

water utility fees. A rate study shall be conducted periodically to ensure the equity of the service charges.

(Code 1988, § 25-23; Ord. No. 20-46, § 2, 10-22-20)

Sec. 78-204. Fee imposed.

(a) A stormwater management utility fee is imposed upon each lot and parcel within the city for services and facilities provided by the stormwater management utility system. For purposes of imposing the stormwater fee, all lots and parcels within the city are classified as residential or nonresidential.

(b) The city manager shall prepare and maintain a list of residential and nonresidential lots and parcels within the city.

(Code 1988, § 25-24)

Sec. 78-205. Schedule of fees.

The city commission may by resolution modify or amend the uniform schedule of charges and fees as established in this section. The uniform schedule of charges and fees is as follows:

- (1) *Residential.* Each single-family residential unit shall be assessed and billed at a flat fee based upon one equivalent drainage unit (EDU) per dwelling unit. Each mobile home unit shall be assessed and billed at a flat fee based upon 0.89 equivalent drainage unit (EDU) per dwelling unit. Each multifamily residential unit shall be assessed and billed at a flat fee based upon 0.62 EDU per dwelling unit.
- (2) *Nonresidential.* All nonresidential properties shall be assessed and billed based on the total applicable contributing area of the property divided by the equivalent drainage unit factor rounded to the nearest one-tenth of an EDU. This result shall then be multiplied by a mitigation credit factor, which product shall then be multiplied by the rate established for an EDU. Gross area and applicable contributing area may be determined for each parcel using surveys, site plans, tax maps, REDI maps, aerial photos, and any other appropriate readily available informa-

tion. For nonresidential properties, the bill for the stormwater management utility fee shall be sent to the property owner as determined by the city.

(3) *Charge per EDU.*

- a. The charge per EDU will be \$4.13 per month and will consists of a base fee of \$1.16 (\$1.23 on October 1, 2006, \$1.30 on October 1, 2007, \$1.37 on October 1, 2008, and \$1.44 on October 1, 2009) per EDU applicable to all properties, plus a contribution fee of \$ 2.97 (\$3.15 on October 1, 2006, \$3.33 on October 1, 2007, \$3.51 on October 1, 2008, and \$3.69 on October 1, 2009) per EDU, applicable to all properties. The charge per EDU will increase to: \$4.38 on October 1, 2006; \$4.63 on October 1, 2007; \$4.88 on October 1, 2008; and \$5.13 on October 1, 2009.
- b. Beginning on January 1, 2021, the base fee shall increase to \$1.92 and the contribution fee shall increase to \$5.21, for a total EDU of \$7.13. Beginning on October 1, 2021, the base fee shall increase to \$1.98 and the contribution fee shall increase to \$5.40, for a total EDU of \$7.38. Beginning on October 1, 2022, the base fee shall increase to \$2.04 and the contribution fee shall increase to \$5.59, for a total EDU of \$7.63. Beginning on October 1, 2023, the base fee shall increase to \$2.10 and the contribution fee shall increase to \$5.78, for a total EDU of \$7.88. Beginning on October 1, 2024, the base fee shall increase to \$2.16 and the contribution fee shall increase to \$5.97, for a total EDU of \$8.13.
- c. All nonresidential property with site mitigation facilities may be entitled to a reduction in the contribution fee of up to 40 percent of the contribution fee. Additionally, nonresidential property that does not directly or indirectly drain to any city-maintained or city-owned stormwa-

ter management system and that does not have frontage on a city-owned or city-maintained right-of-way, easement, or stormwater management system may be entitled to a reduction in the contribution fee of up to 100 percent of the contribution fee. In no event shall any reduction in the contribution fee exceed a proportionate reduction in stormwater quantity and quality from the lot or parcel at issue.

- (4) *Administrative charge.* The administrative charge for all billable lots and parcels shall be \$0.87 per lot or parcel.
- (5) *Additional charge.* Each lot and parcel of property shall be charged the EDU base rate charge and the administrative charge, regardless of its development character, in addition to any contribution charge which may be rendered. Further, to the extent the city maintains or repairs existing individual stormwater systems for nonpublic, undeveloped or developed property, the actual fees and costs, including but not limited to personnel and administrative costs, may be charged to each lot and parcel of property contributing stormwater to such individual stormwater system. If imposed, such maintenance and repair cost and fee shall be prorated between the contributing lots and parcels based upon the size of the lot or parcel and the estimated contribution to the individual stormwater system.
- (6) *Minimum billing.* If the stormwater fee, less the administration charge, would be \$0.87 or less, no stormwater fee will be assessed.

