



**CITY COMMISSION AGENDA
CITY HALL COMMISSION CHAMBERS
300 W. Plant Street**

REGULAR MEETING

MARCH 25, 2010

6:30 P.M.

CALL TO ORDER

Determination of a Quorum

Invocation and Pledge of Allegiance

1. APPROVAL OF MINUTES

Regular Meeting of March 11, 2010

2. FIRST READING OF PROPOSED ORDINANCES

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 **with the second reading and public hearing being scheduled for April 22, 2010** – Public Services Director Cochran

B. **Ordinance 10-23:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTION 18-57 OF CHAPTER 18, SECTIONS 46-58, 46-60, 46-61, AND 46-62 OF CHAPTER 46, ARTICLE II, AND SECTION 88-8 OF CHAPTER 88, OF THE CITY CODE OF ORDINANCES FOR THE CITY OF WINTER GARDEN, FLORIDA, TO REMOVE CERTAIN FEE SCHEDULES AND CHARGES ASSOCIATED WITH BUILDING PERMITS, FIRE INSPECTION REVIEW, PLAT REVIEW, AND OTHER MATTERS FROM THE CITY'S CODE OF ORDINANCES AND PROVIDE FOR SUCH FEE SCHEDULES AND CHARGES TO BE SET AND AMENDED BY RESOLUTION OF THE CITY COMMISSION; AND PROVIDING FOR SEVERABILITY, CODIFICATION, CONFLICTS, AND AN EFFECTIVE DATE **with the second reading and public hearing being scheduled for April 8, 2010** – Community Development Director Wilson

3. SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCE

A. **Ordinance 10-14:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING SECTION 74-72 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN BY INCREASING PARKING FEES, AMENDING THE APPEALS PROCESS AND PROVIDING FOR TRANSMISSION OF PARKING VIOLATION DATA TO THE FLORIDA DEPARTMENT OF TRANSPORTATION; ESTABLISHING SECTION 74-77 DESIGNATING THE WINTER GARDEN CODE ENFORCEMENT BOARD AS THE OFFICIAL APPEALS BOARD FOR PARKING VIOLATION CONTESTS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL; PROVIDING FOR SEVERABILITY; PROVIDING FOR SUPPLEMENTAL AUTHORITY; AND PROVIDING FOR AN EFFECTIVE DATE – City Manager Bollhoefer

4. **REGULAR BUSINESS**

- A. Recommendation to approve awarding up to 20 Summer Youth Day Camp program scholarships in 2010 – Recreation Director Conn
- B. Recommendation to approve bids and award Annual Construction Services Contracts to TD Thompson Construction, Conpilog International Company and Stage Door II, Inc. for utility, stormwater, roadway construction and emergency services on an as needed basis at per unit pricing – Public Services Director Cochran
- C. Recommendation to approve and award contract for Coluso Drive Drainage Improvements Project to Conpilog International Company for \$115,042.00, with a 10% contingency bringing the total project amount to \$126,546.00 – Public Services Director Cochran
- D. Recommendation to approve and advertise an request for proposal for banking services – Finance Director Hayes
- E. Authorize the expenditure of \$1,000.00 from the police department's State Forfeiture Fund to support the 25th National Conference on Preventing Crime in the Black Community – Police Chief Brennan

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

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

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

8. **MATTERS FROM MAYOR AND COMMISSIONERS**

ADJOURN to a regular City Commission meeting on April 8, 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:

Impact Fees for Water and Wastewater Service – Water Meter Based			
Water Meter Size	ERUs	Water Impact Fees	Wastewater Impact Fees
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 the legal description of the property or tax parcel identification number 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 contain the legal description of 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 therefor 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	Rates Effective July 8 of each Year				
	2010	2011	2012	2013	2014
DOMESTIC / INDOOR WATER SERVICES					
Single-Family					
<u>Monthly Service Charge</u>					
All Meter Sizes	\$6.24	\$6.30	\$6.36	\$6.42	\$6.48
<u>Usage per 1,000 gallons</u>					
0 -10,000 Gal.	\$1.05	\$1.06	\$1.07	\$1.08	\$1.09
10,001 - 15,000 Gal.	1.31	1.32	1.33	1.34	1.35
15,001 - 35,000 Gal.	1.58	1.60	1.62	1.64	1.66
Above 35,000 Gal.	1.89	1.91	1.93	1.95	1.97
Multi-Family					
<u>Monthly Service Charge (Per Unit)</u>					
All Meter Sizes	\$4.37	\$4.41	\$4.45	\$4.49	\$4.53
<u>Usage per 1,000 gallons (Per Unit)</u>					
0 -7,000 Gal.	\$1.05	\$1.06	\$1.07	\$1.08	\$1.09
7,001 - 10,000 Gal.	1.31	1.32	1.33	1.34	1.35
10,001 - 25,000 Gal.	1.58	1.60	1.62	1.64	1.66

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

Monthly Service Charge

Meter Size:

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

Usage per 1,000 gallons

All Usage	\$1.19	\$1.20	\$1.21	\$1.22	\$1.23
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After July 8, 2014, the basic water rates will remain the same as the 2014 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:

Description	Rates Effective July 8 of each Year				
	2010	2011	2012	2013	2014

WASTEWATER SERVICES

Single-Family

Monthly Service Charge

All Meter Sizes	\$8.93	\$9.02	\$9.11	\$9.20	\$9.29
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Usage per 1,000 gallons

