

**CITY OF MARCO ISLAND
ORDINANCE 2006 - 16**

AN ORDINANCE TO AMEND CHAPTER 52, DIVISION 2, (IMPACT FEES) OF THE CITY OF MARCO ISLAND CODE OF ORDINANCES BY ADOPTING REVISED WATER AND WASTEWATER CAPITAL FACILITIES FEES, A REVISED “ESTIMATED ERC FACTORS FOR NON-RESIDENTIAL AND MASTER-METERED MULTIPLE-FAMILY RESIDENTIAL SERVICE”; REVISING GENERAL DEFINITIONS, CLARIFYING SECTIONS 52-57 AND 52-59 SO THAT DEVELOPMENT MEANS “COMMERCIAL” DEVELOPMENT; PROVIDING FOR INCORPORATION, CONFLICT, AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VIII of the State Constitution and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Chapter 180, Florida Statutes, empowers municipalities with certain powers and authority to control and regulate municipal public works; and

WHEREAS, Section 180.02, Florida Statutes, allows a municipality to execute all powers granted under Chapter 180, Florida Statutes within its corporate limits; and

WHEREAS, Chapter 180, Florida Statutes, also permits a municipality to execute all of its corporate powers for the accomplishment of said Chapter outside of its corporate limits, as provided in said Chapter, and as may be desirable or necessary for the promotion of the public health, safety, and welfare or for the accomplishment of the purposes of said Chapter; and

WHEREAS Chapter 163.31801, Florida Statutes, recognizes that impact fees are an important source of revenue for a local government to use in funding the infrastructure necessitated by new growth; and

WHEREAS, Section 52-64 of the Code of Ordinances requires that Chapter 52, Division 2 of the Code of Ordinances, the capital element of the Comprehensive Plan, and impact fee studies should be reviewed at least every five years; and

WHEREAS, Public Resources Management Group has provided a water and wastewater impact fee analysis entitled, “Water and Wastewater Capital Facilities Fees” dated September 28, 2006 and such analysis recommends an increase in the water and wastewater Capital Facilities Fee.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Marco Island, Florida:

Section I. That Chapter 52, Division 2 of the Marco Island Code of Ordinances shall be amended as follows:

Section 52-55 Adoption of Impact Fee Studies.

A. "City of Marco Island Comprehensive Plan," as amended; "Water and Wastewater Capital Facilities Fees Study" prepared by Public Resources Management Group (September 28, 2006).

Section 52-56 General Definitions.

"Commercial Development" shall mean a development where commercial activity occurs. A Commercial Development may include one or more "Building"(s) and may or may not include any "Residential" units.

"Equivalent Residential Connection" or "ERC" generally represents the equivalent usage requirements of a single-family residential customer. The term "Equivalent Residential Unit or "ERU", often used instead of ERC, and has the same definition as an ERC. One (1) ERC is deemed to be equal to a flow of four hundred forty (440) gallons per day (GPD) for water; and One (1) ERC is deemed to be equal to a flow of two hundred twenty (220) gallons per day (GPD) for wastewater. The assumed ERC gallonage has been based on statistical data establishing an average residential use, and it is recognized that the uses for some types of residential units may be greater or smaller than the average assumed for this calculation.

Section 52-57 Imposition of Impact Fees.

C. Change of Size or Use. Impact Fees shall be imposed and calculated for net increase, alteration, expansion, or replacement of a use or a Commercial Development, or a Building, or part of a Building (including Dwelling Unit), and each accessory or non-accessory Building, provided such net increase, alteration, expansion, or replacement of the use, Building, or part thereof or therein, by applying this Chapter results in: (1) a net increase in the number of Dwelling Units; (2) a net increase in the size or square footage of a Commercial Development or Building; (3) a net increase in the size of the use; or (4) intensification of the use so as to constitute an expansion of the same use category or result in a change to a higher Impact Fee land use category; or (5) otherwise create additional demand or additional impacts on the water and wastewater facilities. The Impact Fee imposed under the applicable Impact Fee Rate shall be calculated as follows:

1. In the event only the square footage of a use or Building is increased, the Impact Fee shall be calculated only for the net increased square footage.

