~~(f) Reclaimed water rate structure. The rates for use of the city's reclaimed water system shall be based on a charge per 1,000 gallons as provided in the utility rate ordinance.~~

~~(g) Bulk or wholesale water, wastewater, or reclaimed water agreements and rate structure. Agreements and/or rate structures may provide for the provision or receipt of bulk or wholesale water, wastewater, or reclaimed water services to or from private utilities, governments, or private entities.~~

~~(Ord. No. 03-20, § 36, 1-5-2004; Ord. No. 06-09, § 4, 8-7-2006)~~

~~Sec. 18-97. - Billing for water, wastewater, and reclaimed water service.~~ [Moved to General instead of Reclaimed Water]

~~(a) Billing shall begin upon installation of the water meter, reclaimed water meter, connection to the wastewater system, or 90 days following notification of the availability of wastewater or reclaimed water service, whichever occurs first.~~

~~(b) All accounts shall be billed on a monthly basis. Bills are due when rendered and delinquent 21 days thereafter. Bills unpaid after 30 days of being rendered shall be assessed a delinquent fee equal to five percent of the unpaid balance. Service may be discontinued when delinquent for nonpayment of bills. The city reserves the right to place liens on property due to nonpayment of bills.~~

~~(c) Errors in billing or meter reading should be reported promptly to the customer service office, so as to facilitate the immediate correction of such bill.~~

~~(d) When water, wastewater, and/or reclaimed water services are provided or made available, payment of the services shall be made concurrently. In the event partial payment is received, such partial payment shall be applied first to the wastewater component of the total amount due, next to the reclaimed water component (if any), and lastly to the water component. The city may discontinue service for nonpayment of any portion of the service bill.~~

~~(e) Whether occupied or unoccupied, all existing structures, at the earlier of connection to the city's water, wastewater, and/or reclaimed water system or 90 days following notification of the availability of wastewater service, shall incur a monthly base charge unless such building is destroyed, condemned, or demolished.~~

~~(f) Whenever a customer discontinues service or vacates a dwelling or structure, the account will automatically revert to property owner of record and billing will resume.~~

~~(Ord. No. 03-20, § 37, 1-5-2004; Ord. No. 07-05, § 4, 6-18-2007)~~

~~Sec. 18-98. - Reinstatement following discontinued service.~~ [Moved to General instead of Reclaimed Water]

~~(a) When service has been discontinued for nonpayment of bills, service will be restored upon payment of unpaid bills, plus a service fee as set forth in the rate ordinance. Said service fees shall also be payable in the event the city attempts to restore service but is unable to do so due to meter obstruction.~~

~~(b) The service line gate valve or curb stop valve may be locked in the off position or the meter removed from the premises. The monthly base facility charges shall continue. Should an applicant at a later time request renewal of service to said premises, service will be restored upon full payment of all bills due for service to the premises at the time of discontinuance and a reinstatement charge.~~

~~(c) Where service has been disconnected for a violation of an ordinance or regulation, such service shall not be reconnected until the city manager, or his designee, receives adequate assurances and guarantees that such a violation will not recur.~~

~~(Ord. No. 03-20, § 38, 1-5-2004)~~

Secs. 52-111—52-121. - Reserved.

DIVISION 5. - GREASE DAMAGE PREVENTION REGULATIONS

Sec. ~~18-99~~ 52-122. - Grease traps, interceptors or separators.

Grease traps, interceptors, or separators shall be required in accordance with the applicable plumbing provisions of the Florida Building Code, its implementing administrative rules and as required herein for all commercial or institutional establishments that use grease or oil in the preparation of food, to prevent damage from grease as defined herein to the public wastewater system. These regulations are intended to be supplemental to the provisions of the Florida Building Code, its implementation administrative rules and the utilities department manual of standards and specifications. Any conflict between these regulations and the Florida Building Code, its implementing administrative rules and the utilities department manual of standards and specifications shall be resolved in favor of the Florida Building Code or its implementing administrative rules. For purposes of this section, "institutional establishments" shall include any governmental or non-profit entity including, but not limited to, churches (or other houses of worship), associations and clubs, which establishment serves meals produced on site for 20 persons or more at any one meal.

