expense a water or sewage meter that meets with the city's approval. All expenses incurred for the purpose of inspecting, testing, repairing and replacing of meters is to be borne by the user. All meters so installed must be compatible with the city's system, installed in a location approved by the city, and the city, at all times, shall have access to such meters for the purpose of inspecting, testing, repairing, replacing or reading such meter.

(e) *Institutional rates.* The city commission has the right to negotiate or authorize the city manager to negotiate the service charge, but not the user charge, for institutions, public agencies, nonprofit organizations and others not covered in this section, when it is deemed in the best interest of the city. In all such cases, due consideration shall be given to the number of persons using the facility, the size or purpose of the building, the number of rooms and the estimated amount of sewage discharged into the sanitary sewer system. The rates shall be established by contract entered into between the city commission and such user without amendment of this article.

(f) *Separate meter.* If all water entering a user's premises will not be discharged into the city wastewater system, a separate meter may be installed on the user's line which discharges into the sewer. Such meters shall be installed and maintained at the expense of the user, and the city shall at all times have access to such meters for the purpose of inspecting, testing, repairing, replacing, or reading such meters. If any user by use of such meters can prove to the satisfaction of the city manager that substantial amounts do not enter the wastewater system, the sewer bill will be reduced in accordance with a written agreement. Copies of any such agreement shall be furnished to members of the city commission.

(g) *Nonfunctioning meter.* If any meter is damaged, destroyed or fails to register, the consumer will be billed for the period involved on a basis of the average water consumption for the preceding six months for all water and sewer services applicable.

(h) *Liquidated damages.* When a consumer has made application for water service and has paid the installation or meter charges, the city shall not be required to refund these charges if the consumer later decides not to desire service after a new service has been installed to his premises, but shall retain such payments as liquidated damages.

(i) *Effluent charge.* Each commercial, industrial, business establishment or master-metered apartment user who discharges a waste with strength characteristics which exceed one or more of the strength characteristics of normal domestic waste shall pay an effluent charge. The effluent charge shall be proportional to the amount by which the waste characteristics exceed the levels for normal domestic waste. It shall be calculated as follows:

- (1) BOD (biochemical oxygen demand). Concentration in mg/l minus 204 mg/l. This quantity multiplied by the metered water flow in thousands of gallons per month multiplied by 8.34 multiplied by \$55.43.
- (2) Suspended solids. Concentration in mg/l minus 204 mg/l. This quantity multiplied by the metered water flow in thousands of gallons per month multiplied by 8.34 multiplied by \$65.49.
- (3) Total nitrogen. Concentration in mg/l minus 30 mg/l. This quantity multiplied by the metered water flow in thousands of gallons per month multiplied by 8.34 multiplied by \$383.71.
- (4) Total phosphorus. Concentration in mg/l minus 10 mg/l. This quantity multiplied by the metered water flow in thousands of gallons per month multiplied by 8.34 multiplied by \$496.06.
- (5) Total charge. The total of subsections (i)(1) through (4) above, equals the total effluent charge.

**Sec. 78-60. Service charges to be paid by the city.**

(a) There shall be no free services rendered by the sanitary sewer and water systems, and if the city or any department, agency or instrumentality thereof shall avail itself of the service and facilities of the sanitary sewer and water systems, it shall pay for the use of such service and facilities at the established rates.

(b) Revenues received from the services and facilities furnished by the sanitary sewer and water systems to the city shall be applied and accounted for in the same manner as other revenues derived from the operation of the sanitary sewer and water systems.

(c) The city shall pay a per-year hydrant fee of \$70.00 for city owned hydrants to the credit of the public services department for public fire protection service.

**Sec. 78-61. Charges for water on separate meter used for irrigation only.**

(a) *Application for irrigation system or irrigation meter.* All users of the city water system within the corporate limits of the city shall request a permit for the installation of an irrigation system and irrigation meter. An application must be completed and submitted to the public services department for the installation of an irrigation system and irrigation meter prior to the issuance of a permit. The public services department director may deny the issuance of a permit for an irrigation system or irrigation meter when the existing water main does not provide sufficient water volume/pressure to support the demands of an irrigation system without causing unacceptably low water pressure for other customers on the same water main.