2. The Impact Fee imposed for any Accessory Buildings shall be that applicable under the Impact Fee Rate for the land use for the primary Building unless the Accessory Building has its own Impact Fee Rate.

3. In the event that a change in use creates additional demand or impacts on the water and wastewater facilities, the Impact Fee imposed shall be the Impact Fee due for the new use minus the Impact Fee that would be paid at the current impact fee rate for the most recent lawful use that exists or existed on the Commercial Development unless previously unused credits can be documented and used. The Commercial Development may consist of a single parcel or adjacent parcels with one or more buildings. It is the responsibility of the current owner of the Commercial Development to provide the documentation that impact fees were paid for the number of ERCs for the facility before the change in use. If no documentation is provided to the City for previous ERCs then no credit will be given for those ERCs. There shall be no adjustment, off-set or credit for subsequent change of Building or use that result in lower net impacts upon the water and wastewater facilities.

4. A Building that has been condemned, demolished, deemed unsafe, or abandoned more than two (2) years before the date that the respective Building Permit application is first submitted to the City for approval shall not be entitled to any Impact Fee credit for any Impact Fee previously paid to the City.

Section 52-59 Installment Payments.

D. In the event the City issues separate Building Permits for a Commercial Development or Building or part of a Building within a Development which by design contemplates phased (delayed) occupancy, the City and the Applicant may enter into an agreement for the phased (installment) payment of the Impact Fee applicable to that portion of the Development represented by such unoccupied units or space; provided, however, that all Impact Fees due shall be paid in full prior to issuance of a certificate of occupancy for occupancy of any delayed occupancy portion of the Building.

Section 52-62 Developer Contribution Credit.

F. Impact Fee credits shall not be assigned or otherwise transferred from one Commercial Development to another Commercial Development except by written agreement executed by the City, and then, shall only be transferable from one Commercial Development to another Commercial Development owned by the same Developer. No such assignment or transfer of Impact Fee credits shall be allowed until the original Commercial Development has been completed. Impact Fee credits will be accomplished only through the operation of a credit agreement. Should an assignment of credit be approved by the City through execution of such an agreement, the assignee shall take the agreement as is and shall be bound by all of the terms and conditions of the

agreement as originally executed by the assignor and other parties. No assignee (or transferee) of any such Agreement shall have the right to any review procedure under this Chapter except to the extent expressly granted in the agreement. The provisions of this paragraph shall apply to subsequent purchasers or successors in title to the owner.

Section II. Revised Capital Facilities Fees and ERC Factors.

The revised Water and Wastewater Capital Facilities Fees, provided in Exhibit "A," attached herein, and the revised "Estimated ERC Factors for Non-Residential and Master Metered Multiple-Family Residential Service, attached hereto as "Table I," are incorporated herein.

Section III. Conflict And Severability.

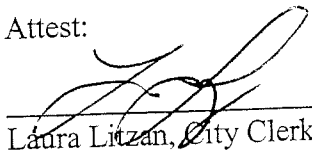
If any clause, section, or provision of this Ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said Ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein. In the event it is held or construed by any court of competent jurisdiction that the City does not possess the power or authority to impose the Impact Fee within municipal areas or the Urban Service Area, or that the imposition of the Impact Fees within these areas is declared invalid or unconstitutional for any purpose, such declaration of unconstitutionality of the imposition of the Impact Fee, it is the intent of the City that in such event, such imposition of Impact Fees remain valid and in force.

Section IV. Effective Date.

This Ordinance shall take effect immediately upon approval by the Marco Island City Council on second reading and public hearing. The capital facilities fees, as provided in Exhibit "A" (2) shall be effective beginning February 12, 2007.

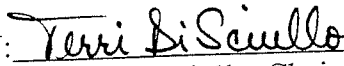
Passed in open and regular session through roll call vote of the City Council of the City of Marco Island, Florida, this 6th day of November 2006.

Attest:



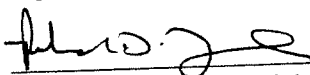
Laura Litzan, City Clerk

CITY OF MARCO ISLAND, FLORIDA

BY: 

Terri DiSciullo, Chairwoman

Approved as to form and
legal sufficiency:



Richard D. Yovanovich, Esquire
City Attorney

EXHIBIT "A"

1. Levels of service for the purposes of the establishment of rates and charges as provided herein this chapter, the following level of service expressed on an average dependable daily capacity flow (.ADF), gallons per day (GPD) basis for a single ERC shall be as follows:

- i. Water = 440 GPD
- ii. Wastewater = 220 GPD

2. Capital facilities fees are as follows per ERC:

- i. Potable Water capital facilities fee \$3,740 per ERC
- ii. Wastewater capital facilities fee \$4,610 per ERC

3. The capital facilities fee schedule for each service class is as follows:

a) Single-Family Residential Service Class: The fees shall be applied to each Single-Family dwelling unit based on the following schedule:

- i. 1,500 sq. ft. or less with 2 bedrooms or less 0.67 ERC
- ii. 1,500 to 2,500 sq. ft. with 4 bedrooms or less 1.00 ERC
- iii. Each additional bedroom or 750 sq. ft. or fraction + 0.33 ERC

b) Condominium and Multi-family Service Class: The fees shall be applied to each dwelling unit based on the following schedule:

- i. 1,500 sq. ft. or less with 2 bedrooms or less 0.67 ERC
- ii. 1,500 to 2,500 sq. ft. with 4 bedrooms or less 1.00 ERC
- iii. Each additional bedroom or 750 sq. ft. or fraction + 0.33 ERC

c) Commercial Developments: - The rate of the capital facilities fee charged for all other customers not classified as a single-family dwelling residential service shall be calculated based on the average necessary level of service capacity calculated on an estimated average daily flow basis figured in terms of gallons per day by and through the use of Equivalent Residential Connections as according to the formula below:

Water Rate = \$3,740 per ERC

Wastewater Rate = \$4,610 per ERC

$$\text{Water Fee} = \frac{\text{Average Dependable Daily Capacity}}{\text{Expressed on a GPD Basis}} \times \text{Water Rate as \$ per ERC}$$

440 GPD

$$\text{Wastewater Fee} = \frac{\text{Average Dependable Daily Capacity}}{\text{Expressed on a GPD Basis}} \times \text{Wastewater Rate as \$ per ERC}$$

220 GPD

The Average Dependable Daily Capacity expressed as GPD shall be the average daily capacity for the calendar month with the greatest usage for water consumption and wastewater generation.

ERC values shall be calculated to the nearest tenth (0.1 ERC) for fee application purposes, but in no event shall a capital facility fee for water and/or wastewater service be less than one (1) ERC for a new connection. When structural changes, additions or changes in permitted use shall result in an additional impact to the City’s water and wastewater system above the amount of capacity allocated to such property (based on the payment of the capital facility fee), the additional ERC value shall be calculated to the nearest tenth (0.1 ERC) for application purposes and such capacity will be added to the previous capacity paid by the Applicant to determine the total ERCs allowable to the property.