(1) The maximum volume of a combined or an individual single grease or oil trap, interceptor or separator chamber shall be 1,250 gallons. When the required effective capacity of the single or combined grease or oil trap, interceptor, or separator is greater than 1,250 gallons, as required by the plumbing provisions in the Florida Building Code, plumbing for a multi-chambered grease or oil trap, interceptor or separator or a series of grease or oil traps, interceptors and separators shall be installed and required.

(2) Grease traps, interceptors and separators shall be in a location that is readily and easily accessible for cleaning and inspection. No under cabinet grease trap, interceptor or separator will be permitted. The size, type and location of each grease trap(s), interceptor(s) or separator(s) shall be approved by the City of Marco Island Building Official.

(3) Cooking oil shall not be disposed of through the trap, interceptor, or separator.

(4) An annual grease trap, interceptor or separator permit shall be obtained from the building ~~inspections~~ services division of the community ~~development~~ affairs department. The permit holder shall provide city staff with access to the grease trap, interceptor or separator for inspection purposes as provided in section 18-85. Permits shall be secured between August 1 and November 1 each year. The annual inspection, as described in subparagraph (6), may be made on any preceding date in the same calendar year. Fees, if any, for the annual grease trap permit may be established by resolution.

(5) Grease traps, interceptors, and separators shall be pumped out and cleaned as often as

necessary to maintain their containment capacity, but not less than once per year.

(6) Annual cleaning, pump-out, inspection and maintenance of grease traps, interceptors and separators shall be performed by a licensed septic tank service company. Records shall be maintained by the property owner and posted in the kitchen or discharge area showing the date and company's name that performed the cleaning, pump-out, inspection and maintenance. A copy of the record shall be provided annually to the building services division.

(7) The property owner shall be responsible for the proper removal and disposal by appropriate means of the captured material in accordance with any applicable federal, state or local laws or regulations, chapter 18 of this Code and the utilities department manual of standards and specifications. The use of biological degreasers to prevent build up in a property owner's waste water system inside a building is prohibited.

(8) A property owner whose grease trap, interceptor, or separator is found not in compliance with chapter 18 or the utilities department manual of standards and specifications or is otherwise not functioning, is clogged, improperly maintained, or has blocked the city's wastewater collection lines, manholes or stations, located immediately downstream of the property owner's service connection for whatever period of time shall be a violation of this Article and subject to the provisions of and penalties contained in section 18-88, including but not limited to recovery of the cost to repair any and all damage to the city's system.

(Ord. No. 08-12, § 4, 10-6-2008; Ord. No. 11-04, § 2, 5-2-2011)

Secs. 52-123—52-132. - Reserved.

DIVISION ~~2~~ 6. - IMPACT FEES

Sec. 52-~~53~~ 133. - Findings.

It is hereby ascertained, determined and declared:

(a) The Florida Legislature has adopted growth management legislation which requires local governments to plan for and provide for capital infrastructure facilities and services.

(b) Development necessitates additional water and wastewater facilities and such development must contribute its fair share toward the costs of funding improvements and additions to such facilities.

(c) Implementation of an impact fee to require future development to contribute its fair share of the cost of improvements and additions to the water and wastewater facilities is an integral and vital element of the regulatory plan of growth management by the city.

(d) The level of service standards for the water and wastewater facilities as adopted in the City of Marco Island Comprehensive Plan and Utility Master Plans, as may hereafter be adopted and amended from time to time, are controlling upon this division and are incorporated throughout this division.

(e) Capital planning is an evolving process and the level of service standards for the water and wastewater facilities constitutes a projection of anticipated need for water and wastewater facilities, based upon present knowledge and judgment. Therefore, in recognition of changing growth patterns

and the dynamic nature of population growth, it is the intent of the city that the level of service standards, system capacity, and required capacity expansions for the water and wastewater facilities and the impact fee imposed should be reviewed and adjusted periodically to try to ensure that the impact fees are imposed equitably and lawfully and are based upon actual and anticipated growth at the time of their imposition.

(f) The imposition of the impact fee is to provide a source of revenue to fund the construction or improvement of the water and wastewater facilities necessitated by growth.

(g) The city council finds that water and wastewater facilities benefit all residents of the urban service area and, therefore, the impact fee shall be imposed in all areas of the urban service area.