(b) *Basic rate for separate meter, used for irrigation only.* The monthly charges for a separate meter, used for irrigation only, shall be as follows:

Description	2010	Rates Effective July 1 of each Year				
		2011	2012	2013	2014	2015
<b><u>Dual Metered Services</u></b>						
<b><u>Single - Family Irrigation</u></b>						
<b><u>Monthly Service Charge</u></b>						
All Meter Sizes	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b><u>Usage per 1,000 gallons</u></b>						
0- 5,000 gal.	\$1.27	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
5,001 - 25,000 gal.	1.53	1.58	1.60	1.62	1.64	1.66
Above 25,000 gal.	1.88	1.89	1.91	1.93	1.95	1.97
<b><u>General Service / Commercial [1]</u></b>						
<b><u>Monthly Service Charge</u></b>						
<b>Meter Size:</b>						
3/4"	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
1"	0.00	0.00	0.00	0.00	0.00	0.00
2"	0.00	0.00	0.00	0.00	0.00	0.00
3" & Larger	0.00	0.00	0.00	0.00	0.00	0.00
<b><u>Usage Per 1,000 Gallons</u></b>						
<b>3/4" Meter:</b>						
0- 5,000 gal.	\$1.27	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
5,001 - 25,000 gal.	1.53	1.58	1.60	1.62	1.64	1.66
Above 25,000 gal.	1.88	1.89	1.91	1.93	1.95	1.97
<b>1" Meter:</b>						
0 - 13,000 gal.	\$1.27	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
13,001 - 62,000 gal.	1.53	1.58	1.60	1.62	1.64	1.66
Above 62,000 gal.	1.88	1.89	1.91	1.93	1.95	1.97
<b>2" Meter</b>						
0 - 40,000 gal.	\$1.27	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
40,001 - 200,000 gal.	1.53	1.58	1.60	1.62	1.64	1.66
Above 200,000 gal.	1.88	1.89	1.91	1.93	1.95	1.97
<b>3" Meter &amp; Larger:</b>						
0 - 75,000 gal.	\$1.27	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35

75,001 - 375,000 gal.	1.53	1.58	1.60	1.62	1.64	1.66
Above 375,000 gal.	1.88	1.89	1.91	1.93	1.95	1.97

**Single Metered Services**

**Single - Family Irrigation**

Monthly Service Charge

All Meter Sizes	\$6.18	\$6.24	\$6.30	\$6.36	\$6.42	\$6.48
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Usage per 1,000 gallons

0- 5,000 gal.	\$1.27	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
5,001 - 25,000 gal.	1.53	1.58	1.60	1.62	1.64	1.66
Above 25,000 gal.	1.88	1.89	1.91	1.93	1.95	1.97

**General Service / Commercial [1]**

Monthly Service Charge

Meter Size:

3/4"	\$6.18	\$6.24	\$6.30	\$6.36	\$6.42	\$6.48
1"	15.43	15.60	15.76	15.92	16.08	16.24
2"	49.39	49.92	50.42	50.92	51.43	51.94
3" & Larger	92.60	93.60	94.54	95.49	96.44	97.40

Usage Per 1,000 Gallons

3/4" Meter:

0- 5,000 gal.	\$1.27	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
5,001 - 25,000 gal.	1.53	1.58	1.60	1.62	1.64	1.66
Above 25,000 gal.	1.88	1.89	1.91	1.93	1.95	1.97

1" Meter:

0 - 13,000 gal.	\$1.27	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
13,001 - 62,000 gal.	1.53	1.58	1.60	1.62	1.64	1.66
Above 62,000 gal.	1.88	1.89	1.91	1.93	1.95	1.97

2" Meter

0 - 40,000 gal.	\$1.27	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
40,001 - 200,000 gal.	1.53	1.58	1.60	1.62	1.64	1.66
Above 200,000 gal.	1.88	1.89	1.91	1.93	1.95	1.97

3" Meter & Larger:

0 - 75,000 gal.	\$1.27	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
75,001 - 375,000 gal.	1.53	1.58	1.60	1.62	1.64	1.66
Above 375,000 gal.	1.88	1.89	1.91	1.93	1.95	1.97

Footnotes:

[1] Includes all Multi-Family irrigation services.

For the purposes of the above rate schedule, dual meter service rates apply when a customer has a domestic potable water service meter and adds a second meter for irrigation service, and single meter service rates apply when a customer installs a single meter for irrigation service only. After July 1, 2015, the basic irrigation rates will remain the same as the 2015 rates indicated in the above table, unless the city commission adopts by resolution or ordinance different basic water rates.