With respect to the determination of the water and wastewater capital facilities fee for the commercial and master-metered multiple-family service class, if no water and wastewater capacity estimates are provided, the city reserves the right to estimate the average dependable daily capacity as referenced in this section and determine the appropriate capital facilities fee to be charged to such owner or applicant in accordance with the requirements and guidelines contained at Table 1 in this section. Two examples of such a calculation on an ERC basis follow:

Example #1: Assume a hospital with 105 beds

ERC per hospital bed = 0.455 see Table 1
 ERC per meal served = 0.011 see Table 1

105 beds x 0.455 ERC per bed	=	47.78 ERCs
3 meals/day/bed x 105 beds x 0.011 ERCs meal	=	<u>03.47</u> ERCs
Total ERCs Calculated	=	51.25 .ERCs
Total ERCs Fee Determination	=	51.3 .ERCs

Water capital facilities fee:	51.3 ERCs x \$3,740/ERC =	\$191,862
Wastewater capital facilities fee:	51.3 ERCs x \$4,610/ERC =	<u>\$236,493</u>
Total calculated capital facilities fee:	=	\$428,355

Example #2: Assume a restaurant, open for business less than 16 hours, with 90 seats for dining and 10 seats at a bar only for serving drinks (no meals)

ERC per seat for dining = 0.091 see Table 1

ERC per seat at the bar = 0.045 see Table 1

90 dining seats x 0.091 ERC per seat = 8.19 ERCs

10 bar seats x 0.045 = 0.45 ERCs

Total ERCs Calculated = 8.64 .ERCs

Total ERCs Fee Determination = 8.6 .ERCs

Water capital facilities fee: 8.6 ERCs x \$3,740/ERC = \$32,164

Wastewater capital facilities fee: 8.6 ERCs x \$4,610/ERC = \$39,646

Total calculated capital facilities fee: = \$71,810

For multiple-family or commercial facilities the number of ERCs for water and wastewater are equal unless the equations in paragraph 3b in Exhibit A are used to determine the water and wastewater capital facility fees. For example if a facility has a maximum monthly average use of potable water of 2000 GPD of which 1100 GPD is used for irrigation (and/or other purposes that do not produce wastewater) then the Average Dependable Daily Capacity used in the equation in paragraph 3b for computing the Water Fee is 2000 GPD but for the equation to compute the Wastewater Fee the Average Dependable Daily Capacity is 900 GPD.

TABLE 1

City of Marco Island, Florida

**ESTIMATED ERC FACTORS FOR NON-RESIDENTIAL AND MASTER METERED
MULTIPLE-FAMILY RESIDENTIAL SERVICE**

COMMERCIAL	ERCs
1. Airports, bus terminals, train stations, port & dock facilities, bathroom waste only	
a. Per passenger-----	0.009
b. Add per employee per 8 hour shift-----	0.034
2. Barber & beauty shops per service chair-----	0.170
3. Bowling alley bathroom waste only per lane-----	0.114
4. Country Club	
a. Per resident-----	0.227
b. Add per member or patron-----	0.057
c. Add per employee per 8-hour shift-----	0.034
5. Doctor and Dentist offices	
a. Per practitioner-----	0.568
b. Add per employee per 8-hour shift-----	0.034
6. Factories, exclusive of industrial wastes, gallons per employee per 8 hour shift	
a. No showers provided-----	0.034
b. Showers provided-----	0.057
7. Flea Market open 3 or less days per week	
a. Per non-food service vendor space-----	0.034
b. Add per food service establishment using single service articles only per 100 square feet of floor space-----	0.114
c. Per limited food service establishment-----	0.057
d. For flea markets open more than 3 days per week, estimated flows shall be doubled	