0 - 10,000 gal.	\$3.50	\$3.54	\$3.58	\$3.62	\$3.66
Above 10,000 gal.	0.00	0.00	0.00	0.00	0.00

Multi-Family

Monthly Service Charge (Per Unit)

All Meter Sizes	\$6.25	\$6.31	\$6.37	\$6.43	\$6.49
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Usage per 1,000 gallons (Per Unit)

0 - 7,000 gal.	\$3.50	\$3.54	\$3.58	\$3.62	\$3.66
Above 7,000 gal.	0.00	0.00	0.00	0.00	0.00

General Service / Commercial

Monthly Service Charge

Meter Size:

3/4"	\$8.93	\$9.02	\$9.11	\$9.20	\$9.29
1"	22.33	22.55	22.78	23.01	23.24
2"	71.44	72.15	72.87	73.60	74.34
3"	133.95	135.29	136.64	138.01	139.39
4"	223.25	225.48	227.73	230.01	232.31
6"	446.50	450.97	455.48	460.03	464.63
8"	714.40	721.54	728.76	736.05	743.41
10"	1,026.95	1,037.22	1,047.59	1,058.07	1,068.65

Usage per 1,000 gallons

All Usage	\$3.50	\$3.54	\$3.58	\$3.62	\$3.66
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After July 8, 2014, the basic wastewater rates will remain the same as the 2014 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:

	Rates Effective July 8 of each Year				
<u>Dual Metered Services</u>	2010	2011	2012	2013	2014
Single - Family Irrigation					
<u>Monthly Service Charge</u>					
All Meter Sizes	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<u>Usage per 1,000 gallons</u>					
0- 5,000 gal.	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
5,001 - 25,000 gal.	\$1.58	\$1.60	\$1.62	\$1.64	\$1.66
Above 25,000 gal.	\$1.89	\$1.91	\$1.93	\$1.95	\$1.97
General Service / Commercial [1]					
<u>Monthly Service Charge</u>					
Meter Size:					
3/4"	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
1"	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2"	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
3" & Larger	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<u>Usage Per 1,000 Gallons</u>					
3/4" Meter:					
0- 5,000 gal.	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
5,001 - 25,000 gal.	\$1.58	\$1.60	\$1.62	\$1.64	\$1.66
Above 25,000 gal.	\$1.89	\$1.91	\$1.93	\$1.95	\$1.97
1" Meter:					
0 - 13,000 gal.	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
13,001 - 62,000 gal.	\$1.58	\$1.60	\$1.62	\$1.64	\$1.66
Above 62,000 gal.	\$1.89	\$1.91	\$1.93	\$1.95	\$1.97
2" Meter					
0 - 40,000 gal.	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
40,001 - 200,000 gal.	\$1.58	\$1.60	\$1.62	\$1.64	\$1.66
Above 200,000 gal.	\$1.89	\$1.91	\$1.93	\$1.95	\$1.97
3" Meter & Larger:					
0 - 75,000 gal.	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
75,001 - 375,000 gal.	\$1.58	\$1.60	\$1.62	\$1.64	\$1.66
Above 375,000 gal.	\$1.89	\$1.91	\$1.93	\$1.95	\$1.97
<u>Single Metered Services</u>					
Single - Family Irrigation					
<u>Monthly Service Charge</u>					
All Meter Sizes	\$6.24	\$6.30	\$6.36	\$6.42	\$6.48
<u>Usage per 1,000 gallons</u>					
0- 5,000 gal.	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35

5,001 - 25,000 gal.	\$1.58	\$1.60	\$1.62	\$1.64	\$1.66
Above 25,000 gal.	\$1.89	\$1.91	\$1.93	\$1.95	\$1.97

General Service / Commercial [1]

Monthly Service Charge

Meter Size:

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

Usage Per 1,000 Gallons

3/4" Meter:

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

1" Meter:

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

2" Meter

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

3" Meter & Larger:

0 - 75,000 gal.	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
75,001 - 375,000 gal.	\$1.58	\$1.60	\$1.62	\$1.64	\$1.66
Above 375,000 gal.	\$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 8, 2014, the basic irrigation rates will remain the same as the 2014 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 public services department 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 public services department 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 public services department 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 public services department 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 public services department in connection with rendering service to the premises.

(f) The public services department 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 clerk may record in the public records of the county, a claim of lien. This claim of lien shall contain the legal 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 clerk has notice of this, notice shall be mailed to the owner of the premises, if his address is known to the clerk, whenever such bill remains unpaid for a period of 60 days after it has been rendered. The failure of the clerk 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:

<u>Dual Metered Services</u>	Rates Effective July 8 of each Year				
	2010	2011	2012	2013	2014
Single - Family Irrigation					
<u>Monthly Service Charge</u>					
All Meter Sizes	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<u>Usage per 1,000 gallons</u>					
0- 5,000 gal.	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
5,001 - 25,000 gal.	\$1.58	\$1.60	\$1.62	\$1.64	\$1.66
Above 25,000 gal.	\$1.89	\$1.91	\$1.93	\$1.95	\$1.97
General Service / Commercial [1]					
<u>Monthly Service Charge</u>					
Meter Size:					
3/4"	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
1"	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2"	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
3" & Larger	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<u>Usage Per 1,000 Gallons</u>					
3/4" Meter:					
0- 5,000 gal.	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
5,001 - 25,000 gal.	\$1.58	\$1.60	\$1.62	\$1.64	\$1.66
Above 25,000 gal.	\$1.89	\$1.91	\$1.93	\$1.95	\$1.97
1" Meter:					
0 - 13,000 gal.	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
13,001 - 62,000 gal.	\$1.58	\$1.60	\$1.62	\$1.64	\$1.66
Above 62,000 gal.	\$1.89	\$1.91	\$1.93	\$1.95	\$1.97
2" Meter					
0 - 40,000 gal.	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
40,001 - 200,000 gal.	\$1.58	\$1.60	\$1.62	\$1.64	\$1.66
Above 200,000 gal.	\$1.89	\$1.91	\$1.93	\$1.95	\$1.97
3" Meter & Larger:					
0 - 75,000 gal.	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
75,001 - 375,000 gal.	\$1.58	\$1.60	\$1.62	\$1.64	\$1.66
Above 375,000 gal.	\$1.89	\$1.91	\$1.93	\$1.95	\$1.97
<u>Single Metered Services</u>					
Single - Family Irrigation					
<u>Monthly Service Charge</u>					
All Meter Sizes	\$6.24	\$6.30	\$6.36	\$6.42	\$6.48
<u>Usage per 1,000 gallons</u>					
0- 5,000 gal.	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
5,001 - 25,000 gal.	\$1.58	\$1.60	\$1.62	\$1.64	\$1.66
Above 25,000 gal.	\$1.89	\$1.91	\$1.93	\$1.95	\$1.97
General Service / Commercial [1]					
<u>Monthly Service Charge</u>					

Meter Size:

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

Usage Per 1,000 Gallons

3/4" Meter:

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

1" Meter:

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

2" Meter

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

3" Meter & Larger:

0 - 75,000 gal.	\$1.31	\$1.32	\$1.33	\$1.34	\$1.35
75,001 - 375,000 gal.	\$1.58	\$1.60	\$1.62	\$1.64	\$1.66
Above 375,000 gal.	\$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 8, 2014, the basic reclaimed water rates will remain the same as the 2014 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.

Section V Severability. If any portion of this Ordinance is determined to be void, unconstitutional, or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section VI Codification. Sections I, II and III of this Ordinance shall be codified and made a part of the City of Winter Garden Code of Ordinances; that the Sections and exhibits of this Ordinance may be renumbered or

relettered to accomplish such intention. The word "Ordinance" may be change to "Section," "Article," or other appropriate word.

Section VII **Effective Date.** This Ordinance shall become effective on July 1, 2010.

FIRST READING: _____ 2010.

SECOND READING AND PUBLIC HEARING: _____ 2010.

APPROVED:

John Rees, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

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ORDINANCE 10-23

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTION 18-57 OF CHAPTER 18, SECTIONS 46-58, 46-60, 46-61, AND 46-62 OF CHAPTER 46, ARTICLE II, AND SECTION 88-8 OF CHAPTER 88, OF THE CITY CODE OF ORDINANCES FOR THE CITY OF WINTER GARDEN, FLORIDA, TO REMOVE CERTAIN FEE SCHEDULES AND CHARGES ASSOCIATED WITH BUILDING PERMITS, FIRE INSPECTION REVIEW, SITE PLAN AND SITE INSPECTION FEES, AND OTHER MATTERS FROM THE CITY'S CODE OF ORDINANCES AND PROVIDE FOR SUCH FEE SCHEDULES AND CHARGES TO BE SET AND AMENDED BY RESOLUTION OF THE CITY COMMISSION; AND PROVIDING FOR SEVERABILITY, CODIFICATION, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, the City recognizes that certain permitting and other administrative fees and charges must often be changed and adjusted for inflation and other economic conditions;

WHEREAS, the City has, in the past, either set such fees and charges by ordinance or otherwise allowed such fees and charges to be set by ordinance or resolution;

WHEREAS, the City Commission recognizes that the passage of an ordinance requires additional formalities, expense, and advertising not otherwise inherent in the adoption of a resolution;

WHEREAS, the City Commission further acknowledges that, due to the ephemeral and oft-changing nature of the amounts at which administrative and permitting fees and charges are set, the City would realize a savings in funds and administrative labor by allowing such fees and charges to be set by resolution rather than ordinance;

WHEREAS, the City desires to remove that portion of Chapter 18 allowing building fees to be adopted and set by Ordinance so as to clarify that such fees should be set by resolution;

WHEREAS, the City desires to remove certain fee schedules and fee charges for fire plan review fees, inspection fees, re-inspection fees and burn permits from Chapter 46 and allow such fees to be modified and adopted by resolution; and

WHEREAS, the City desires to remove the fee schedule and fee changes for site work engineering fees from Chapter 88 and have such fees adopted by resolution.

NOW, THEREFORE, be it enacted by the City of Winter Garden, Florida, as follows:

SECTION I. That Section 18-57 of Chapter 18, Article II of the Code of Ordinances, City of Winter Garden, Florida is hereby amended to read as follows:

Sec. 18-57. Building permit fee amendments.