(c) *Readiness to serve charge.* Whether occupied or unoccupied, all existing structures, once connected to the city's water system by a meter shall incur a monthly water charge, unless such structure is destroyed, condemned or demolished. The monthly readiness to serve charge shall equal the applicable base monthly service charge. The user has the duty to notify the city of a structure that has been destroyed, condemned or demolished in order to avoid the readiness to serve charge. For any month that a metered account has zero water consumption, such account will be not charged a readiness to serve charge.

(d) *Residential use of irrigation meter installation.* Only three-quarter-inch size irrigation meters are authorized for installation on residential lots for irrigation purposes for those customers which receive both individually metered domestic and irrigation service from a single service connection.

**Sec. 78-62. Billing; payment; delinquent bills; transfer of delinquent bills from one location to another.**

(a) In all cases where water is furnished by the city water system, the sewer service charge shall be included in the bills for water rendered by the city; provided, however, that each such bill shall show separately the amount of the bill for water.

(b) Utility bills shall be sent to consumers or when the use of a multiple or master meter is employed by the owner, regularly each month, and the fact that a consumer or owner does not receive a bill shall not constitute grounds for discount or adjustment.

(c) A utility bill shall not be considered paid until remittance for the bill has been received by the city, and the city shall not be responsible for delays or losses in the transportation in the mail or otherwise.

(d) If the amount of such water and sewer charges shall not be paid within 20 days from the rendition of such bill, the city shall, after written notice to the customer, discontinue furnishing water to such premises and shall discontinue the premises from the city water system and shall proceed forthwith to recover the amount of such water and sewer service charges in such lawful manner as may be required.

(e) The city shall have the right to refuse service to any premises, when the contracting party of such premises has an unpaid utilities bill under his contract, until such time as the bill is paid. The city shall also have the right to refuse service to premises when the owner of such premises has an unpaid bill for services or for material or labor rendered or expended by the city in connection with rendering service to the premises.

(f) The city shall have the right to transfer a delinquent water bill at one address to the account of the same consumer at another address, provided the consumer is receiving service at the latter address, and shall have the right to discontinue service at the latter address for nonpayment of the transferred bill, regardless of the fact that the current bills are being paid.

(g) Charges included in utility bills shall be a lien upon the real property. Whenever a bill remains unpaid 60 days after it has been rendered, the city may record in the public records of the county, a claim of lien. This claim of lien shall contain a description of the premises served, the amount of the unpaid bill, and a notice that the city claims a lien for this amount as well as for all charges subsequent to the period covered by the bill. If the consumer of services whose bill is unpaid is not the owner of the premises and the utility billing department has notice of this, notice shall be mailed to the owner of the premises, if his address is known to the utility billing department, whenever such bill remains unpaid for a period of 60 days after it has been rendered. The failure of the city to record such lien claim and to mail such notice or the failure of the owner to receive such notice shall not affect the right to foreclose the lien for unpaid bills as mentioned in subsection (i) of this section. The owner shall be responsible for and the city shall be entitled to reimbursement for the payment of all administrative expenses and costs, including attorney's fees and litigation costs and recording and filing fees, incurred by the city in the collection of charges, filing of liens and in actions to foreclose such liens or actions for a monetary judgment.

(h) The liens for delinquent utility service charges imposed hereunder shall remain liens, coequal with the liens of all state, county, district and municipal taxes, superior in priority to all other recorded liens and claims whether recorded prior to or after the city's lien, except as otherwise provided by law, until paid as provided herein.

(i) Foreclosure proceedings shall be instituted, conducted and enforced in conformity with the procedures for the foreclosure of municipal special assessment liens, as set forth in F.S. §§ 173.04 through 173.12, inclusive, which provisions are hereby incorporated herein in their entirety to the same extent as if such provisions were set forth herein verbatim. Property subject to a lien for unpaid utility charges shall be sold for nonpayment of the charges, and the proceeds of such sale shall be applied to pay the charges owed plus accrued interest and the city's attorneys' fees and costs incurred in the collection of said charges.

(j) The city attorney is authorized and directed to institute such proceedings, in the name of the city, in any court having jurisdiction over such matters, against any property for which a utility bill has remained unpaid for 60 days after it has been rendered.

