

3" meter	15.00	\$16,290	\$26,505
4" meter	25.00	\$27,150	\$44,175
6" meter	50.00	\$54,300	\$88,350
8" meter	80.00	\$86,880	\$141,360
10" meter	115.00	\$124,890	\$203,205

- (2) *Irrigation meter.* For potable or reclaimed water meters used for irrigation only, the water impact fee shall be paid for each irrigation meter based on meter size; however, the wastewater impact fee is not charged.
 - (3) *Connection not provided.* In the event that the city provides a connection for only water or wastewater service to a development, only the impact fee applicable to the service provided shall be paid.
- (c) *Payment schedule for impact fees.* The water and wastewater impact fees based on water meter size as described in this section shall be due and payable as follows:

(1) *New residential development.* For proposed residential development, except development described in subsection (c)(2), an amount equal to 50 percent of the water and wastewater impact fees based on all requested water meters for the proposed development shall be due and payable to the city at the time of application for a FDEP permit and prior to issuance of the FDEP permit in order to temporarily reserve water and wastewater capacity for the development. When 50 percent of the water and wastewater impact fees are paid at the time of application for a FDEP permit, the remaining 50 percent of the water and wastewater impact fees shall be paid at the time of application for each building permit requested commencing with the first building permit issued and continuing until 100 percent of the water and wastewater impact fees have been paid for the requested water meters which are reserved. The water and wastewater impact fee payment made at the time of application for each building permit shall equal 100 percent of the impact fees for water meters associated with the building permit

requested, so that the city collects the full amount of water and wastewater impact fees for the development when approximately half of the building permits for the development have been sought. Any sewer and water reserve capacity for and any partial impact fee payment previously made concerning any remaining water meters for the project for which water and wastewater impact fees have not been paid in full shall be forfeited by the applicant unless 100 percent of the entire projects' water and wastewater impact fees have been paid no later than 24 months after the date of issuance of the FDEP permit or 12 months from the date of final plat approval, whichever comes first. The applicant may choose to pre-pay remaining impact fees for the development in order to avoid forfeiture of reserve capacity and partial impact fee payments. In the event additional water meters are requested for the development that were not originally contemplated when applying for the FDEP permit, 100 percent of water and wastewater impact fee associated with such additional water meters shall be paid to the city at the earlier of at the time of application for a building permit associated with water meter requested, and prior to installation of the water meter requested.

- (2) *De minimus new residential development.* For the following residential development, 100 percent of water and wastewater impact fees based on all requested water meters shall be paid at the time application is made to the city for a building permit that requires use of a water meter(s) and prior to issuance of a building permit: (i) a single user individual lot; or (ii) residential development where no FDEP permit for water or wastewater is required.
- (3) *New nonresidential development.* The water and wastewater impact fees for 100 percent of the water meters for a commercial or industrial development are due and payable to the city at the time of

application for a FDEP permit, or, if no such permit is required, at the time application is made to the city for a building permit that requires use of the water meter and prior to the issuance of a building permit.

- (4) *Existing development.* When an existing development increases its water meter size, the development shall pay an additional water and wastewater impact fee as specified in this section at the earlier of (i) the time application is made to the city for a building permit that requires use of the larger water meter and prior to the issuance of such building permit; and (ii) prior to the installation of the water meter. When an existing development that is not currently connected to the city's system desires to connect to the city's water and/or wastewater system, the development shall pay the city the applicable impact fees based on water meter size prior to connection to the city's system.
- (5) *Non-transferable.* Reserved water and wastewater capacity is not transferable to any other property or development. Water and wastewater impact fee payments or credits are not transferable to any other property or development and cannot be applied towards other types of impact fees.
- (6) *Administrative policies.* The city shall have the right to adopt and enforce policies and rules consistent with this section in order to administer the collection of water and wastewater impact fees.