The building code adopted in section 18-56 is amended in the following respects and/or by adding the following:

- (1) *Schedule of permit fees.* On all buildings, structures, electrical, plumbing, mechanical and gas systems or alterations requiring a permit, ~~a plan review fee for each permit shall be paid as required at the time of a non refundable deposit that will be applied to the permit shall be collected at the time of permit application submittal, applying for the permit and a fee shall be paid as required at the time of obtaining the permit~~ in accordance with the schedule as established by the city commission of the city as set forth in its schedule of fees.
 - a. The schedule of ~~building~~ permit fees ~~shall be established by is adopted by ordinance or~~ resolution of the city commission and ~~shall be kept~~ on file in the building official's office. Fees and permit rates arising under this division may be amended from time to time by the city commission by ~~ordinance or~~ resolution.
 - b. ~~The schedule of fees shall be used in determining permit fees based on construction valuation. In the event of controversy between the city and applicant as to construction valuation, the valuation shall be determined by the valuation standards as established and set forth in the latest official publications of the most recently approved Building Validation Data published by the Southern Building Code Congress International, Inc., or by copy of the original signed contract or by a detailed cost estimate which meets the approval of the building official.~~ There shall be one building permit issued to the contractor/builder of record, which shall also be deemed the electrical, plumbing, HVAC, roofing, and all applicable trades required. All subcontractors intended to be used, and those used, for a project shall be listed with each state license number on the building permit application. When there is a change in subcontractor, the permit applicant shall notify the building department of the change, in writing, within ten days of the change on

a "Notice of Contractor Change" form. The applicant shall pay the applicable fee at the time of notice of the change.

- (2) If any provision of the building code adopted in section 18-56 conflicts with an existing city ordinance, the building code shall prevail unless said ordinance is more stringent than the building code and is not otherwise inconsistent with the intent or purpose of the building code.
- (3) Within the building code adopted in section 18-56, when reference is made to the duties of certain officials named therein, that designated official in the city who has duties corresponding to those of the named official in the building code shall be deemed to be the responsible official insofar as enforcing the provisions of the building code are concerned.
- (4) If any provision of the building code conflicts with the state statutes, the state statute shall prevail, unless said provision is more stringent than the state statute and is not otherwise inconsistent with the intent or purpose of the state statute.
- (5) Reserved.

SECTION II. That Section 46-58 of Chapter 46, Article II of the Code of Ordinances, City of Winter Garden, Florida is hereby amended to read as follows:

Sec. 46-58. Plan review; permits.

The fire department shall perform a review of all pertinent building plans and specifications submitted to the building department in order to determine whether such plans and specifications comply with this chapter. Separate inspections and permits will be required for fire protection systems. In addition to any fees paid at the time of application for a building permit pursuant to chapter 18 of the City Code, at the time of such application, the applicant shall also pay ~~the following a~~ non-refundable plan review fee for review by the fire department to be collected by the building department: The City Commission shall set or amend such fees by resolution.

~~(1) Plan review:~~

~~a. Single family residential: No fee.~~

~~b. Non single family residential: One half of one percent of value of construction.~~

~~(2) Value of construction for purposes of calculating the above fee shall be determined in accordance with chapter 18 of City Code.~~

~~(3) Plan review fees shall not be charged for construction projects when construction plans or drawings are not required.~~

SECTION III. That Section 46-60 of Chapter 46, Article II of the Code of Ordinances, City of Winter Garden, Florida is hereby amended to read as follows:

Sec. 46-60. Reinspection; fees.

In the event that the fire department, upon initial inspection, shall find work not in compliance with this chapter, the person doing said work shall promptly do everything necessary to bring said work within the requirements of this chapter. The fire department shall then, upon notice from such person, reinspect said work after payment of ~~the following fees, which shall be collected by the building department:~~ appropriate fee(s). A schedule for inspection and reinspection fees shall be adopted and amended from time to time by resolution of the City Commission.

~~(1) Initial inspection: No charge.~~

~~(2) First reinspection: No charge.~~

~~(3) Second reinspection: \$50.00.~~

~~(4) Each additional reinspection for the same noncompliance after the second reinspection shall be increased \$25.00 per reinspection, cumulatively. By way of example not limitation, the third reinspection for the same noncompliance shall be \$75.00; the fourth reinspection for the same noncompliance shall be \$100.00 and so forth.~~

SECTION IV. That Section 46-61 of Chapter 46, Article II of the Code of Ordinances, City of Winter Garden, Florida is hereby amended to read as follows:

Sec. 46-61. Burn permits.

Section 10.11.1.1. of NFPA 1 is amended to read as follows: Permits shall be obtained from the city for all open fires. During construction or demolition of any building or structure, no waste materials or rubbish may be disposed of by burning. Burn permits, if issued, are subject to the following:

- (1) *Period of issuance.* Burn permits shall be issued for a five-day period and for the hours as specified on the permit.
- (2) *Grounds for revocation/denial.* Burn permits shall be revoked or denied if the fire department determines that the burning is detrimental to surrounding property or persons, or that conditions may cause the burning to be unsafe or the burn permit is issued in error or in contravention to the Code.
- (3) *Permit fee.* The fee for a burn permit issued pursuant to this section is a non-refundable ~~\$100.00~~ fee to be adopted and amended from time to time by resolution of the City Commission and shall be collected by the building department.

SECTION V. That Section 88-8 of Chapter 88, of the Code of Ordinances, City of Winter Garden, Florida is hereby amended to read as follows:

Sec. 88-8. Fee collection and schedule.

