

ORDINANCE NO. 19-02

AN ORDINANCE OF THE CITY OF FORT MEADE, FLORIDA; AMENDING SECTIONS 24-6 AND 24-17 OF THE CODE OF ORDINANCES OF THE CITY OF FORT MEADE RELATED TO WATER & WASTEWATER IMPACT FEES; AMENDING SECTION 26-132 OF THE CODE; PROVIDING FOR LIBERAL CONSTRUCTION; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS OF PAST RESOLUTIONS AND ORDINANCES; PROVIDING FOR INCLUSION IN THE CITY OF FORT MEADE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF FORT MEADE, FLORIDA, AS FOLLOWS:

SECTION 1. MODIFICATION OF SECTION 24-6, THE CODE OF ORDINANCES, CITY OF FORT MEADE, FLORIDA. Chapter 24 entitled "Utilities", Article I entitled "In General", of the Code of Ordinances of the City of Fort Meade, Florida is hereby amended by modifying existing section § 24-6 entitled "City Commission Findings", to read as follows:

"Sec. 24-6. - City commission findings.

In adopting this section and the rates, fees, and charges incorporated herein, the City Commission of the City of Fort Meade, Florida ("city") hereby makes and expresses the following findings, purposes and intent:

- (1) The city created an exclusive service area pursuant to F.S. chapter 180, by Ordinance No. 2000-26.
- (2) The city adopted Ordinance No. 06-12 pursuant to its Charter, F.S. chapter 166, and F.S. § 180.04, to authorize construction of certain water plant improvements and to authorize the borrowing of funds therefore from the United States Department of Agriculture.
- (3) The city has also filed validation proceedings before the Tenth Judicial Circuit Court to validate the debt to be incurred from the United States Department of Agriculture.
- (4) The city has previously adopted water and wastewater rates by Resolution R-06-11.
- (5) The city is authorized by its Charter, F.S. § 166.201, and F.S. §§ 180.13 and 180.191, to establish and fix rates, fees, and charges for customers within and without the boundaries of the city.
- (6) The Florida Rural Water Association prepared a 2006 Water Rate Study for the city.
- (7) The 2006 Water Rate Study is incorporated in this section by reference as if set out in its entirety.
- (8) The 2006 Water Rate Study recommends the adoption of an inverted block rate, as well as modest water rate increases.

- (9) Since that time, the city adopted Ordinance Numbers 07-06, 08-19, and 09-12 to implement its water and wastewater rates.
- (10) To insure that the city continues to comply with its lender obligations, collects revenues sufficient to prudently operate its water and wastewater system (hereafter "system"), and fairly and evenly distributes and allocates the costs incurred in managing, operating, expanding, and maintaining the city's water and wastewater system, the city commissioned the preparation of a Comprehensive Water, Wastewater, and Miscellaneous Charge Rate Study by GAI Consultants dated March 2013 (hereafter "City 2013 Rate Study").
- (11) The City 2013 Rate Study determined that the existing rates must be modified to ensure that the city can reach its goals of collecting sufficient revenue to prudently operate its system and more fairly allocate and distribute the costs of the system amongst all customers and classes of customers.
- (12) The rates, fees, and charges modified and established herein provide funding for water and wastewater utility services which promote the health, safety, and general welfare of the city's customers as therefore beneficial to the rate payers of the city's system.
- (13) The city adopted by reference the City 2013 Rate Study as competent and substantial evidence, and hereby adopts by reference the findings and conclusions contained in the City 2013 Rate Study as findings of fact upon which the city intends to rely in its decision of whether or not to adopt modified rates.
- (14) The city retained Hartman Consultants, LLC ("HC") to prepare a wastewater rate study (the "2015 Rate Study") to adjust wastewater rates based upon input from city staff and consultants to better achieve equitable and revenue sufficient rates.
- (15) The city adopted by reference the 2015 Rate Study as competent, substantial evidence, and hereby adopts by reference the findings and conclusions contained in the 2015 Rate Study as findings of fact upon which the city intends to rely in its decision of whether or not to adopt modified rates.
- (16) The city commission has provided the necessary notice and has held the requisite public hearings to consider adoption of the modified rates as set forth therein.
- (17) Beginning in 2014, the city began to experience excessive loadings of biochemical oxygen demand and total suspended solids from the wastewater flows of a single industrial customer, biosolids.
- (18) Effective June 25, 2015, the city, biosolids, and the landlord of the property where biosolids operates entered into a stipulated settlement agreement and limited release that permits biosolids to operate for a limited time.
- (19) The stipulated settlement agreement enabled the city to continue its monitoring of the excessive loadings of biochemical oxygen demand and total suspended solids.
- (20) Through recent analysis, the city has determined that biosolids discharged an average of 1,938.16 mg/l of total suspended solids over a period from August 2015 through January 2016.
- (21) By virtue of these grossly excessive loadings of total suspended solids, the city has had to incur significant additional operation and maintenance costs in its wastewater system, including additional labor and sludge hauling costs.