TYPES OF ESTABLISHMENTS

ERCs

8.	Food Operations	
a.	Restaurant operating 16 hours or less per day per seat-----	0.091
b.	Restaurant operating more than 16 hours per day per seat-----	0.136
c.	Restaurant using single service articles only and operating 16 hours or less per day per seat-----	0.045
d.	Restaurant using single service articles only and operating more than 16 hours per day per seat-----	0.080
e.	Bar and cocktail lounge per seat-----	0.045
	add per pool table or video game-----	0.034
f.	Drive-in restaurant per car space-----	0.114
g.	Carry out only, including caterers	
	1. Per 100 square feet of floor space-----	0.114
	2. Add per employee per 8-hour shift-----	0.034
h.	Institutions per meal-----	0.011
i.	Food Outlets excluding delis, bakery, or meat department per 100 square feet of floor space	0.023
	1. Add for deli per 100 square feet of deli floor space-----	0.091
	2. Add for bakery per 100 square feet of bakery floor space-----	0.091
	3. Add for meat department per 100 square feet of meat department floor space-----	0.170
	4. Add per water closet-----	0.455
9.	Hotels & motels	
a.	Regular per room-----	0.227
b.	Resort hotels, camps, cottages per room-----	0.455
c.	Add for establishments with self-service laundry facilities per machine-----	1.705
10.	Mobile Home Park	
a.	Per single wide mobile home space, less than 4 single wide spaces connected to a shared onsite system-----	0.568
b.	Per single wide mobile home space, 4 or more single wide spaces are connected to a shared onsite system-----	0.511
c.	Per double wide mobile home space, less than 4 double wide mobile home spaces connected to a, shared onsite system-----	0.682
e.	Per double wide mobile home space, 4 or more double wide mobile home spaces connected to a shared onsite system-----	0.625

TYPES OF ESTABLISHMENTS**ERCs**

11.	Office Building, per employee per 8-hour shift or per 100 square feet of floor space, whichever is greater-----	0.034
12.	Transient Recreational Vehicle Park	
a.	Recreational vehicle space for overnight stay, without water and sewer hookup per vehicle space-----	0.114
b.	Recreational vehicle space for overnight stay, with water and sewer hookup per vehicle space-----	0.170
13.	Service Stations per water closet	
a.	Open 16 hours per day or less-----	0.568
b.	Open more than 16 hours per day-----	0.739
14.	Shopping Centers without food or laundry per 1000 square foot of floor space-----	0.227
15.	Stadiums, race tracks, ball parks per seat-----	0.009
16.	Stores, per bathroom-----	0.455
17.	Swimming and bathing facilities, public per person-----	0.023
18.	Theatres and Auditoriums, per seat-----	0.009
19.	Veterinary Clinic	
a.	Per practitioner-----	0.568
b.	Add per employee per 8 hour shift-----	0.034
c.	Add per kennel, stall or cage-----	0.045
20.	Warehouse	
a.	Add per employee per 8-hour shift-----	0.034
b.	Add per loading bay-----	0.227
c.	Self-storage, per unit (up to 200)-----	0.002

TYPES OF ESTABLISHMENTS

ERCs

INSTITUTIONAL:

21.	Churches per seat which includes kitchen wastewater flows unless meals prepared on a routine basis-----	0.007
a.	If meals served on a regular basis, add per meal prepared-----	0.011
22.	Hospitals per bed which does not include kitchen wastewater flows-----	0.455
a.	Add per meal prepared-----	0.011
23.	Nursing, rest homes, adult congregate living facilities per bed which not include kitchen wastewater flows-----	0.227
a.	Add per meal prepared-----	0.011
24.	Parks, public picnic	
a.	With toilets only per person-----	0.009
b.	With bathhouse, showers & toilet per person-----	0.023
25.	Public institutions other than schools and hospitals per person which does not include kitchen wastewater flows-----	0.227
a.	Add per meal prepared-----	0.011
26.	Schools per student	
a.	Day-type-----	0.023
b.	Add for showers-----	0.009
c.	Add for cafeteria-----	0.009
d.	Add for day school workers-----	0.034
e.	Boarding-type-----	0.170
27.	Work/construction camps, semi-permanent per worker-----	0.114

MASTER-METERED RESIDENTIAL SERVICE:

28.	Multiple-Family, per dwelling unit	
a.	1,500 sq. ft. or less with 2 bedrooms or less-----	0.670
b.	1,500 to 2,500 sq. ft. with 4 bedrooms or less-----	1.000
c.	Each additional bedroom or 750 sq. ft. or fraction-----	0.333