

ORDINANCE 3275-23

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING ARTICLE V OF CHAPTER 102 OF THE WINTER PARK CODE OF ORDINANCES, MODIFYING THE METHOD OF CALCULATION AND COLLECTION OF STORMWATER MANAGEMENT UTILITY FEES; AND PROVIDING FOR CODIFICATION, INCONSISTENCY, SEVERABILITY, AND AN EFFECTIVE DATE.

RECITALS:

WHEREAS, the City of Winter Park (hereinafter referred to as the "City") enacted Ordinance No. 1832 on July 25th, 1989, to establish a stormwater management utility fee program for the purpose of generating additional funding for stormwater management; and

WHEREAS, the City Commission desires to update the method of collecting and calculating stormwater management utility fees; and

WHEREAS, in accordance with the City of Winter Park Resolution No. 2268-23, this Ordinance will enable stormwater management utility fees to be collected through the uniform method for the levy, collection, and enforcement of non-ad valorem assessments established in § 197.3632, Florida Statutes, which authorizes local governments to use non-ad valorem assessments for any assessment levied pursuant to local government ordinance; and

WHEREAS, the City Commission of the City of Winter Park finds that the provisions of this Ordinance are in the best interests of the citizens of the City of Winter Park and that such provisions are necessary for the health, safety, and welfare of the citizens of the City of Winter Park.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY OF WINTER PARK, FLORIDA, AS FOLLOWS:

SECTION I: Recitals. The above recitals are true and correct, are adopted and incorporated herein, and constitute the legislative findings of the City Commission of the City of Winter Park.

SECTION II: Amendment. Article V of Section 102 of the Code of Ordinances, City of Winter Park, Florida, is hereby amended to read as follows (underlined language are additions; ~~stricken through~~ language are deletions; stars **** indicate breaks between sections, subsections, or paragraphs and do not indicate changes to the City

Code; and provisions that are not shown or not otherwise underlined or stricken are not being amended):

ARTICLE V. - STORMWATER MANAGEMENT UTILITY

DIVISION 1. – GENERALLY

Sec. 102-156. - Definitions.

Dwelling unit means one or more rooms with bathroom and kitchen facilities designed for occupancy by one family.

Equivalent residential unit (ERU) means the basic unit for the computation of stormwater utility fees. ~~Single family and multifamily properties, based on data for the city, have an average impervious area of 2324 square feet. Nonresidential/commercial properties will have ERUs computed using the following formula:~~

~~No. of ERUs = Impervious Area (Sq. Ft.) / 2324 Sq. Ft.~~

Feepayer means the owner ~~or occupant~~ of real property in the city which contributes stormwater runoff to and which benefits from the city's stormwater management system.

Sec. 102-160. Authority for fees.

(a) *Generally.* The stormwater management utility is empowered by this article to recommend charges for the use of and discharge to the city's stormwater management system. Such charges shall be based on the cost of providing stormwater management services to all properties within the city and may be different for properties receiving different classes of service. The city commission shall adopt and revise from time to time a schedule of stormwater utility fees for stormwater management services to cover funding requirements of utility operations.

(b) *Rates for stormwater management service.* There is levied against all fee payers for all real property in the city which contributes stormwater runoff to and which benefit from the city's stormwater management system a ~~monthly~~ yearly stormwater utility fee non-ad valorem assessment in accordance with the following definitions, methodology and schedule:

~~(1) — Single family property utility fees. Single family residential properties shall be divided into classifications based upon their impervious area, and the rate~~

~~imposed shall be in accordance with the schedule set out in this article. The classifications shall be made utilizing the impervious area data as reflected in the records of the property appraiser for the county, recognizing that such records do not reflect impervious areas for residential driveways, walks and similar improvements.~~

~~(2) — *Multifamily property stormwater utility fees.* Each separate apartment, condominium and duplex dwelling unit shall be considered as a class 2 single-family residential unit and the fee imposed shall be equal to the fee charged for such class 2 single-family residential unit.~~

~~(3) — *Nonresidential/commercial property.* The monthly stormwater utility fee for nonresidential/commercial property shall be charged on the basis of the impervious area on the property in accordance with the following formula:~~

~~Impervious Area (Sq. Ft.) / 2324 Sq. Ft. = Number of ERUs~~

~~Monthly Service Charge = (No. ERUs) × (Rate/ERU)~~

~~A minimum value of 1.0 ERU shall be assigned to each nonresidential/commercial property. The impervious area of each nonresidential/commercial property shall be determined by the director of public works or his designee. The number of ERUs shall be determined and rounded to the nearest one-tenth of an ERU. The value of 2,324 square feet of impervious area per ERU is an average obtained using data for the city.~~

~~(1) *Fee calculation basis.* The yearly stormwater utility fee assessment for all properties will be calculated on the basis of the square footage of impervious area on the property. The square footage of impervious area will be multiplied by the fee set by the fee schedule in section 102-161 to determine the total fee assessed. For condominiums in which units are individually owned but a common area is shared, the fee calculated based on total square footage of impervious area for all units and common areas will be divided by the number of individual units, and each individual unit will be assessed the quotient.~~

~~(4) (2) *Application to all developed properties.* Stormwater utility fees shall apply to all properties within the city, including those properties classified as nonprofit or tax-exempt for ad valorem tax purposes. It shall apply to all governmental property, including properties of the city, such as city-owned buildings, parks and other properties, but shall not include any public right-of-way.~~

~~(5) (3) *Undeveloped property.* Stormwater utility fees shall not be levied against undeveloped property that has not been altered from the natural state as defined~~

under the term "impervious area" under section 102-156. Farmland, gardens and landscaped areas shall also be exempt except for any roads, parking or structures associated therewith.