(22) By virtue of these grossly excessive loadings of total suspended solids, the city is exceeding its plant loading capacity for total suspended solids, which could result in an administrative order to expand the plant as part of the new permit.

(23) If the city does not adjust its industrial rates and rate structure, the city's costs and expenses will continue to exceed budget estimates and the city will experience financial loss to its wastewater utility.

(24) To better achieve equitable and revenue sufficient rates, the city staff and its wastewater consultants completed a study entitled "City of Fort Meade Corrective Industrial Wastewater Rate Study for Grossly Excessive TSS Loadings, February 2016, hereafter "2016 Industrial Rate Study")."

(25) The city adopted by reference the 2016 Industrial Rate Study as competent, substantial evidence, and hereby adopts by reference the findings and conclusions contained in the 2016 Industrial Rate Study as findings of fact upon which the city intends to rely in its decision of whether or not to adopt modified rates.

(26) The city commission has provided the necessary notice and has held the requisite public hearings to consider adoption of the modified industrial rates as set forth therein.

(27) The City is authorized, pursuant to general and special law and its home rule powers contained in statutes and the Florida Constitution, to own, operate, provide and extend central water, wastewater, and reclaimed water services both within and without the City of Fort Meade, Florida.

(28) The City operates, controls, and manages an exclusive water, wastewater, and reclaimed water service area both within and without the City limits.

(29) The City has determined that development at urban level densities should be served by a central potable water supply and central wastewater service.

(30) The City has also incurred bonded indebtedness to expand and maintain its central water system and central wastewater system.

(31) Demands for potable water and wastewater capacity led to the construction of new expanded central utilities plant and facilities and extensions of the City's utility system to areas where new customers may connect.

(32) Stringent state and federal water and wastewater treatment and operation standards have been promulgated, and with these increasing costs of constructing central water and wastewater facilities, the City's ability to provide central water and wastewater service within the City may be limited.

(33) The financing of central water and wastewater facilities is complex, requires extensive planning and engineering, and calls for advanced participation by the development community so that adequate public facilities can be provided to meet the impacts of that development.

(34) Impact fees became widespread in Florida during the 1980's when Florida was experiencing rapid growth. The cost of providing the facilities to serve the influx of new residents resulted in a dramatic increase in taxes and utility rates. Additionally, during this time, more stringent environmental regulations were also driving utility rates higher. Municipalities and other governmental entities imposed impact fees to recover the cost of the new facilities required to serve Florida's rapid growth.

(35) The Florida Supreme Court and the Florida Legislature have mandated that, to be valid, impact fees must meet the dual rational nexus test.

(36) In 1999, the City adopted its first set of water and sewer impact fees, providing that the rate of impact fees would be set by resolution.

(37) These impact fees were adopted prior to the national economic recession which began in 2008 and which has significantly slowed the growth of the City's utility system.

(38) These fees were also adopted prior to the implementation of section 163. 31801, Fla. Stat., which has codified the requirements for establishing a valid impact fee in Florida.

(39) The city retained Hartman Consultants, LLC ("HC") to prepare a Water and Wastewater System Impact Fee Study dated January 10, 2019 (the "2019 Impact Fee Study") to adjust water and wastewater impact fees based upon input from city staff and consultants to update the current capacity charges (impact fees) for water and wastewater facilities in accordance with applicable state law.

(40) The city commission has provided the necessary notice and has held the requisite public hearings to consider adoption of the modified impact fees as set forth in the 2019 Impact Fee Study and reflected in this Ordinance."

SECTION 2. MODIFICATION OF SECTION 24-17, THE CODE OF ORDINANCES, CITY OF FORT MEADE, FLORIDA. Chapter 24 entitled "Utilities", Article I entitled "In General", of the Code of Ordinances of the City of Fort Meade, Florida is hereby amended by modifying existing section § 24-17 entitled "Impact Fee", to read as follows:

Sec. 24-17. - Impact fees.

There shall be paid by all users connecting into the city water and sewer systems at the time application is made for every type of building permit or mobile home setup permit, water and sewer impact fees according to the schedule set forth below:

- (1) ~~*Basis for determination.* All water and sewer impact fees, as set forth in Attachment 1, titled, "Residential Water and Sewer Usage, ERC Values, and Impact Fees," of the ordinance from which this section was derived, and Attachment 2, titled "Non-Residential Usage and ERC Values," which are hereby incorporated by reference, Each new shall be paid by the user shall pay a one-time water impact fee and a one-time sewer impact fee on the basis of the number of equivalent residential connections (ERCs) proposed to be connected to the water and sewer systems. An ERC equates all classes of utility users to a common denominator. All other types and classes of water and sewer users shall be equated to this value as listed in the above attachments; provided, however, that notwithstanding anything to the contrary contained in Ordinance No. 99-12 or its attachments, The ERC value of water service capacity shall be three hundred fifty forty (350340) gallons per day, average annual daily flow, and the ERC value of sewer service capacity shall be two hundred fifty (250270) gallons per day, average annual daily flow.~~
- (2) ~~*Exceptions .* Where an establishment proposed for connection into the city water and sewer system will not create the impacts projected for the City's water and/or sewer system does not conform to any of the user classes defined in Attachment 1, Table B, the applicant may submit detailed water consumption~~

records or other credible, relevant records for similar establishments. These records may be used at the sole discretion of the city, to determine the number of equivalent residential connections upon which the impact fee will be based.