(h) This division is not intended to, and shall not be construed to, permit the collection of impact fees from development in excess of the amount reasonably anticipated to offset the reasonably allocated demand on each of the water and wastewater facilities generated by the respective development.

(i) The revenue derived from the impact fee shall be utilized only for capital improvements and additions to the water and wastewater facilities which are reasonably determined to be caused by the impacts of new development.

(Ord. No. 04-06, § 1, 5-3-2004)

Sec. 52-~~54~~ 134. - Purpose.

It is the purpose of this division to:

(1) Plan for the necessary capacity expansion of the water and wastewater facilities;

(2) Provide for the health, safety, welfare and economic well-being of the residents and visitors of the city;

(3) Implement and be consistent with the City of Marco Island Comprehensive Plan and the Florida Local Government Comprehensive Planning and Land Development Regulation Act, F.S. § 163.3161, et seq.;

(4) Require all development that places additional demand on the water and wastewater facilities to contribute its proportionate share of the funds, land or water and wastewater facilities to accommodate any impacts having a rational nexus to the proposed development and for which the need is reasonably attributable to the proposed development; and

(5) Ensure that no funds, land or water and wastewater facilities are collected from new development in excess of the actual amount reasonably determined necessary to offset the demand on the water and wastewater facilities generated by new development.

This division is intended to be consistent with the principles applied to allocate a fair share of the cost of new water and wastewater facilities to new users and new development as established in Florida Statutes or applicable judicial decisions, or both.

(Ord. No. 04-06, § 2, 5-3-2004)

Sec. 52-~~55~~ 135. - Adoption of impact fee studies.

The city council hereby adopts and incorporates by reference the following studies with regard to the respective water and wastewater facilities:

(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).

(b) The foregoing studies are hereby adopted in their entirety, as well as any updates or supplements thereto, including the assumptions, conclusions, and findings in such studies and their amendments.

(Ord. No. 04-06, § 3, 5-3-2005; Ord. No. 2006-16, § 1, 11-6-2006)

Sec. 52-~~56~~ 136. - General definitions.

When used in this division, the following terms shall have the following meanings, unless the context clearly indicates otherwise. Terms contained in the rate schedules supercede these general definitions to the extent of any conflict(s).

Accessory building or *structure* shall mean a detached, subordinate structure, the use of which is clearly indicated and related to the use of the principal building or use of the land and which is located on the same lot as the principal building. Plumbing in the accessory building or structure may render same to be subject to water and wastewater impact fees.

Alteration shall mean any change in size, shape, occupancy, character, or use of a building or structure.

Alternative impact fee shall mean any modification in impact fee approved by the city council pursuant to section 52-~~61~~ 141.

Applicant shall mean the person who applies for a building permit, development order, development permit, or other approval, permission or authorization for development.

Appraisal shall mean a real estate appraisal prepared in accordance with the "Uniform Standards of Professional Appraisal Practice" (published by the Appraisal Standards Board of The Appraisal Foundation) by an MAI-certified appraiser authorized to practice in the State of Florida.

Bedroom shall mean any room in a single-family residence, which is other than a kitchen, bathroom, living room, or great room (Florida room) which may be used for sleeping quarters.

Building shall mean any tangible thing, with or without walls, constructed on the site, installed on the site, or placed on the site, to support, shelter or enclose persons and/or support, shelter or enclose tangible property, and the use of the "building" is deemed to create demand upon, or increase demand upon, one or more of the water and wastewater facilities. "Building" includes parking lots and other foundations, permanent and semipermanent tents, sheds, trailers, mobile homes, and vehicles that shall in any way function as a building. "Building" includes additions to a building, such as adding a new room, or enlargement of a then existing room. "Building" excludes tents erected for less than approximately 60 days for the temporary selling of seasonal items.

Building permit shall mean an official document issued by the city or county which authorizes placing a building on the site, including, but not limited to, by construction or installation occurring on the site and

including, but not limited to, an item that is complete or substantially complete prior to its being placed on the site, such as a manufactured home or a communications tower that was substantially constructed elsewhere. For purposes of this division, "building permit" shall include tie-down permits for buildings, such as for a mobile home, or other approvals that do not require any other type of permit before the respective item may lawfully be occupied, used, or operated. "Building permit" when used in the context of the use of land (or water) and in situations where a typical, conventional permit is not issued by the city or county for the respective improvement or use means whatever is the last written approval or permission issued by the city or county to authorize the respective improvement.

