

**ORDINANCE NO. 2824-10**

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, RELATING TO WATER AND SEWER UTILITY IMPACT FEES; AMENDING SECTION 102-57 OF THE CODE OF ORDINANCES TO CORRECT THE NOMENCLATURE USED AND REFER TO SUCH FEES AS IMPACT FEES; AMENDING SECTION 102-92 OF THE CODE OF ORDINANCES TO CORRECT THE NOMENCLATURE USED, REFERRING TO SUCH FEES AS IMPACT FEES; REPEALING ORDINANCE 2524-03; AND PROVIDING FOR CONFLICTS AND AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission of the City of Winter Park, Florida, has previously found and determined it to be in the best interest of the safety, health, and welfare of the citizens of the City of Winter Park to establish certain impact fees, including the water and sewer utility impact fees to require new development to pay their equitable share of public improvements that must be constructed to serve new growth; and

**WHEREAS**, the City has engaged consultants and developed a factual record to conduct periodic studies and reassessments of the City's impact fees and to prepare reports on the appropriateness of the City's impact fees; and

**WHEREAS**, the City Commission finds that the record, including staff and consultant reports legally justify the imposition of impact fees pursuant to applicable law. See, e.g., *Volusia County v. Aberdeen at Ormond Beach*, 760 So. 2d 126 (Fla. 2000); *Contractors and Builders Ass'n. of Pinellas Co. v. City of Dunedin*, 329 So. 2d 314 (Fla. 1976); *Wald v. Metropolitan Dade Co.*, 338 So. 2d 863 (Fla. 3d DCA 1976); *Hollywood, Inc. v. Broward Co.*, 431 So. 2d 606 (Fla. 4<sup>th</sup> DCA 1983); and

**WHEREAS**, the City Commission finds that Section 163.3202(3), Florida Statutes, encourages the use of innovative land development regulations which includes the adoption of impact fees, and

**WHEREAS**, the City Commission also finds that the impact fees required by this ordinance are necessary to mitigate impacts reasonable attributable to new development; and

**WHEREAS**, the City Commission also recognizes that the Florida legislature has mandated that local governments plan comprehensively for future growth and that this regulatory ordinance is consistent with that mandate. See, e.g., Chapter 163, Florida Statutes; and

**WHEREAS**, new land development activity generates public facility and service demands within the City and it is reasonable to require new development to pay a fair share of the cost of expanding new public facilities and services attributable to new developments; and

**WHEREAS**, this ordinance is enacted pursuant to the Florida Municipal Home Rule Powers Act, Chapter 163, Florida Statutes, the City of Winter Park's Comprehensive Plan and other applicable laws authorizing a municipality to set rates, fees and charges for new development; and

**WHEREAS**, it is in the best interest of the public health, safety, and welfare of the citizens of Winter Park to amend the sewer and water utility impact fees in accordance with the provisions hereof; and

**WHEREAS**, the City adopted an economic development incentive policy regarding deferment of sewer connection fees in Ordinance No. 2524-03, adopted on June 10, 2003, and the Utility Advisory Board has recommended the repeal of this Ordinance; and

**WHEREAS**, the City Commission has determined that it will be more efficient to refer to the amount of impact fees by reference to the City of Winter Park Fee Schedule, which Schedule shall be reviewed and adopted by the City Commission at least twice annually; and

**WHEREAS**, the City Commission adopts and incorporates the Florida Impact Fee Act, found at Section 163.31801, Florida Statutes, and adopts the finding of the Legislature that impact fees are an important source of revenue for the City of Winter Park to use in funding the infrastructure necessitated by new growth, and that impact fees are an outgrowth of the Home Rule Power of the City to provide certain services within its jurisdiction.

**NOW, THEREFORE**, the City Commission of the City of Winter Park hereby ordains as follows:

**SECTION 1.** Recitals. The foregoing recitals are incorporated herein by this reference.

**SECTION 2.** Ordinance No. 2524-03, adopted by the City Commission on June 10, 2003, is hereby repealed, withdrawn of record and will have no further force or effect as an ordinance of the City of Winter Park.

**SECTION 3.** Code amendment, Chapter 102, Article III, Section 102-57, is amended as follows (underlined type indicates additions and ~~strikeout type~~ indicates deletions):

**State law reference – Impact fees authorized, F.S. § 163.31801. ~~User fees authorized, F.S. § 166.201; rates outside city, F.S. § 180.191.~~**

**Sec. 102-57. – Water Impact Connection fees.**

- (a) *Purpose.* To share in the capital cost of existing and future water supply and treatment and transmission facilities, an impact ~~a connection~~ fee shall be charged to every property owner connecting to the city's water system. The impact ~~connection~~ fees shall be used only for construction of new water supply and treatment and transmission facilities and not for renewal or replacement of existing facilities.

- (b) *Amount.* ~~In addition to installation charges, the connection fees for water service shall be computed on the following basis:~~ The amount of impact fees for water service shall be found in the City of Winter Park Fee Schedule, which shall be reviewed and adopted by the City Commission at least twice annually. The amount of impact fees that will be scheduled shall be established as required by Florida law, including the requirements of the Florida Impact Fee Act, Section 163.31801, Florida Statutes.