- (3) *Minimum charge.* Each commercial use, unit, or establishment shall have a minimum value of 1.0 ERC, or 1.0 ERC per water meter, whichever is the greater.
- (4) *Changes in use.* Where a commercial use changes so as to increase the amount of water demand and/or sewage flow, the additional sewage flow and corresponding ERC values and water and sewer impact fees shall be computed by the city and paid by the user prior to the issuance of a building permit. The additional water and sewage flows shall be determined by calculating the total water demand for the new establishment and calculating the new total water and sewer ERCs. The number of ERCs paid for by the original establishment is then subtracted from the new total and the balance is used to calculate the impact fees due.
- (5) *Impact fees.* The following water and sewer impact fee schedule is hereby established:
 - a. For all customers within the city limits:

Water impact fee shall be ~~five~~ nine hundred fifty dollars (~~\$500~~950.00) per equivalent residential connection.

Sewer impact fee shall be one thousand, nine hundred thirty dollars (~~\$1,000~~1,930.00) per equivalent residential connection.
 - b. For all customers outside the city limits water and sewer impact fees shall be the same as in-city customers.

~~Water impact fee shall be six hundred twenty-five dollars (\$625.00) per equivalent residential connection.~~

~~Sewer impact fee shall be one thousand two hundred fifty (\$1,250.00) per equivalent residential connection.~~
- (6) *Earmarked Account.* The impact fees provided for herein shall be set aside and used solely for the construction of ~~master~~ water and sewer facilities in the City of Fort Meade and shall be placed in an account separate from user charge revenues.
- (7) *Interpretation.* Matters of interpretation and definition shall rest with the city.
- (8) *Status of Fees.* The impact fees described in this section shall be collected in addition to other fees now or hereafter charged by the City of Fort Meade for water and sewer services."

SECTION 3. MODIFICATION TO SECTION 26-132, THE CODE OF ORDINANCES, CITY OF FORT MEADE, FLORIDA. Subsection (b) of Section 26-132

of the Code of Ordinances of the City of Fort Meade, Florida is hereby amended to read as follows:

"Sec. 26-132. - Adopted levels of service.

- (b) *Wastewater.* Development activities shall not be approved unless there is sufficient available capacity to sustain the following levels of service for wastewater treatment as established in the Sanitary Sewer Sub-element of the City of Fort Meade Comprehensive Plan:

Sanitary sewer facilities—Average sewer demand Two Hundred-Fifty Seventy (250270) gallons per day, annual average daily flow."

SECTION 4. ENFORCEMENT; VIOLATIONS; PENALTIES. Violations of the provisions of this ordinance or failure to comply with any of the requirements set forth herein shall be prosecuted as provided by law. Each day such violation continues shall be considered as a separate event. Nothing herein contained shall prevent the city from making such other lawful actions as is necessary to prevent or remedy any violations, including seeking injunctive relief in a court of competent jurisdiction, or terminating service as provided by law.

SECTION 5. LIBERAL CONSTRUCTION. In the interpretation and application of this Ordinance, all provisions shall be considered as a minimum requirement, liberally construed in favor of the City, and deemed neither to limit nor repeal any other powers granted under state law. This Ordinance is cumulative and supplemental to existing City laws, ordinances, rules and regulations. Where this Ordinance and the provisions contained herein conflict or overlap with any other City law, ordinance, rule or regulation, whichever imposes the more stringent restriction shall prevail.

SECTION 6. REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS. Any conflicting provisions in past ordinances and resolutions are also hereby repealed. The provisions of this Ordinance shall be codified in Chapter 24 of the Code of Ordinances of the City of Fort Meade, Florida.

SECTION 7. SEVERABILITY. It is hereby declared to be the intent of the City Commission that if any section, subsection, clause, phrase or provision of this Ordinance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not be construed to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 8. EFFECTIVE DATE. This Ordinance shall take effect and the rates set forth shall be charged to all customers on and after June 1, 2019.

PASSED on first reading by the City Commission of the City of Fort Meade, Florida, at regular session this 12th day of February, 2019.

PASSED on second and final reading by the City Commission of the City of Fort Meade, Florida, at regular session this 26th day of March, 2019.

APPROVED:



Danielle Judd, City Manager

CITY OF FORT MEADE, FLORIDA



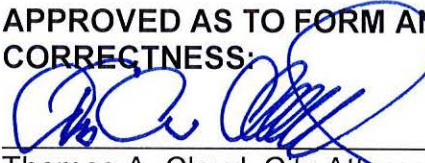
Robert Elliott, Mayor

ATTEST:



Melissa Cannon, Deputy City Clerk

**APPROVED AS TO FORM AND
CORRECTNESS:**



Thomas A. Cloud, City Attorney