(d) *Disposition of revenues imposed by water impact fee.* All revenues derived from the water impact fees imposed by this section shall be accounted for separately in a capital fund of the public services department enterprise fund. All water impact fee revenues expended from the impact fee capital fund shall be used for the purpose of providing growth necessitated capital improvements and extending, oversizing, or separating existing water system improvements, or constructing new additions to the water plant, distribution or transmission systems or part thereof

as authorized by the city commission, including, but not limited to expenses for: (i) design or construction plan preparation; (ii) permitting and related fees; (iii) land or utility system acquisition, including acquisition or condemnation costs; (iv) construction and design of water systems buildings, facilities, or improvements and additions thereto; (v) design and construction of drainage facilities reasonably required by, or convenient to, the construction of water systems buildings, facilities, or improvements and additions thereto; (vi) relocating utilities required by the construction of water systems buildings, facilities, or improvements and addition thereto; (vii) construction management, inspection, or both; (viii) surveying, soils and material testing, and the evaluation and development of raw water, alternative water, and reuse water resources and supplies; (ix) acquisition of plant or equipment necessary or convenient to expand the water system; and (x) payment of principal and interest, reserves and costs of issuance under any bonds or other indebtedness issued by the city to fund growth impacted improvements, and additions to the water system. No part of such water impact fee revenues shall be budgeted or used for the operating expenses of the water system.

(e) *Disposition of revenues imposed by wastewater impact fee.* All revenues derived from the wastewater impact fees imposed by this section shall be accounted for separately in a capital fund of the public services department enterprise fund. All wastewater impact fee revenues expended from the impact fee capital fund shall be used for the purpose of providing growth necessitated capital improvements and extending, oversizing, or separating existing wastewater system improvements, or constructing new additions to the sewer plant, distribution or transmission systems or part thereof as authorized by the city commission, including, but not limited to expenses for: (i) design or construction plan preparation; (ii) permitting and related fees; (iii) land or utility system acquisition, including acquisition or condemnation costs; (iv) construction and design of wastewater systems buildings, facilities, or improvements and additions thereto; (v) design and construction of drainage facilities reasonably required by, or convenient to, the construction of

wastewater systems buildings, facilities, or improvements and additions thereto; (vi) relocating utilities required by the construction of wastewater systems buildings, facilities, or improvements and addition thereto; (vii) construction management, inspection, or both; (viii) surveying, soils and material testing, and the evaluation and development of reuse water resources and supplies; (ix) acquisition of plant or equipment necessary or convenient to expand the wastewater system; and (x) payment of principal and interest, reserves and costs of issuance under any bonds or other indebtedness issued by the city to fund growth impacted improvements, and additions to the wastewater system. No part of such wastewater impact fee revenues shall be budgeted or used for the operating expenses of the wastewater system.

(f) *Disposition of funds not expended.* If the impact fees have not been expended or encumbered by the end of the calendar quarter immediately following six years from the date the fees were paid, upon application of the fee payer of proof of payment or the development for which the fees were paid was never begun, the fees shall be returned with interest at the rate determined by the city based upon the average interest earning rate incurred by the city in accordance with the following procedure:

- (1) The then present owner must petition the city commissioners for the refund within one year following the end of the calendar quarter immediately following six years from the date on which the fee was received.
- (2) The petition must be submitted to the city manager and must contain:
 - (i) A notarized sworn statement that the petitioner is the current owner of the property;
 - (ii) A copy of the dated receipt issued for payment of the fee;
 - (iii) A certified copy of the latest recorded deed; and
 - (iv) A copy of the most recent ad valorem tax bill.

- (3) If reimbursement is approved, the city shall remit to the present owner of the petition within 60 days of approval.

(g) *Disposition of funds on deposit.* Any funds on deposit in the utilities impact fee fund not immediately necessary for expenditure shall be invested in interest-bearing accounts up to and including interfund loans. Interfund loans shall be made by resolution by the city commission payable in full over time at the prevailing interest rate. Applicants shall not receive a credit for or be entitled to interest from the investment of funds except as provided in subsection (f) above.
(Ord. No. 11-02, § II, 1-13-11)

Editor's note—Ord. No. 11-02, § II, adopted January 13, 2011, amended § 78-59 in its entirety to read as herein set out. Former § 78-59, pertained to collections of fees when building permit is issued by mistake or inadvertence; liens, and derived from Ord. No. 98-88, § 1, 12-10-98.

Sec. 78-60. Collection of past due impact fees.

In the event that the water and/or wastewater impact fee, or any portion thereof, is not paid when due for any reason, including by mistake or inadvertence, the city may proceed to collect the impact fee as follows:

- (1) The city shall serve, by certified mail, return receipt requested, an impact fee statement notice upon the applicant at the address set forth in the application for the building permit, and the owner at the address appearing on the most recent records maintained by the property appraiser of the county. Service of the impact fees statement notice shall be deemed notice of the impact fees due and service shall be deemed effective on the date the return receipt indicates the notice was received by either the applicant or the owner or the date said notice was attached to the building permit, whichever occurs first.
- (2) The impact fee statement notice shall contain a description of the property and shall advise the applicant and the owner as follows:
 - (i) The amount due and the general purpose for which the impact fee was imposed.

- (ii) That a hearing before the city commission to challenge the impact fee assessed may be requested within 30 calendar days from the date of receipt of the impact fee statement notice, by filing a written application to the office of the city manager. The written application shall state with specificity the basis of the challenge.
- (iii) That the impact fee shall be delinquent if not paid and received by the city within 30 calendar days of the date the impact fee statement notice, or if a hearing is not requested pursuant to subsection (2)ii. above and, upon becoming delinquent, shall be subject to the imposition of a delinquent fee and interest on the unpaid amount until paid.
- (iv) That in the event the impact fee becomes delinquent, a lien against the applicable property for which the building permit was secured shall be recorded in the official records book of the county.
- (3) The impact fee shall be delinquent if, within 30 calendar days from the date of the impact fee statement notice, or the date said notice was attached to the building permit, neither the impact fees have been paid and received by the city, nor a hearing requested pursuant to subsection (2)(ii) above. In the event a hearing is requested pursuant to subsection (2)(ii), the impact fees shall become delinquent if not paid within 30 calendar days from the date the city commission determines the amount of impact fees due upon the conclusion of such hearing. Said time periods shall be calculated on a calendar day basis, including Sundays and legal holidays, but excluding the date of said impact fee statement notice or the hearing date of the city commission's decision in the event of an appeal. In the event the last day falls on a Sunday or legal holiday, the last due date prior to becoming delinquent shall be the next business day. Upon becoming delinquent, a delinquency fee equal to ten percent of the total impact fee imposed shall be assessed. Such total impact fee, plus delinquency fee, shall bear interest at the statutory rate for final judgments calculated on a calendar day basis, until paid.
- (4) Should the impact fee become delinquent, the city shall serve, by certified mail, return receipt requested, a "notice of lien" upon the delinquent applicant at the address indicated in the application for the building permit, and upon the delinquent owner at the address appearing on the most recent records maintained by the property appraiser of the county. The notice of lien shall notify the delinquent applicant and owner that due to their failure to pay the impact fee, the city shall record a claim of lien in the official public records of the county.
- (5) Upon mailing of the notice of lien, the city attorney shall cause the recording of a claim of lien in the official public records of the county. The claim of lien shall describe the property, the amount of the delinquent impact fees and the date of their imposition. Once recorded, the claim of lien shall constitute a lien against the property described therein. The city attorney shall proceed expeditiously to collect or otherwise enforce said lien.
- (6) After the expiration of three months from the date of recording of the claim of lien, a suit may be filed to foreclose said lien. Such foreclosure proceedings shall be instituted, conducted and enforced in conformity with the procedures for the foreclosure of municipal special assessment liens, as set forth in F.S. §§ 173.04 through 173.12, inclusive, which provisions are hereby incorporated herein in their entirety to the same extent as if such provisions were set forth herein verbatim.
- (7) The liens for delinquent impact fees imposed hereunder shall remain liens, co-equal with the liens of all state, county, district and municipal taxes, superior in priority to all other recorded liens and

claims whether recorded prior to or after the city's lien, except as otherwise provided by law, until paid as provided herein.