The ~~site plan review fees~~, platting review fees, zoning plan amendments, other permits associated with development of property fees and advertising costs, respectively located below in subsections (1) through ~~(4)~~, as such may be amended from time to time, establish the flat fee for the matters referenced therein, which flat fees in addition to any review deposit required pursuant to section 88-3 shall be paid by the applicant to the city upon submittal of any application to the city. The city shall ensure the required flat fee is collected, and, if applicable, the review deposit is posted to an account for said application. The city finance director or his designee shall also notify the city manager or appropriate city staff of the applicant's proof of payment of the flat fee and, if applicable, the posting of the review deposit. Those flat fees associated with site plan review shall be established and amended from time to time by resolution of the City Commission.

Should the city manager or his designee determine that the required review deposit for an application is inadequate to cover the reasonably anticipated fees, costs and expenses to be required by the city, the city manager shall direct the city finance director or his designee to increase the minimum deposit to the minimum extent necessary to cover such reasonably anticipated fees, costs, and expenses. The flat fees for platting review, zoning plan amendments, and other permits associated with development of property fees and advertising costs not otherwise established by resolution are established as follows:

~~(1) Site plan review fees.—~~

~~a.—Communication antenna site plan approval.~~

~~1.—New communication tower greater than or equal to 35 feet in total height: \$1,000.00.~~

~~2.—New antenna less than 35 feet in total height: \$200.00.~~

~~3.—Alteration of an existing antenna, alteration plus building permits, special exception (if required) and/or variance fees (if required): \$200.00.~~

~~b.—De minimis industrial or commercial site plan review (less than 300 square feet of building or 500 square feet of impervious surface). No flat fee required (considered part of building permit fee).~~

~~c.—Major industrial, commercial, or institutional site plan approval (the addition of greater than 4,000 square feet of building or 5,000 square feet of impervious surface).~~

~~1.—Site plan review fee: \$200.00, plus \$20.00 per 1,000 square feet of the total of both building area and impervious surface.~~

~~2.—Site inspection fee: An additional fee of two and one quarter percent of the cost of the improvements, including, but not limited to, materials, labor, and construction of the site (parking areas, lighting, landscaping, stormwater retention areas, and water and sewer utilities) or \$200.00, whichever is greater, will be collected prior to the time of the issuance of building permits.~~

~~d.—Minor industrial, commercial, or institutional site plan approval (all site plans smaller than a major industrial or commercial site plan review but greater than a de minimis industrial or commercial site plan review). The site plan review fee and inspection fee shall be \$500.00 each.~~

~~e.—Multi-family site plan review.~~

~~1.—Site plan review fee: \$300.00, plus ten dollars (\$10.00) per unit.~~

~~2.—Site inspection fee: An additional fee of two and one quarter percent of the cost of construction of the site improvements (parking areas, lighting, landscaping, stormwater~~

~~retention areas, and water and sewer utilities) or \$200.00, whichever is greater, will be collected prior to the time of the issuance of building permits.~~

~~f. Single family residential. No site plan review fees are required, except for platting fees.~~

~~(21)~~ *Platting review fees.*

- a. *Preliminary plat review fees.* The fee for plans review shall be \$250.00 plus \$10.00 per residential lot, \$500.00 per nonresidential lot.
- b. *Plat construction plan review.* \$500.00, plus two dollars per residential lot; two-hundred and fifty dollars per nonresidential lot for the first two revisions. An additional \$10.00 per residential lot or \$500.00 per nonresidential lot will be charged for each successive revision.
- c. *Plat infrastructure inspections.* Two and one-quarter percent of the construction cost of the infrastructure to include but not limited to roads, stormwater facilities, water facilities and wastewater facilities to be paid prior to final plat approval.
- d. *Final plat review.* The fee shall be \$250.00, plus \$10.00 per residential lot; \$100.00 per nonresidential lot plus actual city consultant review cost, fees and expenses, and recording fees.
- e. *Addressing and signage fees.* The applicant will be responsible to reimburse the city for any addressing and signage fees.

~~(32)~~ *Zoning, plan amendments, and other permits associated with development of property fees.*

- a. Adult entertainment establishments (development of): See chapter 10 titled amusements and entertainment.
- b. Annexation, infill (annexation of infill lot of five acres or less) . . . No fee
- c. Annexation, large scale (annexation of a lot or parcel greater than five acres) . . . \$1,000.00
- d. Deannexation . . . \$2,500.00
- e. Appeal to the planning and zoning board of an administrative interpretation . . . \$100.00
- f. Appeal to the city commission of a decision made by the planning and zoning board . . . \$300.00
- g. Building permits: As identified in Resolution No. 96-09 as amended.
- h. Comprehensive plan amendment, small scale and in conjunction with an infill (annexation less than five acres) . . . No fee
- i. Comprehensive plan amendment, small scale and not in conjunction with an infill (annexation less than ten acres) . . . 700.00
- j. Comprehensive plan amendment, large scale or text amendment . . . 2,500.00
- k. Concurrency review . . . City consultant cost
- l. Development of regional impact (DRI) review: \$8,000.00, plus all other associated development review fees (i.e., platting, annexation, comprehensive plan amendment and site plan review) plus city consultant fees, costs, and expenses.
- m. Development agreement: Actual city consultant fees, costs, and expenses.
- n. Impact fees: As identified in chapter 42 of this Code.
- o. Lot clearing not associated with any other development permit:
 - Residential (per lot) . . . 25.00
 - Nonresidential (per lot) . . . 100.00
- p. Planned unit development (PUD):
 - Rezoning . . . 1,000.00
 - Amendment . . . 750.00
- q. Rezoning in conjunction with an infill annexation five acres or less . . . No fee