(Code 1988, § 25-25; Ord. No. 05-10, § 1, 1-13-05; Ord. No. 20-46, § 2, 10-22-20)

Sec. 78-206. Equivalent drainage unit calculation.

Under this article, the equation for calculating the number of equivalent drainage units (EDUs) applicable to any nonresidential property is as follows:

$$AP/EIA = EDUs$$

Where:

- AP = Applicable contributing area of parcel in square feet
 EIA = Effective impervious area of a typical residential unit equal to 4,077 square feet
 EDU = Equivalent drainage unit
 (Code 1988, § 25-26)

Sec. 78-207. Appeals.

Under this article, any person who is assessed any stormwater related fee or charge who disagrees with the calculation of the area or EDUs as determined by the city or any person who believes the fee or charge is excessive or any credit is insufficient may appeal such determination to the city manager. Any appeal must be filed with the city manager in writing on or before 30 days after billing for the stormwater management utility fee has been sent by the city. Any appeal shall include a survey prepared by a registered surveyor showing all pervious and impervious surface areas and all calculations, arguments and other documentation supporting appellant's claim. The city engineering department may submit information to the city manager regarding any appeal within 15 days after the appeal is filed. Based upon the information provided by the city and the appealing party, the city manager shall make a determination regarding the appeal on or before 60 days after the city manager's receipt of the appeal. The city manager shall notify the parties, in writing, of his decision. If still dissatisfied, a party may appeal the city manager's decision to the city commission in the same manner as provided in this section. The decision of the city commission shall be final with any judicial challenge required to be filed on or before 30 days after the date of the city commission's hearing. Any final adjustment to the city's original calculations and determinations shall be retroactive to the commencement of the charges and fees, provided such adjustment was requested within one year from the commencement of the charges and fees; thereafter any adjustments shall apply only from 30 days prior to the date of the request for the adjust-

ment. Any person who appeals any matter or decision under this section and who does not prevail shall pay the prevailing party's reasonable attorneys' fees and costs.

(Code 1988, § 25-27)

fees and charges shall be used solely to pay for the cost of operation, repair, maintenance, improvements,

Sec. 78-208. Stormwater management fund.

(a) All stormwater management utility fees and charges collected by the city pursuant to this article shall be paid into a separate fund which is created which shall be known as the Stormwater Management Utility Operating Fund. Such fund shall be used for the purpose of paying for stormwater management drainage facilities and the cost of operation, administration and maintenance of the stormwater system of the city. To the extent that the stormwater management fees collected are insufficient to construct the needed stormwater system, the cost of the system may be paid from such city fund as may be determined by the city commission, but the city commission may order the reimbursement of such fund if additional stormwater management utility fees are thereafter collected. When the fund has surplus dollars on hand in excess of current needs, the surplus dollars may be invested to return the highest yield consistent with proper safeguards. The revenue derived from the stormwater management utility fees collected by the city may be pledged for the repayment of revenue bonds, which may be issued solely upon the security of stormwater utility revenue or combined with other proprietary revenue of the city.

(b) The fees and charges paid shall not be used for general or other governmental or proprietary purposes of the city, except to pay for the equitable share of the cost of accounting, engineering, management and government thereof related to the stormwater utility and except in combination with other proprietary revenues for purposes of bonding related to the stormwater utility. To the extent that the stormwater fee revenues are combined with other proprietary funds for the purpose of bonding, the percentage bond revenues equating to the percentage of the pledge of stormwater fee revenues shall be used only for the purposes permitted by this article. Other than as described in this subsection, the

renewal, replacement, design, right-of-way acquisition, and construction of public stormwater drainage facilities and costs and fees appurtenant thereto.

(Code 1988, § 25-28)

Sec. 78-209. Collection of fees.

(a) The stormwater management utility fee shall be billed and collected with the monthly utility bill for those lots and parcels of developed property utilizing city utilities and billed and collected separately as stormwater management utility fees for those lots and parcels of property and owners thereof not utilizing other city utilities. All such bills for stormwater management utility fees shall be rendered monthly by the finance department and shall become due and payable in accordance with the rules and regulations of the finance department pertaining to the collection of utility fees. The stormwater management utility fee is part of a consolidated statement for utility customers, which is generally paid by a single payment. If a partial payment is received, the payment shall first be applied to garbage and trash, next applied to stormwater management, next applied to sewer, and finally applied to the water account.

