

ORDINANCE O- 10-14

AN ORDINANCE AMENDING CHAPTER 19, ARTICLE I, SECTION 19-8 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER HAVEN, FLORIDA, RELATING TO WATER, SEWER, AND REFUSE DEPOSITS TO SECURE PAYMENT FOR MUNICIPAL SERVICES; PROVIDING METHODOLOGY FOR CALCULATING SECURITY DEPOSITS; PROVIDING FOR REFUND OF SECURITY DEPOSITS; AUTHORIZING INCREASED SECURITY DEPOSITS; PROVIDING FOR INTEREST ON CASH SECURITY DEPOSITS; SHARING FINDINGS; PROVIDING FOR REPEAL OF ALL CONFLICTING ORDINANCES, SEVERABILITY, CODIFICATION, AND FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Winter Haven, Florida, has enacted various ordinances relating to utility security deposits required of its residential, commercial, or industrial customers to secure the payment of municipal services provided by the City; and

WHEREAS, those various utility security deposit related ordinances have been amended from time to time to meet the changing business environment; and

WHEREAS, the current economic conditions dictate the need for a change in the utility security deposit requirements to meet the present day business of the City and its utility customers; and

WHEREAS, it is advisable for the City to have current deposits of record on all active utility accounts; and

WHEREAS, it is expected that the following changes will have a positive impact on reducing the annual utility bad debt write-off amount; and

WHEREAS, the notice provisions in §180.136 of the Florida Statutes, if applicable, have been met prior to the adoption of this Ordinance; and

NOW, THEREFORE BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER HAVEN, FLORIDA:

SECTION 1. The foregoing findings are incorporated herein by reference and made a part hereof. This Ordinance establishes the Utility Account Security Deposit Policy of the City of Winter Haven, Florida, with the intent of providing financial security for the payment of municipal services provided by the City to its residential, commercial, and industrial customers. For the purposes of this Ordinance municipal services shall include, without limitation: water, wastewater/sewer, irrigation, reuse, solid waste/refuse, recycling, stormwater quality, stormwater maintenance, and any taxes, service charges, fees, expenses, penalties or assessments related thereto).

SECTION 2. Chapter 19, Article I, Section 19-8, of the Code of Ordinances of the City of Winter Haven, Florida, shall be amended as set forth below, deleted words/sentences are ~~lined through~~ and suggested additions are underlined.

Sec. 19-8. Water, sewer, and refuse and other municipal services deposit.

With any application for residential, commercial, industrial or any other request for water, sewer, ~~and refuse service~~, and stormwater and other municipal services, the city shall require a deposit, in the form of cash or surety bond acceptable to the City, to be paid prior to receiving water and/or sewer and/or refuse service and/or any other municipal services. The deposit shall be made to secure payment of municipal service charges as referenced herein. ~~for water, sewer and refuse services~~. The city will pay interest on cash deposits at the ~~passbook~~ savings account rate in effect, on December 31st of the year immediately preceding said payment, at the bank performing the city's primary banking functions. Said interest shall be paid, once per calendar year, by way of a credit to a billing for services. The city will refund the deposit to the customer upon termination of services, and payment of all charges ~~to~~ at locations under his the account holder's control, ~~and presentation of the properly signed original~~

~~deposit receipt or other acceptable proof of payment. Deposit receipts shall not be transferable. If the customer does not claim the deposit within twelve (12) months after termination of such service, such unclaimed deposit shall be forfeited to the city. Single family residential customers shall be refunded their deposit after a period of two (2) years during which the customer has maintained a good and sufficient payment record at that location and no additional deposit shall be required. The city manager shall determine, in his discretion, the definition of a good and sufficient payment record, subject to review by the city commission.~~

- (1) *Single-family residential:* The deposit required for single-family residential units served by one (1) meter per unit is on file in the city clerk's office. Customer deposits made prior to the effective date of any commission approved increase in deposits shall not be subject to adjustment as to form or initial amount pursuant to this paragraph. Notwithstanding the above, in instances where a customer has had service disconnected for non-payment or returned payment two (2) or more times subsequent to any commission approved increase in deposits, then, customer shall be required to pay a deposit in accordance with the current schedule on file at the city clerk's office.
- (2) *Other than single-family residential:* The deposit required for all customers, other than single-family residential, as set forth in (1) above shall consist of an initial deposit, in the form of cash or surety bond acceptable to the City, shall be equal to the estimate billing for ~~two (2)~~ two and one-half (2½) months' service. The amount of this initial deposit shall be calculated ~~by the public works department~~ from comparative usage and historical data. The initial deposit shall be adjusted after twelve (12) months of actual service. The required adjustment shall be equal to ~~two (2)~~ two and one-half (2½) times the average of two (2) highest monthly billings for the twelve-month

period. However, in no event shall any required deposit be less than the minimum required deposit on file in the city clerk's office. Commercial/industrial customer deposits may be audited annually and adjusted in accordance with criteria established by city ordinance. ~~Customer deposits made prior to the effective date of any commission approved increase in deposits shall not be subject to adjustment as to form or initial amount pursuant to this paragraph.~~ Notwithstanding the above, in instances where a customer has had service disconnected for non-payment or returned payment two (2) or more times, subsequent to any commission approved increase in deposits, then, customer shall be required to pay a deposit in accordance with the current schedule on file at the city clerk's office.