- r. Rezoning not in conjunction with an infill annexation five acres or less . . . 500.00
- s. Special exception or conditional use permit:
 - For-profit business . . . 500.00
 - Not-for-profit business . . . 200.00
 - Extension of permit . . . 200.00
- t. Tree removal permit, per lot or parcel . . . 10.00
- u. Variance request:
 - For a single-family residential additions and substandard lots (per variance request) . . . 100.00
 - For residential fences, sheds, and other non-habitable structures (per variance request) . . . 75.00
 - For all other variances (per variance request) . . . 150.00
- v. Vacation of public property (plus city consultant fees, expenses, and costs) . . . 250.00
- w. Identification of all nonconforming characteristics letter (existing development) . . . 300.00
- x. Lot split . . . 100.00
- y. Open air vendor permit . . . 250.00
- z. Zoning verification letter . . . 100.00

(Plus costs such as copy charges and city staff time.)

(43) *Advertising costs.* Applicants shall be required to reimburse the city for actual costs, expenses and fees incurred by the city relating directly to any advertising associated with any application, including but not limited to notices, posting, mailings and postage.

(54) *Waiver of flat fees.* An applicant may request that the city commission, or the planning and zoning board if the applicable development related activity and application will not be brought before the city commission, waive the flat fee requirement. Prior to such waiver, a finding of good cause for the waiver must be made by the city commission (or planning and zoning board). By way of example, not limitation, the following may be considered in order to support a finding of good cause: the waiver of the flat fee will further a legitimate city objective or the associated development related activity is directly beneficial to the city.

SECTION VI. CONFLICTS. If any Ordinances or parts of Ordinances are in conflict herewith, this Ordinance shall control to the extent of such conflict.

SECTION VII. SEVERABILITY. If any portion of this Ordinance is determined to void, unconstitutional, or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect. See § 1-12, Charter of the City of Winter Garden, Florida.

SECTION VIII. CODIFICATION. That Section I, Section II, Section III, Section IV and Section V of this Ordinance shall be codified and made a part of the City of Winter Garden Code of Ordinances; that the Sections of this Ordinance may be renumbered or relettered to accomplish such intention; the work “*Ordinance*” may be changed to “*Section*”, “*Article*”, or other appropriate word.

SECTION IX. EFFECTIVE DATE. This Ordinance shall become effective upon approval by the City Commission at its second reading.

FIRST READING: _____ March 25 _____, 2010.

SECOND READING
AND PUBLIC HEARING: _____, 2010.

APPROVED:

John Rees, Mayor/Commissioner

ATTEST:

Kathy Golden, City Clerk

ORDINANCE 10-14

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTION 74-43(d) AMENDING THE FINE FOR PARKING IN A DESIGNATED FIRE LANE; AMENDING SECTION 74-71 REPLACING THE CITY CLERK WITH CHIEF OF POLICE AS THE PERSON RECEIVING AFFIDAVITS; AMENDING SECTION 74-72 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN BY INCREASING PARKING FEES, AMENDING THE APPEALS PROCESS AND PROVIDING FOR TRANSMISSION OF PARKING VIOLATION DATA TO THE FLORIDA DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLE; AMENDING SECTION 74-74(b) REPLACING THE CITY CLERK WITH THE CHIEF OF POLICE AS THE PERSON RECEIVING NOTICES; ESTABLISHING SECTION 74-77 DESIGNATING THE WINTER GARDEN CODE ENFORCEMENT BOARD AS THE OFFICIAL APPEALS BOARD FOR PARKING VIOLATION CONTESTS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL; PROVIDING FOR SEVERABILITY; PROVIDING FOR SUPPLEMENTAL AUTHORITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Winter Garden desires to increase parking fees; and

WHEREAS, the City desires to amend the appeals process for parking violations; and

WHEREAS, the City designates the Winter Garden Code Enforcement Board to serve as the appeals board for parking violations; and

WHEREAS, the City desires to create a procedure to notify the State of Florida Department of Motor Vehicles of parking violations.

WHEREAS, in addition to the statutory and existing City Code provisions which provide authority and a framework for this Ordinance, the City's home rule authority provides further authority for the enactment of this ordinance.

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

SECTION 1: Authority: The City of Winter Garden has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida and Chapter 166, Florida Statutes.

SECTION 2: Sections 74-43, 74-71, 74-72, 74-74, and 74-77 are amended as follows:

Sec. 74-43 Fire lanes on private property devoted to public use.

(a) Fire lanes shall be established by the fire chief on private property, devoted to public use, where the parking of motor vehicles or other obstructions may interfere with the ingress and egress of fire department vehicles for the protection of persons or property, such as shopping centers, bowling lanes, theaters, hospitals, churches, private alleys and similar locations.

(b) Marking of fire lanes designated by the fire chief shall be done by the owner or lessee of the private property. Fire lane pavement marking and signs shall be of a type and constructed to conform with specifications set forth by the chief of police and will be furnished and erected by the owner or the lessee of the private property.

(c) Parking of motor vehicles or otherwise obstructing fire lanes shall be prohibited at all times.