~~Fee for Each Dwelling Unit or Equivalent  
Residential Connection (ERC)~~

<del>Classification</del>	<del>Inside City</del>	<del>Outside City</del>
<del>Single family</del>	<del>\$1,100.00</del>	<del>\$1,375.00</del>
<del>Multiple dwelling</del>	<del>-1,100.00</del>	<del>-1,375.00</del>
<del>ERC</del>	<del>-1,100.00</del>	<del>-1,375.00</del>

The number of dwelling units shall be determined using the definition in section 102-132. Equivalent residential connection (ERC) shall be calculated utilizing the following formula with reference to the standard plumbing code as adopted and amended by the city:

$$\text{One ERC Unit} = \frac{\text{Total Number of Fixture Units} \times 21}{350}$$

In no event will the impact connection fee for water service be less than one ERC.

- (c) *Exceptions.* The impact connection fees established by this section shall not apply to second or additional meters serving the same user on the same premises where the second or additional meter is solely for irrigation, swimming pools, water cooled air conditioning and other uses or water not entering the sewer system. Such use shall be determined in accordance with section 102-132(f).
- (d) *Due date.* Such charges shall be in addition to all other charges and shall be paid when the water connection permit is issued.  
(Code 1960, § 22-22; Ord. No. 1963, § 9, 1-14-92; Ord. No. 2484-02, § 1, 10-8-02)

**SECTION 4.** Code amendment, Chapter 102, Article IV, Section 102-92, is amended as follows (underlined type indicates additions and ~~strikeout type~~ indicates deletions):

**State law reference – Impact fees authorized F.S. § 163.31801.**

**Sec. 102-92. – Impact Connection fees.**

- (a) *Purpose.* To share in the capital costs of existing and future sewage collection, treatment and disposal facilities, an impact ~~a connection~~ fee shall be charged to every property owner, except as otherwise provided, whose property first receives sewer service from systems owned or controlled by the city after December 22, 1981. The impact connection fees shall be used only for construction of new wastewater collection, treatment and disposal facilities and not for repair and replacement of existing facilities.

- (b) ~~Amount. Connection fees for sewer service shall be computed on the following basis:~~ The amount of impact fees for water service shall be found in the City of Winter Park fee schedule that shall be reviewed and adopted by the City Commission at least twice annually. The amount of impact fees that will be scheduled shall be established as required by Florida law, including the requirements of the Florida Impact Fee Act, Section 163.31801, Florida Statutes.

**Fee for Each Dwelling Unit or Equivalent  
Residential Connection (ERC)**

Classification	Inside City	Outside City
Single family	\$2,700.00	\$3,375.00
Multiple dwelling	-2,700.00	-3,375.00
ERC	-2,700.00	-3,375.00

The number of dwelling units shall be determined using the definition in section 102-132. Equivalent residential connection (ERC) shall be calculated utilizing the following formula with reference to the standard plumbing code as adopted and amended by the city:

$$\text{One ERC Unit} = \frac{\text{Total Number of Fixture Units} \times 21}{333}$$

In no event will the ~~impact connection~~ fee for water service be less than one ERC.

- (c) *Exceptions.* Any applicant for a sewer connection whose property was located within the city on December 22, 1981, and where construction was started prior to December 22, 1981, on the building to be connected to the sewer shall not be required to pay the fee provided for in this section. Any applicant for a sewer connection whose property was located outside the city on December 22, 1981, and where construction was started prior to December 22, 1981, on the building to be connected to the sewer shall only be required to pay ~~impact connection~~ fees inn the amount which would have been charged by General Waterworks Corporation on December 1, 1981, provided that such application for a sewer connection permit is filed prior to February 1, 1982.
- (d) *Due date.* Such charges shall be in addition to all other charges and shall be paid when the sewer connection permit is issued, ~~unless payment thereof is deferred by the city in accordance with its economic development incentive policy.~~

(Code 1960, § 22-9(2)-(4); Ord. No. 1963, § 4(22-9(1)), 1-14-92; Ord. No. 2484-02, § 2, 10-8-02; Ord. No. 2524-03, § 1, 7-14-03)

**SECTION 5.** Repeal of Prior Inconsistent Ordinances and Resolutions. All prior inconsistent ordinances and resolutions adopted by the City Commission, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

**SECTION 6.** Incorporation into Code. This ordinance shall be incorporated into the Winter Park City Code at any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and similar or like errors may be corrected, and additions, alterations, and omissions, not affecting the construction or meaning of this ordinance and the City Code may be freely made.

**SECTION 7. Severability.** If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

**SECTION 8. Conflicts.** All ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed. Specifically, Ordinance 2524-03 is hereby repealed in its entirety.

**SECTION 9. Effective Date.** This ordinance shall become effective immediately upon adoption by the City Commission of the City of Winter Park, Florida, and pursuant to City Charter.

**ADOPTED** by the City Commission of the City of Winter Park, Florida in a regular meeting assembled on the 11<sup>th</sup> day of OCTOBER, 2010.

CITY OF WINTER PARK

ATTEST:

By: Kenneth W. Bradley  
Kenneth W. Bradley, Mayor

Cynthia S. Bonham

Cynthia S. Bonham, City Clerk