- (8) The applicant and owner shall be responsible for and the city shall be entitled to reimbursement for the payment of all administrative expenses and costs, including attorney's fees and litigation costs and recording and filing fees, incurred by the city in the collection of impact fees, filing of liens and in actions to foreclose such liens or actions for a monetary judgment.
- (9) The applicant and owner shall be jointly and severally liable to the city for unpaid impact fees. The city may take any and all actions at law or in equity to collect unpaid impact fees from the applicant and owner, including but not limited to, the city withholding issuance of subsequent permits sought by applicant and/or owner until the impact fees are paid.
- (10) The collection and enforcement procedures set forth in this section shall be cumulative with, supplemental to and in addition to, any applicable procedures provided in any other ordinance or administrative regulations of the city or any applicable law or administrative regulation of the state. Failure of the city to follow the procedure set forth in this section shall not constitute a waiver of its rights to proceed under any other ordinances or administrative regulations of the city or any applicable law or administrative regulation of the state.

(Ord. No. 11-02, § III, 1-13-11)

Editor's note—Ord. No. 11-02, § III, adopted January 13, 2011, amended § 78-60 in its entirety to read as herein set out. Former § 78-60, pertained to determination of equivalent residential unit factors, and derived from Ord. No. 01-23, § 1, 5-10-01.

Sec. 78-61. Impact fee protest and appeals.

(a) A person may protest or challenge the imposition of or a decision on an impact fee imposed pursuant to this article by filing with the city manager, within 30 days from the occurrence of the decision, event, or imposition of an impact

fee sought to be challenged, a written notice of protest containing the following minimum information:

- (i) The name and address of the person protesting and property owner;
- (ii) The legal description of the property at issue;
- (iii) If issued, the date of the building permit(s) issued for the property at issue; (iv) If paid, the date of and the amount of the impact fee paid; and
- (v) A full statement of the reasons why the person is protesting.

The person who files the protests bears the burden of proof to demonstrate that the fee, decision or matter challenged is improper and/or should be modified.

(b) Upon receipt of such protest, including all the information required pursuant to subsection (a), the city manager or his designee shall review the protest, and within 45 days of the receipt of the complete request, approve or deny the request. If the person making the protest disagrees with the determination of the city manager or his designee, such person may appeal the decision to the city commission, provided a written appeal is filed with the city clerk within ten days from the issuance of the city manager's decision.

(c) Upon receipt of an appeal, a hearing shall be scheduled before the city commission at a regularly scheduled meeting or a special meeting called for the purpose of conducting the hearing and shall provide the person who filed the appeal written notice of the time and place of the hearing. Such hearing shall be held within 60 days of the date the appeal was filed. The determination of the city commission shall be final.

(d) Any judicial action or proceeding to attack, review, set aside or annul the reasonableness, legality, or validity of any impact fee or decision related thereto must be filed within 30 days following the date of the imposition of the impact fee or the final determination of the city commission on an appeal, which occurs later.

(e) Failure to timely file a protest, appeal or judicial action in accordance with these procedures shall constitute a waiver and invalidation of any protest, appeal or challenge to the applicable imposition of an impact fee or decision concerning an impact fee.

(Ord. No. 11-02, § IV, 1-13-11)

Sec. 78-62. Administrative rules and policies.

The city manager is hereby authorized to adopt administrative rules and policies to implement the provisions of this article as the city manager deems necessary and appropriate.

(Ord. No. 11-02, § V, 1-13-11)

ARTICLE III. INDUSTRIAL COST RECOVERY SYSTEM

Sec. 78-86. 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:

BOD (biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter (mg/l) or parts per million (ppm).