(d) The police department is authorized to enforce subsection (c) of this section. Any vehicle found parked in a designated fire lane by a police officer shall be ticketed for illegal parking with a city violation notice. ~~The fine for parking in a designated fire lane shall be \$20.00 plus a surcharge of \$5.00 to be used for fire department training programs pursuant to and as authorized by Laws of Fla., ch. 86-154.~~

Sec. 74-71: Liability for payment of parking ticket violations.

Under authority of F.S. ch. 316, the owner of a vehicle is responsible and liable for payment of any parking violation under this article unless the owner can furnish evidence that the vehicle was, at the time of the parking violation, in the care, custody or control of another person. In such instance, the owner of the vehicle is required, within a reasonable time after notification of the parking violation, to furnish the ~~city clerk~~ Chief of Police or his designee an affidavit setting forth the name, address and driver's license number of the person or company who leased, rented, or otherwise had the care, custody or control of the vehicle. The affidavit submitted under this section is admissible in a proceeding charging a parking ticket violation and raises the rebuttable presumption that the person identified in the affidavit is responsible for payment of the parking ticket violation. The owner of a vehicle is not responsible for the vehicle if it is stolen or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle. Prima facie evidence that the vehicle involved was at the time stolen or in the care, custody or control of some person who did not have permission of the owner to use the vehicle shall be in the form of a report from the appropriate law enforcement official that the vehicle was not under the care, custody or control of the owner of the vehicle.

Sec. 74-72. Schedule of civil penalties for parking violations and the procedure to appeal violations.

(a) There is adopted the following schedule of civil penalties for parking violations occurring within the city for which payment must be made within ~~five~~ fourteen calendar working days of the issuance of the ticket and may be made at the city or may be mailed in the envelope provided ~~or the person receiving the citation may elect to contest the citation by following the procedures outlined in section:~~

TABLE INSET:

Violation	Amount of Civil Penalty
(1) No parking anytime . . .	\$ 40.00 <u>30.00</u>
(2) No parking, stopping or standing . . .	40.00 <u>30.00</u>
(3) No parking here to corner . . .	40.00 <u>30.00</u>
(4) No parking between signs . . .	40.00 <u>30.00</u>
(5) No parking this side . . .	40.00 <u>30.00</u>
(6) No parking, emergency . . .	40.00 <u>30.00</u>
(7) No parking on parkway . . .	40.00 <u>30.00</u>
(8) No parking except as permitted or prohibited during specific times as posted on signs . . .	40.00 <u>30.00</u>
(9) No parking except for passenger loading . . .	40.00 <u>30.00</u>
(10) No parking, bus space . . .	40.00 <u>30.00</u>
(11) No parking, taxi stand . . .	40.00 <u>30.00</u>
(12) No parking anytime, freight loading zone . .	40.00 <u>30.00</u>
(13) No parking, space is designated for a specific individuals or vehicles other than disabled . . .	40.00 <u>30.00</u>
(14) No parking, patient loading zone . . .	40.00 <u>30.00</u>
(15) No parking, yellow or red curb (not a sign) .	40.00 <u>30.00</u>
(16) No parking on sidewalk . . .	40.00 <u>30.00</u>
(17) No parking blocking driveway . . .	40.00 <u>30.00</u>
(18) No parking blocking dumpster . . .	40.00 <u>30.00</u>
(19) No parking blocking wheelchair ramp . . .	40.00 <u>30.00</u>
(20) No parking within 30 feet of official traffic control device . . .	40.00 <u>30.00</u>
(21) No parking within 30 feet of nearest rail at railroad crossing . .	40.00 <u>30.00</u>
(22) Improper parking, obstructing traffic . . .	40.00 <u>30.00</u>
(23) Improper parking, left wheels to curb (on two-way street) . . .	40.00 <u>30.00</u>
(24) Improper parking, wrong way on one-way street (parked facing opposite flow of traffic) . . .	40.00 <u>30.00</u>
(25) Blocking fire hydrant . . .	40.00 <u>30.00</u>
(26) Keys left in unattended vehicle . . .	40.00 <u>30.00</u>
(27) Parking by disabled permit only . . .	400.00 <u>250.00</u>
(28) Parking overtime (limit authorized in zone) . .	5.00 <u>30.00</u>
(29) Parking over line or not in compliance with markings . . .	5.00 <u>30.00</u>
(30) Designated fire lane . . .	20.00 <u>30.00</u>
Plus surcharge . . .	5.00

(b) The penalty in subsection (a) of this section must be paid within ~~five working~~ fourteen calendar days of the date of issuance of the parking violation notice by either hand delivery or by mailing the penalty in the envelope provided with the notice ~~or contest the violation by following the procedure in subsection (c) below.~~ If such penalty is not paid within the five working days, the amount of the civil penalty shall be \$1.00 greater than the amount specified for the parking violation as provided in subsection (a) of this section.

