

- (ii) No further significant involvement of the city staff or city consultants is expected to occur;
- (iii) The city has been paid all of the amounts due under this chapter and the city code; or
- (iv) The expiration of any warranty period associated with the conveyance or dedication of improvements to the city.

Fees, costs and expenses for the city consultant time directly related to the review, processing, inspection or regulation of any application or development pursuant to this chapter, the city code and state statutes and directly related expenses, including, but not limited to, advertising, legal, inspection and engineering costs are to be charged to the project account.
(Ord. No. 02-41, § II, 10-24-02)

Sec. 88-5. City invoices.

(a) *Payment.* The city finance director or his designee may periodically, total the costs, expenses and fees incurred by the city for each application for which a review deposit is required and project and send an invoice to the applicant for payment. The applicant shall have ten days from the date of the invoice to pay to the city the invoiced amount. Thereafter, if payment is not received in the required time, the city finance director or his designee shall apply the review deposit toward payment of the invoiced amounts. If the total costs, expenses and fees incurred by the city for an application for which a review deposit is required and project exceed the review deposit and payment is not received in the required time, the city finance director or his designee shall apply the review deposit to a portion of the invoiced amount and send a notice of non-payment to the applicant and to all city staff and city consultants associated with the applicable application or project informing the applicant, city staff and city consultants to cease all work relating to such unless and until further notified by the city finance director or his designee.

If payment of the balance of the invoice is not received within the required time, then work by the city staff and city consultants shall cease and will not be reactivated on the applicable applica-

tion or project and neither building permits, certificates of completion nor certificates of occupancy will be issued with respect to such or the real property related to such until such time as all outstanding fees, costs and expenses due under this chapter and the city code are paid in full and a new review deposit for said application or project, in an amount determined by the city manager, is paid to the city. Review of any future application or project with respect to the real property for which payment was not made will not be undertaken by the city until such time as all outstanding fees, costs and expenses due under this chapter are paid in full and a new review deposit paid to the city.

(b) *Code enforcement action for past-due invoices.* After project approval, unless otherwise provided for in this chapter, if an applicant receives or is granted approval on an application or project or is issued a building permit, certificate of completion, certificate of occupancy, occupational license or other developmental order by the city and thereafter incurs additional fees, costs and expenses or such other fees, costs and expenses attributable to the application are thereafter posted to the project account for work performed associated with said approval or issuance, the applicant or his successor in interest shall pay said costs, fees and expenses incurred by the city for such application and project within ten days from the date of the invoice. Failure to pay the invoiced amount within the requested time shall constitute a violation of this chapter. If payment is not received in the required time and there is no review deposit which can be applied toward payment of the invoiced amount, the city finance director shall notify the code inspector to initiate code enforcement proceedings pursuant to article II of chapter 2 of the Winter Garden Code of Ordinances.

(c) *Deficiency and liens.* Any deficiency owed to the city whether incurred before or after project approval, shall bear interest from the date of the aforementioned notice of non-payment at the rate of 18 percent simple interest per annum until paid. The amount of any such deficiency owed to the city shall, together with interest and the costs of collection as hereinafter provided, be the personal obligation of the applicant and shall be a

continuing lien on the real property related to the application or project under review. Any subsequent or new owner of the real property related to the application or project shall take title subject to the obligations of the applicant under the terms of this chapter and shall be jointly and severally liable for such obligations. An applicant may not escape liability for the deficiency by abandonment of the application or project, withdrawal of such or sale of the real property with respect to which such has been submitted. If the initial or subsequent invoices are not timely paid and the invoiced amount exceeds the amount of the review deposit, the city may take whatever legal means it deems appropriate to collect the deficiency, including, but not limited to, retaining the services of a collection agency or attorney, initiating legal proceedings for the collection thereof, recording a notice of lien as hereinafter provided, and foreclosing same in the same manner as mortgage liens are foreclosed. To give the public notice of the deficiency, the city may (but shall not be obligated to) record or cause to be recorded a Notice of Lien in the Public Records of Orange County, Florida, stating the description of the real property related to the application or project, the name of the owner of the real property and the amount then due and owing to the city.

(Ord. No. 02-41, § II, 10-24-02)

Sec. 88-6. Required payments.

Payment of costs, expenses and fees incurred by the city under this chapter is a requirement for the city's final approval of the application and project.

(Ord. No. 02-41, § II, 10-24-02)

Sec. 88-7. Assessable costs, expenses, and fees.

All direct costs, expenses and fees incurred by the city relating directly to the review, processing, inspection, or regulation of an application, including but not limited to, the time of city consultants, as well as those relating directly to, advertising, surveying, legal and engineering for an application or project shall be reimbursed to the city by and assessed to the applicant.

- (1) City staff may submit records of their time, fees, costs and expenses expended

on applications or projects to the extent such fees, costs and expenses exceed the applicable flat fee, to the city finance director or his designee for invoicing by the city finance director or his designee. City staff's hourly rates shall be determined by the city manager and shall be invoiced to the applicant at such rate to the extent such fees, costs and expenses exceed the applicable flat fee.

- (2) City consultants shall submit records of their time, fees, costs, and expenses to the city finance director and such fees, costs and expenses shall be invoiced to the applicant on a dollar for dollar basis for services provided to or for the city as a result of an application. All fees, costs, and expenses invoices by city consultants, in addition to the applicable flat fee, are the responsibility of the applicant.

(Ord. No. 02-41, § II, 10-24-02)

Sec. 88-8. Fee collection and schedule.

The platting review fees, zoning plan amendments, other permits associated with development of property fees and advertising costs, respectively located below in subsections (1) through (3), 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 in-

crease the minimum deposit to the minimum extent necessary to cover such reasonably anticipated fees, costs, and expenses. 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) *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 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.