~~(6)-(4)~~ *Credits.* A feepayer may obtain credit against a portion of the ~~monthly~~ annual stormwater utility fee by the construction and maintenance of onsite stormwater retention facilities serving the property for which credit is sought or for properties demonstrating that they are not significantly contributing runoff to or benefitting from the city's stormwater management system. Credits shall not be allowed for single-family or multifamily properties. Credits for nonresidential/commercial properties shall not be allowed for stormwater retention facilities which retain less than the first one-half inch of runoff from all impervious surfaces. A credit equal to ten percent of the ~~monthly~~ annual stormwater utility fee shall be allowed for onsite stormwater retention facilities retaining the first one-half inch of stormwater runoff from onsite impervious surfaces, and a credit equal to 20 percent of the ~~monthly~~ annual stormwater utility fee shall be allowed for onsite stormwater retention facilities retaining the first one inch or more of stormwater runoff from onsite impervious surfaces. In no event shall the credits allowed under this subsection in the aggregate exceed 50 percent of the ~~monthly~~ annual stormwater utility fee.

(c) *Billing.* The stormwater utility fees imposed by this article ~~shall~~ will be assessed to each property owner by the Florida uniform method of collecting non-ad valorem assessments provided for in section 197.3632, Florida Statutes, as may be amended or transferred. Commencing with the Ad Valorem Tax Bill for tax year 2023, stormwater utility fees will be levied each year thereafter. ~~billed in conjunction with the monthly utility bill issued by the city's utility billing section. Such fees shall be due and payable at the same time and in the same manner and subject to the same penalties as other utility fees. If a property shall not have utility service at the time of the adoption of the ordinance from which this section is derived but is deemed to be contributing runoff to or benefitting from the city's stormwater management system, a new account shall be developed and that property shall be billed separately for the stormwater management charges.~~

Sec. 102-161. Computation of fees.

The amount of the ~~monthly~~ annually assessed stormwater utility fee ~~shall~~ will be determined in accordance with the following fee schedules, ~~with the monthly fee to be charged for each equivalent residential unit (ERU) to be \$3.00;~~ and such fee schedule may be amended from time to time by the city commission:

FEE SCHEDULE

Fee per square foot of impervious surface area: \$0.06

Land Use Type	Fee
Single-family residential property (based upon sq. ft. of impervious area):	
Class 1 (1,099 and smaller)	\$2.00
Class 2 (1,100—1,699)	\$2.50
Class 3 (1,700—2,299)	\$3.00
Class 4 (2,300—2,899)	\$3.50
Class 5 (2,900—3,499)	\$4.00
Class 6 (3,500—4,099)	\$4.50
Class 7 (4,100—4,699)	\$5.00
Class 8 (4,700—5,299)	\$5.50
Class 9 (5,300 and higher)	\$6.00
Multifamily residential property:	
Duplex, per dwelling unit	\$2.50
Condominium unit, per dwelling unit	\$2.50
Apartment unit, per dwelling unit	\$2.50
Nonresidential/commercial property:	
Per ERU	\$3.00

Sec. 102-164. -- Delinquent charges; liens.

~~The city shall have a lien upon the property for which the stormwater utility fee is assessed for any and all delinquent or unpaid stormwater management utility fees. Enforcement and foreclosure of the lien shall be as provided by law. The city shall be entitled to collect reasonable attorneys' fees from any feepayer, customer or property owner for services rendered by the city attorney in the collection of such charges or in the institution and prosecution of any foreclosure proceedings.~~

~~Secs. 102-165—102-175. 102.164—102-175. - Reserved.~~

SECTION III: Inconsistency. If any Ordinances or parts of Ordinances are in conflict herewith, this Ordinance will govern and control to the extent of any such conflict.

SECTION IV: 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 V: Codification. Section II of this Ordinance will be codified and made a part of the City of Winter Park Code of Ordinances; the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; and the word "*Ordinance*" may be changed to "*Section*," "*Article*," "*Division*" or another appropriate word. The City Clerk is given liberal authority to correct scrivener's errors such as incorrect Code cross-references and grammatical, typographical, and similar errors when codifying this Ordinance.

SECTION VI: Effective Date. This Ordinance will become effective immediately following approval by the City Commission at its second reading.

PASSED AND ADOPTED on second reading this ____ day of _____ 2023.

Phillip M. Anderson, Mayor

ATTEST:

Rene Cranis, City Clerk