(c) Any person receiving a parking violation notice shall, within ~~five working~~ fourteen calendar days, pay the civil penalty as prescribed in subsection (a) of this section or ~~request a hearing before a judge of the county court.~~ request a hearing before the designated judge shall be deemed to have waived his right to pay the civil penalty as set for in subsection (a) of this section. The judge, after a hearing, shall make a determination as to whether a violation has been committed. If the commission of a violation has been proven, the judge may impose a fine not to exceed \$100.00 plus court costs ~~elect to contest the citation by completing and filing the "Contesting Affidavit" and other relevant information together with a filing fee in the amount of \$10 to the Chief of Police, his designee or such other person that may be designated on the citation.~~ The filing fee shall be nonrefundable unless the Chief of Police or his designee determines that a parking violation did not occur as provided below or the Code Enforcement Board determines that the parking violation did not occur. Any person who fails to pay the civil penalty prescribed on the citation or deliver the Contesting Affidavit as set forth herein within 14 days from the date of issuance of the parking violation shall incur a delinquent fee of \$15 and be deemed to have waived his/her right to contest the merits of such citation. Any person electing to contest a citation pursuant to this paragraph shall be deemed to have waived his/her right to pay the civil penalty prescribed on the citation and may be subject to additional fines and fees if same are imposed by the Code Enforcement Board pursuant to section 74-77 of this chapter.

Upon receipt of a Contesting Affidavit, the Chief of Police or his designee shall review such affidavit and, based upon the evidence presented in such affidavit and any other relevant information, determine whether there is probable cause to believe that a parking violation has occurred. If the Chief of Police or his designee finds no probable cause to believe that a parking violation has occurred, then the Chief of Police or his designee shall void the citation, provide written notice of same to the person who submitted the Contesting Affidavit and refund the filing fee. If the Chief of Police or his designee determines that there is probable cause to believe that a parking violation has occurred, then the Chief of Police or his designee shall request a hearing before the Code Enforcement Board to consider the contested citation.

The Chief of Police or his designee is hereby authorized and directed to supply the State of Florida Department of Highway Safety and Motor Vehicle with a magnetically encoded computer tape reel, cartridge or send by other electronic means data that is machine readable by the installed computer system at said Department listing persons who (i) have three or more outstanding parking violations, or (ii) one or more parking violation(s) of Florida Statute 316.1955 or any city ordinances which regulate similar parking in spaces designated for use by disabled persons.

Sec. 74-74. Failure to obey notice; alteration or destruction of notice.

(a) It shall be unlawful for the responsible party, as defined in section 74-71 to neglect to answer to the charge set forth in a violation notice affixed to a motor vehicle by a police officer.

(b) The notice referred to in subsection (a) of this section is and shall remain the property of the city before and after serving, delivery or affixing thereof. All persons receiving any such notice in writing, whether by personal service or by affixing the notice to a motor vehicle, shall be required to preserve such notice and to bring and present it or otherwise transmit the notice to the city clerk Chief of Police or his designee when answering the charge set forth in such notice.

Sec 74-77 The Winter Garden Code Enforcement Board's duties and powers as the official appeals board for parking violations.

(a) The Winter Garden Code Enforcement Board "Board" is designated as the official appeals board for parking violations. The Board shall have the following powers and duties:

1. To hear contests to parking citations issued by the City of Winter Garden and receive and evaluate evidence in connection therewith; and
2. To make a determination, based upon the preponderance of the evidence, as to whether the parking violation(s) listed in a citation were committed; and
3. To impose fines and fees, including late fees and administrative charges, consistent with this Chapter.

(b) Four members of the Board shall constitute a quorum, and no action may be taken if less than four members are present and voting.

(c) The Board shall adopt rules for transaction of its business and shall keep a record of its resolutions, transactions, actions, findings and determinations. Meetings of the Board shall be held in conjunction with regular meetings of Code Enforcement Board at the call of the Chairperson and at such times as the Board may determine, and if the Chief of Police or his designee requests a meeting of the Board to consider a contested citation as provided in section 74-72 of this Chapter or as provided in other provisions of the City Code, then the Chairperson shall call a meeting of the Board within 30 days of such request.

(d) With respect to parking citations issued for violations of Chapter 74 of the City Code, if the Board determines that the parking violation(s) listed in the contested parking citation were in fact committed, the Board may impose a fine of up to \$50 for each violation or \$250 for each disabled parking violation, plus hearing costs for the issuing officer's attendance. If the Board determines the parking violation(s) listed in the Contesting Affidavit were not committed, then the contested parking violation shall be dismissed and the filing fee shall be refunded.

(e) Formal rules of evidence shall not apply at the hearing on the appeal and any relevant evidence may be admitted. Hearsay evidence may be admitted, but shall not form the sole basis upon which the Board's decision is made. Irrelevant and unduly repetitious evidence may be excluded. The hearing shall be conducted in a manner to ensure that procedural and substantive due process is afforded the person filing the appeal to the Board.

(f) The decision of the Board shall be the final action by the City.

(g) This Ordinance provides supplemental authority to the City for the enforcement of parking requirements, and the City, in its discretion, may pursue any and all other available mechanisms for the enforcement of applicable parking requirements and regulations.

SECTION 3: Codification: Section 2 of this Ordinance shall be codified and made part of the City of Winter Garden Code of Ordinances.

SECTION 4: Control: In the event of a conflict or conflicts between this ordinance and other ordinances, this ordinance controls.

SECTION 5: Severability: It is the intent of the City Commission of the City of Winter Garden, and is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 6: Effective Date: This Ordinance shall become effective upon adoption at its second reading.

FIRST READING: February 25, 2010.

SECOND READING AND PUBLIC HEARING: March 25, 2010.

ADOPTED this 25th day of March, 2010, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

John Rees, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk