

**ORDINANCE NO. 2617-05**

**AN ORDINANCE OF THE CITY OF WINTER PARK,  
FLORIDA ESTABLISHING A FORMULA FOR THE  
TRANSFER OF FUNDS FROM THE ELECTRIC UTILITY  
TO THE GENERAL FUND; PROVIDING FOR  
CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Winter Park is in the process of acquiring an electric utility; and

**WHEREAS**, as the owner of the electric utility and as the entity responsible for the maintenance of the rights-of-way within the City, the City is entitled to a return; and

**WHEREAS**, the City expended and advanced General Fund monies in the amount of \$2,856,025.86 in the process of acquiring the electric utility; and

**WHEREAS**, prior to acquiring the electric utility the City received a 6% franchise fee from the investor-owned utility (IOU) operating within the City of Winter Park, the revenues from which were used by the City to maintain the rights-of-way; and

**WHEREAS**, establishing the transfer amount by ordinance stabilizes the transfer amount from year to year which is looked upon favorably by bond rating agencies and investors;

**NOW, THEREFORE, BE IT ENACTED** by the people of the City of Winter Park, Florida as follows:

**Section 1.** The electric utility will budget and transfer to the General Fund, an amount equal to 6% of the gross revenue from the sale of electric energy to residential/commercial customers within the corporate limits generated by the electric utility. This transfer shall be known as the "Base Transfer" and serves as a replacement of the franchise fee previously collected from the IOU operating within the City.

**Section 2.** For the initial three year period of operations, the City will reinvest 100% of excess net cash (if any) earned from electric utility operations back into the electric system for the purpose of improving system reliability and accelerating the undergrounding of the electric distribution system. For fiscal year 2009 the City will reinvest 90%, for fiscal year 2010 the City will reinvest 80% and for fiscal year 2011 and thereafter the City will reinvest 75% of excess net cash (if any) earned from electric utility operations back into the electric distribution system. For the purposes of this ordinance, "excess net cash" means lawfully available electric system revenues remaining after payment of all required electric system operation and maintenance, wholesale power supply, debt service (including derivative obligations), debt service reserve, renewal and replacement, budgeted capital and other expenses, including the Base Transfer defined above. This reinvestment of funds will be known as the "System Reinvestment Transfer" as it will be segregated into a separate fund or account until such time it is expended for the purposes described above.

**Section 3.** In order to reimburse all or a portion of the funds previously advanced by the General Fund in support of the electric system acquisition the City will transfer 10% of excess net cash (if any) earned from electric utility operations in fiscal year 2009, 20% in fiscal year 2010, 25% in fiscal year 2011 and thereafter until such time as the entire advance has been repaid in full. This transfer will be known as the "Reimbursement Transfer".

**Section 4.** Once the entire advance has been repaid in full, the City Commission, in consultation with the Utility Advisory Board, will reevaluate this General Fund Transfer Policy for possible amendment. Specifically, the amount of net excess cash being produced by the City's electric utility, historical system reliability, the progress on system undergrounding and the amount of money transferred to the City will be considered. Based on the review, the City Commission will consider adjusting the amount of money being reinvested in the system, transferred to the City, and other lawful purposes for using any such excess net cash flow.

**Section 5.** It is the intention of the City Commission of the City that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City; and that sections of this ordinance may be numbered or renumbered or lettered or relettered and the word "ordinance" may be changed to "chapter", "section," "article", or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be numbered or renumbered or lettered or relettered and typographical errors which do not affect the intent may be authorized by the City Manager, without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held at City Hall, Winter Park, Florida on the 14<sup>th</sup> day of February, 2005.

  
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Mayor Kenneth Marchman

Attest:   
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City Clerk Cynthia Bonham