**Sec. 78-63. Administrative rules and policies.**

The city manager is hereby authorized to adopt administrative rules and policies to implement the provisions of this Article as the city manager deems necessary and appropriate.

**Section II Adoption.** Section 78-243 of the City of Winter Garden Code is repealed and replaced with a new

Section 78-243 to read as follows:

**Sec. 78-243. Reclaimed water rates and charges.**

(a) *Connection charges.* The connection charges for reclaimed water service shall consist of the tap in charge and meter installation fee for metered connections to be paid as follows:

Meter Size	Meter Installation Charge	Meter Installation & Connection Fees (Tap-In Charge)
3/4"	\$404.00	\$656.00

1"	\$482.00	\$824.00
2"	\$832.00	\$1,384.00
Above 2"	Direct Costs Plus 20%	Direct Costs Plus 20%

Charges for a meter above two inches in size shall be the direct cost, as determined by the city, of labor, materials and equipment for said tapping, together with a surcharge of an additional twenty (20) percent of such costs to cover engineering and administrative costs, but in no event shall the amount charged be less than the amount charged for a two inch size meter.

(b) *Reclaimed water charges.* The following shall be the schedule of monthly rates and charges for reclaimed water provided by the city:

Description	Rates Effective July 1 of each Year					
	2010	2011	2012	2013	2014	2015
<b><u>Dual Metered Services</u></b>						
<b>Single - Family Irrigation</b>						
<u>Monthly Service Charge</u>						
All Meter Sizes	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<u>Usage per 1,000 gallons</u>						
0- 5,000 gal.	\$1.27	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
5,001 - 25,000 gal.	1.53	1.58	1.60	1.62	1.64	1.66
Above 25,000 gal.	1.88	1.89	1.91	1.93	1.95	1.97
<b>General Service / Commercial [1]</b>						
<u>Monthly Service Charge</u>						
Meter Size:						
3/4"	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
1"	0.00	0.00	0.00	0.00	0.00	0.00
2"	0.00	0.00	0.00	0.00	0.00	0.00
3" & Larger	0.00	0.00	0.00	0.00	0.00	0.00
<u>Usage Per 1,000 Gallons</u>						
3/4" Meter:						
0- 5,000 gal.	\$1.27	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
5,001 - 25,000 gal.	1.53	1.58	1.60	1.62	1.64	1.66
Above 25,000 gal.	1.88	1.89	1.91	1.93	1.95	1.97
1" Meter:						
0 - 13,000 gal.	\$1.27	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
13,001 - 62,000 gal.	1.53	1.58	1.60	1.62	1.64	1.66
Above 62,000 gal.	1.88	1.89	1.91	1.93	1.95	1.97
2" Meter						
0 - 40,000 gal.	\$1.27	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
40,001 - 200,000 gal.	1.53	1.58	1.60	1.62	1.64	1.66
Above 200,000 gal.	1.88	1.89	1.91	1.93	1.95	1.97
3" Meter & Larger:						
0 - 75,000 gal.	\$1.27	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
75,001 - 375,000 gal.	1.53	1.58	1.60	1.62	1.64	1.66
Above 375,000 gal.	1.88	1.89	1.91	1.93	1.95	1.97
<b><u>Single Metered Services</u></b>						
<b>Single - Family Irrigation</b>						
<u>Monthly Service Charge</u>						
All Meter	\$6.18	\$6.24	\$6.30	\$6.36	\$6.42	\$6.48

Sizes

Usage per 1,000 gallons

0- 5,000 gal.	\$1.27	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
5,001 - 25,000 gal.	1.53	1.58	1.60	1.62	1.64	1.66
Above 25,000 gal.	1.88	1.89	1.91	1.93	1.95	1.97

**General Service / Commercial [1]**

Monthly Service Charge

Meter Size:

3/4"	\$6.18	\$6.24	\$6.30	\$6.36	\$6.42	\$6.48
1"	15.43	15.60	15.76	15.92	16.08	16.24
2"	49.39	49.92	50.42	50.92	51.43	51.94
3" & Larger	92.60	93.60	94.54	95.49	96.44	97.40

Usage Per 1,000 Gallons

3/4" Meter:

0- 5,000 gal.	\$1.27	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
5,001 - 25,000 gal.	1.53	1.58	1.60	1.62	1.64	1.66
Above 25,000 gal.	1.88	1.89	1.91	1.93	1.95	1.97

1" Meter:

0 - 13,000 gal.	\$1.27	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
13,001 - 62,000 gal.	1.53	1.58	1.60	1.62	1.64	1.66
Above 62,000 gal.	1.88	1.89	1.91	1.93	1.95	1.97

2" Meter

0 - 40,000 gal.	\$1.27	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
40,001 - 200,000 gal.	1.53	1.58	1.60	1.62	1.64	1.66
Above 200,000 gal.	1.88	1.89	1.91	1.93	1.95	1.97

3" Meter & Larger:

0 - 75,000 gal.	\$1.27	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
75,001 - 375,000 gal.	1.53	1.58	1.60	1.62	1.64	1.66
Above 375,000 gal.	1.88	1.89	1.91	1.93	1.95	1.97

Footnotes:

[1] Includes all Multi-Family irrigation services.

For the purposes of the above rate schedule, dual meter service rates apply when a customer has a domestic potable water service meter and adds a second meter for reclaimed irrigation service, and single meter service rates apply when a customer installs a single meter for irrigation service only. After July 1, 2015, the basic reclaimed water rates will remain the same as the 2015 rates indicated in the above table, unless the city commission adopts by resolution or ordinance different basic reclaimed water rates.

(c) *Readiness to serve charge.* Whether occupied or unoccupied, all existing structures, once connected to the city's reclaimed water system by a meter shall incur a monthly water charge, unless such structure is destroyed, condemned or demolished. The monthly readiness to serve charge shall equal the applicable base monthly service charge. The user has the duty to notify the city of a structure that has been destroyed, condemned or demolished in order to avoid the readiness to serve charge. For any month that a metered account has zero water consumption, such account will be not charged a readiness to serve charge.

(d) *Backflow devices.* Backflow devices shall be installed and maintained by the customer on the potable water services as required by City Code of Ordinances, chapter 78, article V, cross connection control.

**Section III Adoption.** All divisions and sections of Chapter 78 of the City of Winter Garden Code are hereby amended to replace references to the words "utilities department" with "public services department."

**Section IV Conflicts.** In the event of a conflict or conflicts between this ordinance and other ordinances, this Ordinance controls.



**ORDINANCE NO. 10-22**

**AN ORDINANCE PURSUANT TO SECTION 125.01(1)(Q), FLORIDA STATUTES, CONSENTING TO THE ORANGE COUNTY LAKE ROBERTS MUNICIPAL SERVICE BENEFIT UNIT AND THE LEVY OF SPECIAL ASSESSMENTS ON CERTAIN BENEFITTED PROPERTIES LOCATED WITHIN THE MUNICIPAL BOUNDARIES OF WINTER GARDEN, FLORIDA IN ORDER TO PAY A PORTION OF THE COSTS OF LAKE MAINTENANCE AND CLEANING; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Section 125.01(1)(q), Florida Statutes, provides specific legislative authorization for counties to establish a municipal service benefit unit (“MSBU”) for any part or all of the unincorporated areas within its boundaries, and within the municipal boundaries of an incorporated area, upon consent by ordinance of the governing body of such municipality, within which may be provided certain facilities and services;

**WHEREAS**, on May 19, 2009, Orange County created the Lake Roberts MSBU as a municipal service benefit unit pursuant to the authority of the Florida Constitution and pursuant to Section 125.01(1)(q), Florida Statutes for the purpose of general lake cleaning, water quality improvement, maintenance, and aquatic plant control in Lake Roberts;

**WHEREAS**, the City of Winter Garden, Florida (the “City”) now desires to consent to the Lake Roberts MSBU including within its boundaries certain properties located within the municipal boundaries of the City, which properties will receive a special benefit from the general lake cleaning, water quality improvement, maintenance, and aquatic plant control financed by the Lake Roberts MSBU;

**WHEREAS**, a majority of affected property and home owners voted to approve of the MSBU;

**WHEREAS**, the Winter Garden City Commission has determined that consenting to the MSBU is in the best interests of the City; and

**BE IT ENACTED BY THE CITY OF WINTER GARDEN:**

**SECTION 1. CONSENT.** The City of Winter Garden hereby consents to the inclusion of certain properties described herein within the boundaries of the Lake Roberts MSBU created pursuant to Orange County Resolution on May 19, 2009, attached hereto as Exhibit “A” and incorporated herein by reference (the “MSBU Resolution”). The properties to be located within such MSBU boundaries are more particularly described in Exhibit “B” attached hereto and incorporated herein by reference. The City’s consent is granted for each and every year on a continuing basis until terminated by the City Commission, with respect only to those terms and provisions of the MSBU Resolution and the special assessments levied thereby as are set forth in Exhibit “A” hereto.