(b) Any charge due under this article which shall not be paid when due shall bear all approved monthly service charges as permitted by law and by city ordinance and may be recovered in an action at law by the city. The delinquent account shall be responsible for all costs of collection, to include reasonable attorneys' fees, whether or not suit is necessary. In addition to any other remedies or penalties against any user of and those who benefit from city utilities within the city, failure of the user or property owner to pay such charges promptly when due shall subject such user and property owner to discontinuance of utility services, and the city manager is empowered and directed to enforce this subsection as to any and all delinquent users. To the extent the utility fee is not timely paid, it shall constitute a lien on all real and personal property owned by the owner, tenant and occupant of the property to the extent such lien is not prohibited by law. The

lien may be foreclosed by the city in order to collect the utility fee and fees and costs associated with the collection thereof.

(c) The utility fee prescribed in this section shall constitute a debt to the city for which the owner, tenant and occupant shall be jointly and severally liable. The records of the city shall be kept open for the inspection by the owner, tenant, and occupant, and it shall be the responsibility of each to ascertain that the prescribed fees are being paid. However, the city shall not be required to look to any person other than the landowner for the payment of stormwater management utility charges and fees.

(Code 1988, § 25-29)

Sec. 78-210. Enforcement.

(a) The city engineer and other duly authorized employees and agents of the city bearing proper credentials and identification shall be permitted to enter all properties tributary to the city's stormwater management system for the purposes of inspections, observations, measurement, and testing in accordance with this article and any rules or regulations adopted pursuant to this article.

(b) Any person violating this section shall become liable to the city for any expense, loss or damage because of such violation, including but not limited to reasonable attorney's fees, whether or not litigation occurs.

(Code 1988, § 25-30)

Secs. 78-211—78-224. Reserved.

ARTICLE VII. RECLAIMED WATER

DIVISION 1. GENERAL PROVISIONS

Sec. 78-225. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Backflow prevention device means either a reduced pressure or a double check valve assembly

that protects the city public potable water supply at the service connection by isolating within the customer's premises actual or potential pollution contamination due to cross-connection.

Billing means the charge made for reclaimed water service. The charge may be made on a separate invoice or may be included on the monthly utility bill.

City means the City of Winter Garden, Florida and its public services department.

City manager means the City Manager of the City of Winter Garden.

Customer means the actual user of the reclaimed water.

Cross-connection means any physical connection or arrangement which would allow the transfer of fluids, including waters, between the city's potable water supply and distribution system, the reclaimed water supply and distribution system or any other nonpotable water source.

Development means any proposed change in land use which alters the demands for water and/or wastewater services.

Director means the Director of Public Utilities of the City of Winter Garden or his/her designee.

Discontinuation of service means cessation of a service by physical separation from the system's service lines to ensure that no service can be received.

Distribution main means a conduit used to supply reclaimed water from transmission mains to service lines.

Effluent means treated wastewater flowing out of any treatment facility.

FDEP means the Florida Department of Environmental Protection, or its successor in function.

Hose bibb means a special connection installed at certain points of delivery of reclaimed water that will enable the customer to attach a hose with a customized adaptor to use reclaimed water for nonpotable purposes.

Meter means a flow measuring device to monitor the total reclaimed water flow to the customer's property.

Point of delivery or service connection means the terminal end of a service line from the public reclaimed water system at the downstream end of the meter set, hose bibb, or other device installed and maintained by the city.

Public eating, drinking, or bathing facility means water fountains, picnic tables, swimming pools, spas, and food service facilities, such as tables and beverage counters, that are open to and provide service for the public.

Reclaimed water means effluent from city-owned and operated wastewater treatment plants, which effluent has been treated to advanced secondary treatment standards in compliance with the requirements of the Florida Department of Environmental Protection. Includes the term "treated effluent". Reclaimed water shall include treated effluent, as provided in this paragraph, from wastewater treatment plants owned by entities with which the city has entered into an agreement for the provision of reclaimed water.

Reclaimed water reuse system means those reclaimed water mains, lines, fittings, valves, and appurtenances installed in public right-of-way or utility easements, which are owned by the city.

Reuse service area (utility service area) means those areas where the installation of reclaimed water systems shall be available as provided in this article and shall be geographically defined as the existing sewer utility service area of the City of Winter Garden, all areas within the city limits of the City of Winter Garden and those areas which the City of Winter Garden may designate by resolution at a later date.

Transmission mains means a conduit that conveys reclaimed water from the treatment plant to a booster pumping station or a trunk main. These mains, together with the storage and pumping facilities, transmit the reclaimed water to the distribution systems and other points of use of the reclaimed water.

(Ord. No. 01-52, § 2, 7-26-01; Ord. No. 11-02, § VI, 1-13-11)

Sec. 78-226. Purpose.