(2) *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.		costs)	250.00
n.	Impact fees: As identified in chapter 42 of this Code.		w. Identification of all non-conforming characteristics letter (existing development)	300.00
o.	Lot clearing not associated with any other development permit:		x. Lot split.	100.00
	Residential (per lot) . . .	25.00	y. Open air vendor permit	250.00
	Nonresidential (per lot)	100.00	z. Zoning verification letter	100.00
			(Plus costs such as copy charges and city staff time.)	
p.	Planned unit development (PUD):		(3) <i>Advertising costs.</i> 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.	
	Rezoning	1,000.00		
	Amendment	750.00		
q.	Rezoning in conjunction with an infill annexation five acres or less . .	No fee	(4) <i>Waiver of flat fees.</i> 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.	
r.	Rezoning not in conjunction with an infill annexation five acres or less	500.00	(Ord. No. 02-41, § II, 10-24-02; Ord. No. 07-22, § II, 7-12-07; Ord. No. 07-39, § 2, 8-9-07; Ord. No. 10-23, § V, 4-8-10)	
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 nonhabitable 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			

Sec. 88-9. Objections/appeal.

Any objection to any invoice or to any matter set forth in this chapter must be set forth in writing, addressed and delivered to the city manager on or before ten days after the date of the relevant invoice. In the event the city manager denies the objection or request, the applicant shall have ten days after the date of the city

manager's written decision to file an appeal of such decision with the city clerk or his/her designee, which appeal shall be heard by the city commission. All objections and appeals shall set forth in detail the reasons and evidence upon which the objection and appeal are based. Failure of the applicant to establish beyond a preponderance of the evidence that an invoice, decision or other matter objected to or appealed is not appropriate and is not based upon competent substantial evidence, shall result in a denial of the objection and appeal.

(Ord. No. 02-41, § II, 10-24-02)

Sec. 88-10. Attorney's fees in the event of failure to pay review costs.

In the event the city is required to enforce this chapter, then the city shall be entitled to recover from the applicant all costs and expenses incurred, including but not limited to its reasonable attorneys' fees, paralegal fees and other costs and expenses, whether incurred prior to, during or subsequent to court proceedings or on appeal.

(Ord. No. 02-41, § II, 10-24-02)

Sec. 88-11. Change of ownership.

An applicant shall provide prompt written notice to the city manager in the event of a change in ownership of all or a portion of a lot, tract, or parcel of real property with respect to which an application, or project is pending before the city. Such notice shall be on a form approved by the city and shall include the name, address and phone number of the new owner and a legal description of the lot, tract or parcel of real property now owned by the new owner. Any such new owner (i) shall not be entitled to utilize or draw upon any review deposit previously paid to the city by the original applicant, (ii) shall be liable to the city for all fees, costs and expenses related to the lot, tract or parcel of real property which arise subsequent to the date the new owner acquires title to such real property, and (iii) may be required by the city to pay a separate review deposit in the same manner as a new application in which case a separate project account will be opened in the name of the new owner or the new owner's authorized agent. If a separate review deposit is required, no work shall be undertaken

by the city with respect to the lot, tract or parcel of real property then owned by the new owner until a separate review deposit is paid to the city. Until such time as the city receives such written notice of a change in ownership, the original applicant shall be jointly and severally liable to the city for all fees, costs and expenses associated with the application or project which may subsequently be incurred by the city in connection with the activities of the new owner; provided, however, that upon receipt by the city of such a notification of change of ownership, the original applicant shall no longer be liable to the city for fees, costs and expenses incurred by the city which arise solely out of the application or project of the new owner and the new owner shall be solely liable to the city for all such fees, costs and expenses associated with the application or project activities of the new owner or the new owner's authorized agent subsequent to the date of receipt by the city of such notification.

(Ord. No. 02-41, § II, 10-24-02)

Sec. 88-12. Agreement to be bound by this chapter.

Execution of an application shall constitute the consent and agreement of the applicant and the owner, if the application is being executed by the owner's authorized agent, to be bound by the provisions of this chapter.

(Ord. No. 02-41, § II, 10-24-02)

Sec. 88-13. Amendments.

This chapter shall periodically be reviewed and may be amended by ordinance, however, fees and fee schedule may be amended by resolution.

(Ord. No. 02-41, § II, 10-24-02; Ord. No. 07-22, § II, 7-12-07)

Sec. 88-14. Additional fees for road, drainage, water, or wastewater facilities.

Except in the event of an emergency, no road, drainage or water or wastewater utility installation shall be performed (1) before sunrise and after sunset, (2) nor between the hours of 5:00 p.m. and 7:00 a.m., (3) nor on Sunday and (4) nor any holiday of the city. "Regular working hours"

shall be between 7:00 a.m. and 5:00 p.m. and shall be established by the city at the preconstruction meeting and shall not exceed eight hours per day and 40 hours per week. If construction or maintenance work for roads, drainage or water and wastewater utilities requires operations during other than regular working hours, the contractor shall obtain written permission of the city at least 48 hours in advance of starting such work, and shall set forth the proposed schedule for overtime to give the city ample time to arrange for their personnel to be at the site of work. The contractor shall be invoiced and pay for all additional charges to the city on account of such overtime at the rates, as established from time to time by the city manager. Work on weekends shall be charged a four-hour minimum. Such additional charges shall be a subsidiary obligation of the contractor and no extra payment shall be made by the city on account of such overtime work.

(Ord. No. 02-41, § II, 10-24-02; Ord. No. 07-39, § 2, 7-12-07)

Chapter 89

RESERVED

