

ORDINANCE NO. 2968-14

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 102, UTILITIES TO ADD SECTION 102-2, ESTABLISHING THE WEST FAIRBANKS AVENUE WATER/SEWER IMPACT FEE DEFERRAL PROGRAM; AMENDING SECTIONS 102-57 and 102-92 OF THE CODE OF ORDINANCES TO INCORPORATE THIS IMPACT FEE DEFERRAL PROGRAM; AND ALLOWING THE CITY MANAGER OR MAYOR UNDER THE TERMS AND CONDITIONS SPECIFIED HEREIN TO SIGN CERTAIN CONTRACTS RELATING TO THE IMPLEMENTATION OF THE IMPACT FEE DEFERRAL PROGRAM; PROVIDING FOR CODIFICATION, 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 Commission of the City of Winter Park, Florida, has found and determined that it is in the best interest of the City to promote and stimulate economic development for both new and existing businesses that currently use or wish to use City sewer and water service; and

WHEREAS, the City has completed upgrades to the water and sewer infrastructure and services along West Fairbanks Avenue, and it is anticipated that this upgrade of utility service will be a benefit to the citizens and will promote economic development in the City; and

WHEREAS, the City Commission of the City of Winter Park, Florida, has found and determined that an impact fee deferral program may encourage the use of the City's sewer and water service being enhanced and improved along the West Fairbanks Avenue corridor; and

WHEREAS, the proposed impact fee deferral program will not exempt any individuals or businesses from paying the water and sewer impact fee, but will serve to extend the time during which an individual or business may pay a portion of its water and sewer impact fee; and

WHEREAS, the proposed impact fee deferral program is in the best interest of the health, safety, and welfare of the citizens of the City of Winter Park; and

WHEREAS, words with double underlined type shall constitute additions to the original text and strike through shall constitute deletions to the original text, and asterisks (* * *) indicate that text shall remain unchanged from the language existing prior to adoption of this Ordinance.

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

1. **Section 1.** Recitals. The foregoing recitals are hereby adopted and confirmed.

2. **Section 2.** Code Amendment. In Chapter 102, a new section 102-2 is added, as follows:

Section 102-2. West Fairbanks Avenue Water/Sewer Impact Fee Deferral Program. There is hereby established, subject to the terms and conditions stated herein, the West Fairbanks Avenue Water/Sewer Impact Fee Deferral Program (the "Program").

- a. Purpose. The purpose of the Program is to incentivize economic development, encourage use of City utility service, and provide an incentive to business owners to relocate or expand existing business to the West Fairbanks corridor.
- b. Description of the Benefit Extended to Approved Applicants. If an applicant is accepted into the Program, then the applicant will receive the benefit provided herein with respect to water/sewer impact fees owed. The applicant will only pay twenty percent (20%) of the assessed water and sewer impact fees otherwise due in full at the time of permitting, with the remaining eighty percent (80%) due to be paid in twenty-four (24) equal monthly installments, with the first payment due on the date of the issuance of a temporary or final certificate of occupancy, whichever occurs first.
- c. Eligibility to Participate In the Program. Eligible participants will include both commercial uses and residential properties, including multi-family uses treated by the City as a commercial use, and businesses within the designated West Fairbanks Avenue district, more particularly described in a map of the West Fairbanks Avenue District, maintained in the City's Department of Public Works,, (hereinafter the "West Fairbanks Avenue District"). However, in order to be eligible, the applicant must be assessed at least one thousand dollars (\$1,000.00) in water/sewer impact fees.
- d. Program Requirements.
 1. The applicant must be a business or property owner located in the West Fairbanks Avenue District.
 2. The applicant must be assessed an impact fee of at least one thousand dollars (\$1,000.00) as the result of an assessment issued by the City's Water and Wastewater Department.
 3. The applicant must contract to use City sewer and water service.
 4. The applicant must contract to use City electric service if it is available to the address.