EPA means the Environmental Protection Agency.

Industrial user means any nongovernmental user of the city's treatment facility identified in the Standard Industrial Classification (SIC) Manual (Office of Management and Budget, 1972) as amended and supplemented under the following divisions:

- (1) Division A: Agriculture, Forestry and Fishing.
- (2) Division B: Mining.
- (3) Division D: Manufacturing.
- (4) Division E: Transportation, Communications, Electric, Gas and Sanitary Services.
- (5) Division I: Services.

Industrial waste means the liquid waste from industrial manufacturing processes, trades or businesses as distinct from sanitary sewage.

Nonprocessed waste means segregated domestic waste or wastes from sanitary conveniences.

Processed waste means that portion of the total wastewater discharge which remains after deducting nonprocessed, segregated domestic waste or waste from sanitary conveniences.

Sewage (normal) means sewage having the following limiting characteristics:

mg/l

BOD (five-day at 20 degrees Celsius)	204
Suspended solids (total)	200
Nitrogen, as N (total)	30
Phosphorus, as P (total)	10

Suspended solids means solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.

Treatment facility means the city's treatment plan and associated facilities.

(Code 1988, § 22-66)

Cross reference—Definitions generally, § 1-2.

Sec. 78-87. Purpose and intent.

The purpose of this article is to provide for adequate minimum standards for an industrial cost recovery system so that the city will be in compliance with federal regulations.

(Code 1988, § 22-67)

Sec. 78-88. Application of article.

All industries which are served by the city's treatment facility and defined as industrial users shall be subject to industrial cost recovery (ICR) charges in addition to a monthly sewer charge and other provisions of the industrial cost recovery system outlined in this article, unless specifically excluded.

(Code 1988, § 22-68)

Sec. 78-89. Exemptions.

An industrial user is excluded from the industrial cost recovery charges and other provisions of the industrial cost recovery system outlined in this article if it meets any one of the following conditions:

- (1) The industrial user discharges only nonprocessed segregated domestic waste or waste from sanitary conveniences and contributes less than ten percent of the design flow or the design pollutant load of the treatment facility.
- (2) The industrial user discharges a processed waste or combined process-sanitary waste at a flow rate less than 25,000 gallons per day (gpd) and the discharge waste does not contain pollutants which interfere or are incompatible with or contaminate or reduce the utility of treatment process.

(Code 1988, § 22-69)

Sec. 78-90. Calculation of charges.

(a) Industrial users subject to industrial cost recovery charges must pay a charge to the city which is the user's share of the federal funds received under U.S. EPA PL-92-500. Industrial cost recovery charges shall be based on the characteristics of the processed waste which the user discharges to the city's treatment works, and the processed waste characteristics which shall be used to determine a user's share are flow and normal sewage as defined in section 78-86.

(b) The industrial cost recovery charges shall recover all federal funds received under U.S. EPA PL-92-500. The annual cost recovery charge shall be calculated as follows:

- (1) *Flow.* Gallons per day (gpd) minus nonprocessed waste multiplied by \$1.32.
- (2) *BOD (biochemical oxygen demand).* Pounds per day (ppd) minus nonprocessed waste multiplied by \$55.43.
- (3) *Total suspended solids.* Pounds per day (ppd) minus nonprocessed waste multiplied by \$65.49.

- (4) *Total nitrogen as N.* Pounds per day (ppd) minus nonprocessed waste multiplied by \$383.71.
- (5) *Total phosphorus as P.* Pounds per day (ppd) minus nonprocessed waste multiplied by \$496.06.
- (6) *Total charge.* The total of subsections (b)(1) through (b)(5) of this section equals the total industrial cost recovery charge. This figure shall be divided by 30 years to determine the annual industrial cost recovery charge.

(Code 1988, § 22-70)

Sec. 78-91. Payment.