Capital recovery fee or *impact fee* shall mean the fee imposed by the city pursuant to section 52-~~57~~ 137 or, if applicable, the alternative impact fee.

City shall mean the City of Marco Island, a political subdivision of the State of Florida, and shall include the Marco Island Utilities Department of the city.

City attorney shall mean the individual appointed by the city council to serve as its counsel, or the designee of such attorney.

City manager shall mean the chief administrative officer of the city, appointed by the city council, or the designee of such officer.

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.

Comprehensive plan shall mean the comprehensive plan of the city adopted and amended pursuant to the Local Government Comprehensive Planning and Land Development Act as contained in F.S. ch. 163, pt. II, or its successor in function.

Condominium shall mean a single-family or time-sharing ownership unit that has at least one other similar unit within the same building structure. The term condominium includes all fee simple or title multiunit structures, including townhouses and duplexes.

Contribution shall mean the actual construction, installation, or improvement of a water or wastewater facility or portion thereof or addition thereto for the benefit of the city.

Council shall mean the City Council of the City of Marco Island.

County shall mean Collier County, a political subdivision of the State of Florida.

Date of value shall mean, for purposes of determining a developer contribution credit, the market value of the contribution as of the date of the contribution; date of commencement of construction; date of land dedication; or, for dedications, the day before the development order approval (zoning amendment, site plan approval, PUD approval, or other development order approval) wherein the contribution, construction or land dedication was proffered or required; whichever occurs first.

Dedication shall mean the conveyance or donation of an interest in land or water and wastewater facilities to the city.

Development shall mean any installation, siting, construction, use of land, or other activity or improvement, or any additional square footage (area) of a then existing building or use, or any net increase in the size or use of a then existing building or land, in a manner that is deemed to increase the demand for, or impact upon, any water and wastewater facility.

Dwelling unit shall mean a building or portion of a building designated for or whose primary purpose is for residential occupancy, and which consists of one or more rooms which are arranged, designed or used as living quarters for one or more persons. A dwelling unit must contain, as an integral part therein, sleeping quarters, toilet/bathing facilities, and a primary kitchen.

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 ERC is deemed to be equal to a flow of 440 gallons per day (GPD) for water; and one ERC is deemed to be equal to a flow of 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.

Equivalent residential unit or *ERU* generally represents the equivalent usage requirements of a single-family residential customer. For the purpose of this division, an ERU will have an assigned value of 1.0. One ERU is deemed to be equal to a flow of ~~450~~ 440 gallons per day (GPD) for water; and one ERU is deemed to be equal to a flow of ~~275~~ 220 gallons per day (GPD) for wastewater. The assumed ERU 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.

Guesthouse or *cottage* shall mean a dwelling unit as defined in the city's land development code. For the purpose of assessing water and wastewater impact fees, guesthouses or cottages shall be considered as additional square footage to the primary residential building.

Impact fee or *capital recovery fee* shall mean the fee imposed by the city pursuant to section 52-~~57~~ 137 or, if applicable, the alternative impact fee.

Impact fee rate shall mean the formula or calculation that when applied to the respective development determines the applicable impact fee that results because of the impacts deemed by this division to be applicable to the respective water and wastewater facility caused by particular development.

Impact fee study shall mean a report of the findings of research and analysis conducted to develop fees assessed on new development that represent the fair share cost of the expansion of the water and wastewater facility infrastructure made necessary by that new development. The report describes the methodology used to develop the fees and presents the formulas, variables, and data used as the basis of the fees.

Living area shall mean actual square footage, which could be air conditioned or heated spaces contained under roof, or areas under roof, except garages, that are normally protected against exterior elements. When calculating the required impact fee on a square foot criteria, the calculation shall be based on the living area.

Local Government Comprehensive Planning and Land Development Regulation Act means the provisions of F.S. ch. 163, pt. II, as amended or supplemented, or its successor in function.

Market value shall mean the most probable price for which a given property would sell, given adequate exposure in an open and competitive market, where both buyer and seller were knowledgeable, prudent and acting in their own self interests, with neither party being under undue stimulus to act, nor having an affiliation with one another, where payment is made in terms of cash in United States dollars (or in terms of financial arrangements comparable thereto), and where the price is unaffected by special

or creative financing or sales concessions granted by any party associated with the sale.

Marco Island Utilities shall mean the city department responsible for the management and operation of the Marco Island water and wastewater and reuse water utility system.

Marco Island Utilities Director or *utilities director* shall mean the individual appointed by the city manager to manage and operate the Marco Island utility system, including the systems within the urban service area, which now or in the future assess any water and wastewater impact fee.

Meter size shall mean the water meter size as determined pursuant to any city ordinance, resolution, or policy.

Mixed use development shall mean a development in which more than one impact fee land use category is contemplated with each category constituting a separate and identifiable enterprise not subordinate to, or dependent on, other enterprises within the development.

Mobile home shall mean a detached dwelling unit with all of the following characteristics:

(a) Designed for occupancy and containing sleeping accommodations, a flush toilet, a tub or shower and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems;

(b) Designed for transportation after fabrication on streets or highways on its own wheels; and

(c) Arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connection to utilities and the like.

Although a travel trailer, recreational vehicle, or park model is not generally considered a mobile home, the applicable impact fee in some instances may be the same as for a mobile home. For the purposes of computing the impact fee, a mobile home on a single-family lot (i.e., not located in a mobile home or similar park) shall be considered a single-family detached house.

Multiple-family dwelling units shall mean a group of two or more dwelling units within a single conventional building, attached side by side or one above the other, or both, and wherein each dwelling unit may be individually owned or leased mutually on land which is under common or single ownership. For purposes of determining whether a lot is in multiple-family uses, the following considerations shall apply:

(a) Multiple-family dwelling uses may involve dwelling units intended to be rented and maintained under central ownership and management, or cooperative apartments. It may include the fee ownership of land beneath each dwelling unit following development from a common base of ownership.

(b) Any multiple-family dwelling in which dwelling units are available for rental for periods of less than one week shall be considered a tourist home, a motel, motor hotel, or hotel, as the case may be.

Off-site improvements shall mean improvements located outside of the boundaries of a development, except for those water and wastewater facilities that are located within the boundaries of the development that are owned and maintained by the city, which may be required by the city.

Owner shall mean the person(s) who, or that, owns legal title to the real property upon which development is proposed to occur. Owner includes every co-owner; such as property owned in tenancy by the entireties, joint-tenancy, tenants in common, or by more than one trustee.

Professional engineer shall mean one who is licensed by the State of Florida as a professional engineer.

Reuse system shall mean the reuse or reclaimed water system directly connected to treatment facilities operated by the city.

Residential shall mean apartments, condominiums, duplex dwellings, garden apartment dwellings, modular home dwellings, multiple-family dwellings, townhouse dwellings, mobile homes, single-family attached houses, single-family detached houses, adult congregate living facilities (ACLF), or assisted living facilities (ALF) as that term is defined in F.S. § 400.402, unless treated otherwise by the adopted rate schedules.

Single-family detached house shall mean a home on an individual lot or parcel of land intended, designed, used and/or occupied by no more than one family.

Square footage shall mean the gross area measured in feet from the exterior faces or exterior walls or other exterior boundaries of the building. For the calculation of the impact fees, square footage shall be the square foot measurement of the "living area" and excludes areas within the interior of the building which are utilized for parking.

Urban service area shall mean the boundaries of the area lying within the city and certain areas lying in unincorporated Collier County for which water and/or wastewater services are provided by the city, pursuant to Ordinance No. 2003-13, as amended by ordinance or interlocal agreement.

Wastewater or *sewer systems* shall mean the wastewater or sewer and reuse (reclaimed) utility system, including collection, treatment, and distribution facilities directly connected to treatment facilities operated by the city.

Water system shall mean the potable water utility system directly connected to treatment facilities operated by the city.

(Ord. No. 04-06, § 4, 5-3-2004; Ord. No. 2006-16, § 1, 11-6-2006)

Sec. 52-~~57~~ 137. - Imposition of impact fees.

(a) *General requirements.* All development within the city and the urban service area shall pay all assessed impact fees unless such impact fees, in whole or in part, have been exempted, waived, or deferred pursuant to this division. The impact fee shall be assessed based on a calculation of the impact of the proposed development on the water and wastewater facilities.