The purpose of this article is to establish a reclaimed water use program. The establishment of a reclaimed water system is a vital ingredient in a program for conserving potable water. As the general welfare, health, safety, and convenience of the Winter Garden community are directly affected by the use of reclaimed water, it is in the interest of the public that the reclaimed water system be designed and developed in accordance with sound rules and proper minimum standards and in a manner which benefits the community. (Ord. No. 01-52, § 2, 7-26-01)

Sec. 78-227. Promulgation and enforcement of procedures and regulations for water reuse service.

(a) This article hereby establishes that the city's existing public services department is expanded to include services and responsibilities for reclaimed water facilities owned and operated by the city.

(b) The city manager, or the city manager's designee, shall have the power to promulgate procedures and regulations with respect to the following matters, which procedures and regulations shall become effective upon a resolution, approving the same being adopted by the city commission:

- (1) Application procedures, forms, and requirements and allowable uses other than irrigation. All uses must be in accordance with applicable FDEP and other applicable regulatory agency rules and regulations.
- (2) Installation requirements, including specification of acceptable materials, devices, and regulations to prevent backflow or cross-connections with other systems.
- (3) Procedures for enforcement of the ordinances and regulations pertaining to reclaimed water, including procedures for inspection of the customer's system.
- (4) Procedures for the orderly expansion of the reclaimed water system.

- (5) Procedures and regulations for the efficient operation of the reclaimed water system.
- (6) Procedures for plugging wells located on the property which will be receiving reclaimed water.
- (7) Procedures for use of hose connections to the reclaimed water system.
- (8) Other matters relating to the construction, operation, and use of the reclaimed water system.
- (9) Discontinuance of service or other sanctions to owners of property not in compliance with this article or the rules, procedures, and regulations for receiving the service.
- (10) The rendering of bills for service and the collection of charges for all services rendered.
- (11) Collection of all fees and charges and recording in the public records any liens agreed to by customers of the system.

(c) Notwithstanding the foregoing, the city manager or the city manager's designee may, when necessary for the efficient operation of the reclaimed water system or for the health or safety of the general public or the customer, establish regulations regarding the following matters, which regulations shall become effective at the time of promulgation without the need for city commission approval:

- (1) The time(s) of day or night and the days of the week which the reclaimed water may be used by customers.
- (2) The maximum rate of use of the reclaimed water.

(d) Any customer whose reclaimed water system is in violation of any city ordinance, regulation, or procedure shall be subject to immediate discontinuance of reclaimed water service. Such discontinuance of service shall not relieve any person of liability for civil actions or for criminal or municipal ordinance violation prosecution. (Ord. No. 01-52, § 2, 7-26-01; Ord. No. 11-02, § VI, 1-13-11)

Sec. 78-228. Areas embraced.

All territory within the City of Winter Garden and reuse service area served by the city reclaimed water system shall be governed by this article.

(Ord. No. 01-52, § 2, 7-26-01)

Sec. 78-229. Public easement requirements.

Reclaimed water service mains and lines shall be provided for properties located within the designated reuse service areas at the same time and by the same person, entity, or agency that is providing new or replacement sewer service lines and mains. Reclaimed water service shall comply with all provisions of such service as set forth in this article.

- (1) No facilities will be installed under the provisions outlined herein and accepted by the city for maintenance unless said facilities are located in dedicated public rights-of-way or dedicated public easements. Any new easement shall be adequately sized as approved by the city to accommodate construction and maintenance of a reclaimed system component. No obstruction of whatever kind shall be planned, built or otherwise created within the limits of the easement or rights-of-way without written permission of the city.
- (2) Reclaimed water system extensions and improvements shall be accepted by the city only upon receipt of the proper dedication documentation and the acceptance of ownership by the director or his/her designee.

(Ord. No. 01-52, § 2, 7-26-01)

Sec. 78-230. Ownership.

All reclaimed water facilities and appurtenances within dedicated public easements, when constructed, installed, and accepted by the city, shall become and remain the property of the city. No person shall, by payment of any charges provided herein or by causing construction or installation of facilities or appurtenances accepted by the city, acquire any interest or right in any of these facilities or any portion thereof other

than the privilege of having their property connected thereto for reclaimed water service in accordance with this article and any amendments thereof.

(Ord. No. 01-52, § 2, 7-26-01)

Sec. 78-231. Adoption of Chapter 62-610, Florida Administrative Code.

The rules and regulations appearing in Chapter 62-610, FAC, as may be amended from time to time, are hereby adopted by reference as though fully set forth within this article and shall apply within the city as an ordinance. In the event of any variation between the provisions of Chapter 62-610, FAC, and the provisions of this article, the more strict provision shall prevail. The violation of a provision of Chapter 62-610, FAC, shall be deemed a violation of this section.

(Ord. No. 01-52, § 2, 7-26-01)

Secs. 78-232—78-240. Reserved.