(a) Each industrial user subject to industrial cost recovery shall pay the industrial cost recovery charge, as calculated in section 78-90, annually, on or before the end of the city's fiscal year (September 30).

(b) If an industrial user subject to industrial cost recovery is not connected to the treatment works for a full year, the annual industrial cost recovery charges shall be prorated to that portion of the year during which the industrial user was connected to the treatment works.

(c) The time of connection shall commence on the date the sewer service contract is dated and shall end on the date that the contract is terminated or at the end of the industrial cost recovery period, which is 30 years from substantial completion.

(Code 1988, § 22-71)

Sec. 78-92. Measurement of processed waste characteristics.

Processed waste characteristics used to calculate industrial cost recovery charges shall be measured or estimated by the city periodically. Each industrial user subject to industrial cost recovery charges shall provide and maintain a monitoring manhole at each location where the industrial user connects with the treatment works, which manhole is located and constructed in a manner acceptable to the city.

(Code 1988, § 22-72)

Sec. 78-93. Adjustments to charges.

(a) If periodic measurements or estimates by the city indicate that the processed waste characteristics used to calculate the industrial cost recovery charge for the industrial user have substantially changed, the industrial cost recovery charge shall be adjusted accordingly. The adjusted charge shall become effective at the next regular annual billing.

(b) If state and federal regulations place additional restrictions on the city's effluent, the city may adjust the basis for the industrial cost recovery charges.

(Code 1988, § 22-73)

shall keep records of its examination and other official actions, all of which shall be immediately filed in the minutes of the city commission.

(f) The city commission shall conduct a hearing upon any appeal taken from the setting of the rates. The city commission may modify the industrial cost recovery charge provided that the appealing party meets his burden of proof. The city commission shall render its decision on the appeal within 21 days after the conclusion of the public hearing. For good cause the commission may extend the time for holding the hearing and rendering its decision to a certain time after notice to all parties to whom notice of such hearing is required.

(Code 1988, § 22-74)

Sec. 78-94. Appeal.

(a) Industrial users subject to industrial cost recovery may appeal to the city commission regarding the reasonableness of the industrial cost recovery charge.

(b) A person appealing shall file with the city in writing at the office of the city commission a notice of appeal, setting forth therein specifically the areas where a difference of opinion exists. The appealing party must set forth a specific proposal for change and present evidence to document and support this specific proposal.

(c) Upon the filing of the notice of appeal, the city manager shall promptly mail a copy of the notice of hearing before the city commission by United States mail, postage prepaid, to the original applicant, to each attorney at law appearing for any person at the hearing before the city commission and to the city attorney.

(d) The burden of proof that a change in the industrial cost recovery charge is warranted shall rest with the appealing party.

(e) The mayor/commissioner of the city commission or in his absence the mayor pro tempore may administer oaths and compel the attendance of witnesses. All meetings of the city commission will be open to the public. The city commission shall keep minutes of its meetings, showing the vote of each member on each hearing or, if absent or failing to vote, shall indicate such fact and

Sec. 78-95. Use of funds.

(a) *Discretionary funds.* Ten percent of the funds collected pursuant to this article will be used by the city as it sees fit, subject to the following exceptions:

- (1) None of the funds received pursuant to this subsection will be used for industrial pretreatment.
- (2) None of the funds received pursuant to this subsection will be used as rebates for industrial users.

(b) *Nondiscretionary funds.* Ninety percent of the funds collected pursuant to this article will be invested according to investment guidelines promulgated by the Federal Environmental Protection Agency as amended or supplemented:

- (1) *Returned funds.* Five-ninths (55.55 percent) of the nondiscretionary funds will be returned by the city to EPA according to return payment guidelines as amended or supplemented.
- (2) *Retained funds.* Four-ninths (44.45 percent) of the nondiscretionary funds will be retained by the city according to EPA retained funds guidelines as amended or supplemented.

(Code 1988, § 22-75)

Secs. 78-96—78-125. Reserved.