5. If the property is not located within the City of Winter Park's municipal boundary at the time of application, the applicant must agree to annex into the City of Winter Park.
 6. The applicant must be in good standing with the City, including no outstanding Code Enforcement prosecutions, fines or liens, and must be current on all outstanding taxes and fees owed to the City of Winter Park at the time of application.
- e. Application and Contract. The City Manager or his designee is authorized to develop an application form that is consistent with the requirements of the Program, and that is not in conflict with these requirements. The City Manager or his designee is also directed to develop in consultation with the City Attorney a form contract that each approved applicant must enter as a condition of participating in the Program. The requirements for the application and contract shall include the following provisions:
1. The applicant and the party entering the contract must be an owner or authorized agent on behalf of the property that is participating in the Program. If requested by the owner, the tenant may also become a party to the contract.
 2. The application and contract must make provision for the applicant being in good standing with the City with regard to financial and compliance matters.
 3. The application and contract will include provisions for annexation into the City of Winter Park if the property is not currently located within the municipal boundary.
 4. The application and contract will include a binding commitment to use utility service available to the property and to make payments of the utility service in accordance with the requirements of the City of Winter Park and its utility divisions.
 5. The application and contract will have provisions requiring payment of the deferred eighty percent (80%) of impact fees, commencing with the receipt of a temporary or final certificate of occupancy, whichever is first, with the balance being paid in twenty-four (24) equal monthly installments. The applicant will agree to a lien, in the nature of an assessment or enforcement lien, recorded in the event that the applicant defaults in making payments due to the City pursuant to the Program.
 6. The City Manager is directed to make both the form contract and form application available on the City's website. The City Manager shall make provision for promoting the Program so that eligible participants are reasonably made aware of the availability of the Program for qualified applicants.

7. The City Manager and the Mayor are authorized to sign Program agreements entered with qualified and approved applicants. The City Manager shall make provision for reporting to the City Commission the extent of participation in the Program and the status and degree of fulfillment of Program requirements, including payment of deferred impact fees.
- f. Municipal Discretion. The City of Winter Park has the sole authority to determine eligibility of any applicant pursuant to these Program guidelines. The City Manager or his designee may make minor procedural changes to the manner in which the Program is implemented, but any change made by the City Manager or his designee should be reported to the City Commission, and no change will be made that is substantive or material in relationship to the overall scope of the Program without obtaining prior approval from the City Commission. Any material change in the Program that deviates from the specific requirements as provided in this Section will require an amendment by ordinance.
- g. Sunset. This is a temporary incentive program and applications will only be accepted through August 1, 2015. This section will sunset on August 1, 2017, unless the Program is extended by action of the City Commission of the City of Winter Park.
- h. Additional General Conditions.
 1. Impact fee credits only vest equal to the amount of fees actually paid. If the applicant defaults or for any other reason fails to make full payment due, the property will only receive credit for the amount of funds actually collected.
 2. A property that has participated in the Program may not be deannexed out of the City of Winter Park, to the fullest extent allowed by law.

Section 3. Code Amendment. Chapter 102. Section 102-57 is amended as follows:

Sec. 102-57. Water impact fees.

* * *

(d) Due date. Such charges shall be in addition to all other charges and shall be paid when the water connection permit is issued. This impact fee is subject to the West Fairbanks Avenue District Water/Sewer Impact Fee Deferral Program established in Section 102-2of the Municipal Code.

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Section 4. Code Amendment. Chapter 102. Section 102-92 is amended as follows:

Sec. 102-92. Impact fees.

* * *

(d) Due date. Such charges shall be in addition to all other charges and shall be paid when the sewer connection permit is issued. This impact fee is subject to the West Fairbanks Avenue District Water/Sewer Impact Fee Deferral Program established in Section 102-2 of the Municipal Code.

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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.

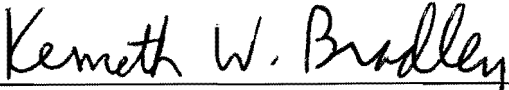
Section 6. Incorporation Into Code. This ordinance shall be incorporated into the Winter Park City Code. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected,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


Section 9. Effective date. This ordinance shall become effective immediately upon adoption by the City Commission of the City of Winter Park, Florida.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, held at City Hall, Winter Park, Florida, on the 14th day of July, 2014.



Mayor Kenneth Bradley

Attest:



Cynthia Bonham, City Clerk