- (3) *Blanket Deposit for Developers or Builders:* The deposit requirement for developers or builders with more than one and up to ten locations with active utility service may provide a surety bond acceptable to the City or cash deposit in accordance with the current schedule on file at the city clerk's office. The deposit amount for a single location will be charged in accordance with the current schedule on file at the city clerk's office.
- (4) *Waiver of utility deposit:* The deposit required by this section may be waived by the city in the following circumstances:
 - a. For a customer who is the United States Government, state government or any agency or political subdivision of state or federal government, ~~who provides an alternative form of security in the nature of a written letter of assurance, properly authorized, which guarantees that such customer will pay the charges for water, sewer, and refuse and other municipal services.~~

~~b. For nongovernmental customers, if the applicant produces a letter from their previous utility company, verifying that the applicant has maintained a good and sufficient payment record for at least two (2) years, or the application is a former customer of the city utility department with at least two (2) years of good credit history.~~

~~c.~~

b. For landlord or real estate agent / property management company applicants desiring to activate service in single family dwelling units under their control if the applicant has an active commercial city utility account, with deposit, and a good payment history of two (2) years. Real estate agent / property management company applicants must identify current, secured commercial utility account number(s) in their name(s) so that any unpaid utility account balances may be transferred to said account(s).

- (5) Refund of Deposit upon Termination of Service: Upon request by a customer to terminate municipal utility services, or upon the termination of service due to non-payment, utility deposits shall be applied against the customer's final bill. A deposit established for any one service may be applied against any other service if necessary. If the deposit amount exceeds the amount of the final bill, the city will send a refund check for the difference made payable to the customer of record at the time the account is terminated or apply the credit balance to another utility account in the name of the customer. In the event any deposit is returned as unclaimed, such unclaimed deposits are subject to transfer to the State of Florida as unclaimed property in accordance with applicable law. Should a balance remain after the application of the deposit, customer shall pay the remaining amount due within fifteen (15) days of the date of

the final bill or be assessed late penalties and possible collection charges.

SECTION 3. All other provisions of Chapter 19, Article I, Section 19-8 remain unchanged except as specifically amended herein.

SECTION 4. Attached as Exhibit 'A' is a Utility Security Deposit Schedule that outlines the phased increase of the residential deposit amounts, as well as amounts/calculation methods for commercial, industrial, builder, developer, and temporary service customers.

SECTION 5. It is the intention of the City Commission that the provisions of this ordinance shall become and be made part of the Code of Ordinances of the City; and that sections of this ordinance may be re-numbered or re-lettered 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 re-numbered or re-lettered and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the City Manager or designee, without need of public hearing, by filing a corrected or re-codified copy of same with the City Clerk.

SECTION 6. If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.

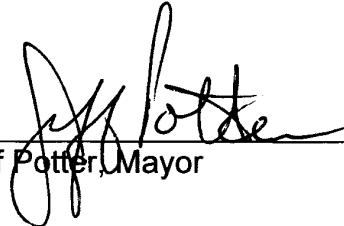
SECTION 7. All Ordinances in conflict herewith are repealed to the extent necessary to give this Ordinance full force and effect.

SECTION 8. This Ordinance shall take effect immediately after its passage at second reading.

INTRODUCED AND PASSED at first reading on this 23rd day of August, 2010.

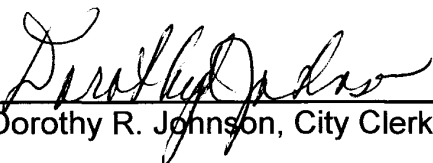
PASSED on second reading on this 27th day of September, 2010.

CITY OF WINTER HAVEN



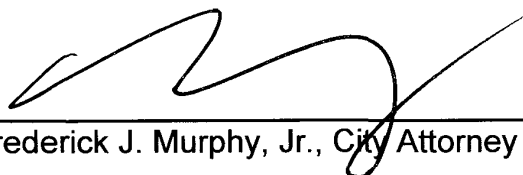
Jeff Potter, Mayor

ATTEST:



Dorothy R. Johnson, City Clerk

APPROVED AS TO FORM:



Frederick J. Murphy, Jr., City Attorney

EXHIBIT 'A'

City of Winter Haven Municipal Service Security Deposit Schedule

Residential – Inside/Outside

Deposit Amount Phasing	<u>FY10*</u>	<u>FY11**</u>	<u>FY12**</u>	<u>FY13 and Thereafter</u>
Water Only	\$60	\$70	\$80	Deposit rates will be adjusted annually by the same percentage utility rates are adjusted for that year.
Water & Other Municipal Services	\$120	\$140	\$160	

* Effective Immediately Upon Approval of Ordinance O-10-14

** Annual Increases Take Effect on October 1 of Each Fiscal Year

Commercial/Industrial – Inside

Deposit equal to 'Inside City' estimate billing for 2½ Months of service related charges for same/similar size facility and/or type of business

Commercial/Industrial – Outside

Deposit equal to 'Outside City' estimate billing for 2½ Months of service related charges for same/similar size facility and/or type of business

Blanket Deposit for Developers/Builders – Inside or Outside

For Up to Ten (10) Active Utility Service Locations (Surety Bond or Cash Deposit)	\$3,000.00
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Individual Location	\$300.00
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15-Day Temporary Water Service – Inside or Outside

Residential/Commercial/Industrial Service	\$125.00
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