**SECTION 2. SEVERABILITY.** If any provision of this ordinance or application thereof to any person or circumstance is held or otherwise determined void or invalid by a court of competent jurisdiction, such invalidity or void provision shall not affect other provisions or applications of this ordinance which can be given effect without the invalid or void provision or application, and to such end, the provisions of this ordinance are declared severable.

**SECTION 3. CONFLICTS.** In the event of a conflict or conflicts among this ordinance and other ordinances, this ordinance shall control to the extent that any such conflict exists.

**SECTION 4. EFFECTIVE DATE.** This Ordinance shall take effect upon its passage and as provided by law.

READ FIRST TIME: \_\_\_\_\_April 8\_\_\_\_, 2010

READ SECOND TIME: \_\_\_\_\_April 22\_\_\_\_, 2010

ADVERTISED: \_\_\_\_\_April 22\_\_\_\_\_, 2010

READ THIRD TIME AND  
PUBLIC HEARING HELD: \_\_\_\_\_May 13\_\_\_\_\_, 2010

APPROVED:

\_\_\_\_\_

John Rees, Mayor

ATTEST:

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Kathy Golden, City Clerk

S:\AKA\CLIENTS\Winter Garden\Lake Roberts MSBU\Municipal Consent Ordinance For MSBU (REVISED By RSG) - Rsg - 2 12 10.Doc

## **RESOLUTION NO. 10-07**

### **A RESOLUTION ADOPTED BY THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, ADOPTING ORANGE COUNTY LOCAL MITIGATION STRATEGY RESOLUTION**

**WHEREAS**, the City of Winter Garden are vulnerable to the human and economic costs of natural, technological and societal disasters;

**WHEREAS**, the City Commission recognizes the importance of reducing or eliminating those vulnerabilities for the overall good and welfare of the community;

**WHEREAS**, Section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5165, as amended by the Disaster Mitigation Act of 2000 provides for States and local governments to undertake a risk-based approach to reducing risks to natural hazards through mitigation planning;

**WHEREAS**, the Federal Emergency Management Agency has implemented various hazard mitigation planning provisions through regulation at 44.CFR 201.6 requiring local governments to have a FEMA approved Local Mitigation Strategy (LMS) in order to apply for and/or receive project grants;

**WHEREAS**, 44 CFR 201.6(d)(3) requires local jurisdictions to review and revise their LMS to reflect changes in development, progress in local mitigation efforts, and changes in priorities, and resubmit it for approval within five (5) years in order to continue to be eligible for mitigation project grant funding;

**WHEREAS**, the representatives and staff of the City of Winter Garden have identified, justified and prioritized a number of proposed projects and programs needed to mitigate the vulnerabilities to the impacts of future disasters; and

**WHEREAS**, these proposed projects and programs have been incorporated into the 2009 edition of the Orange County Local Mitigation Strategy that has been prepared and issued for consideration and implementation by the communities of Orange County.

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

1. The City of Winter Garden hereby accepts and approves its designated portion of the Orange County Local Mitigation Strategy,
2. The staff of the City of Winter Garden are requested and instructed to pursue available funding opportunities for implementation of the proposals designated therein,
3. The City of Winter Garden will, upon receipt of such funding or other necessary resources, seek to implement the proposals contained in its section of the strategy, and
4. The City of Winter Garden will continue to participate in the updating and expansion of the Orange County Local Mitigation Strategy in the years ahead, and
5. The City of Winter Garden will further seek to encourage the businesses, industries and community groups operating within and/or for the benefit of the City of Winter Garden to also participate in the updating and expansion of the Orange County Local Mitigation Strategy in the years ahead.

**ADOPTED at a regular Meeting this 13th day of May, 2010.**

#### **CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA**

\_\_\_\_\_  
John Rees, Mayor / Commissioner

ATTEST:

\_\_\_\_\_  
Kathy Golden, City Clerk