(b) *Impact fee rates.* The city council hereby adopts the impact fee rates as set forth in Appendix A, appended hereto, which shall be imposed upon all development occurring within the city and the urban service area. These rates may be changed from time-to-time by resolution of the city council.

(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: a net increase in the number of dwelling units; a net increase in the size or square footage of a commercial development or building; a net increase in the size of the use; or 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 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 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.

(d) *Exemptions.* The following development or change in use shall be exempted from paying additional impact fees:

(1) New building(s) or addition to a building(s) or an accessory building that will not create additional net demand upon on the water and wastewater facility for which the exemption is sought over and above the then existing development impacts deemed to be created by the then lawfully existing building(s) or use(s).

(2) Lots, pads, sites, foundations or spaces for a single mobile home, recreational vehicle, travel trailer, or park model, when evidence is provided that the applicable impact fee has been previously paid.

(3) Development for which the respective impact fee is then expressly prohibited by Florida law, rule, or regulation, or by federal law, rule, or regulation.

(e) *Impact fee reductions.* Development within the service area of another utility provider that is connected to the Marco Island Utilities may be eligible for a reduction from the impact fee rate if such reduction is provided in a written agreement between the other utility provider and the city.

(Ord. No. 04-06, § 5, 5-3-2004; Ord. No. 2006-16, § 1, 11-6-2006)

Editor's note— Appendix A cited herein has not been set out in the Code, but is on file in the office of the city clerk attached to Ord. No. 04-06.

Sec. 52-~~58~~ 138. - Payment.

(a) Unless deferred or waived by a written agreement with the city as a party thereto, or unless exempted, the impact fee shall be:

(1) Paid in full prior to the issuance of a building permit for the development or any other authorization to use the land included in the development;

(2) Whenever any building or use, which has not previously paid the applicable impact fees under this division is issued a permit to connect to the water and wastewater system;

(3) Whenever a person is issued a building permit to alter an existing building, use or applicable improvement then connected to the water and wastewater system, if such alterations increase the demand or the potential demand on the water and wastewater system.

(b) If the issuance of a conventional building permit for the development is not required (e.g., golf course, park, change of use, etc.), then an applicant shall pay the impact fee prior to the occurrence of any one of the following events, whichever occurs first:

(1) The date when the first building permit has been issued for any building or structure accessory to the principle use or structure of the development;

(2) The date when the first building permit is issued for the first nonaccessory building or nonaccessory structure to be used by any part of the development;

(3) The date when a final development order, final development permit or other final authorization is issued for a parking facility for any portion of the development;

(4) Upon the issuance of a permit to connect to the water or wastewater facility;

(5) The date when a final development order, final development permit or other final approval is issued for any part of the development in instances where no further building permit is required for that part of the development;

(6) The date when the development first commences construction;

(7) The date when any part of the development opens for business or goes into use; or

(8) Prior to date of execution of FDEP permit application.

(Ord. No. 04-06, § 6, 5-3-2004)

Sec. 52-~~59~~ 139. - Installment payments.

(a) Subject to availability of funds, the city may enter into agreements to extend payment (offer installment payments) of impact fees and associated costs with owners of then-existing buildings, structures or applicable improvements which are mandated to connect to the water and wastewater systems. Prior to the city entering into any agreement to extend payments, and from time-to-time thereafter, the city council shall identify a specific source of funds to be used relative to providing extended payment and the cost of such funds, including all expenses and costs incidental to obtaining

or providing same, including interest at the interest rate that the city will employ in offering extended payment with interest, and a reasonable estimation of the administrative costs of expenses associated with administering the extended payment alternative to the respective land(s).

(1) The city shall only enter into agreements to extend installment payment of the impact fees and associated costs with owners of then-existing buildings, structures or applicable improvements, mandated to connect to the water and wastewater systems.

(2) The amount of payment, including any title verification expenses and a reasonable estimation of the cost and expense associated with providing an extended payment alternative, shall be paid in equal monthly payments with an annual interest rate as determined by the city. State document stamp and recording fees will be upfront costs borne by the owner and shall be paid in full at the time the extended payment agreement is executed. The interest rate charged shall be representative of the city's cost of funds, including all expenses or costs incidental to obtaining or providing same, if any. The interest charged should be adjusted during January of any calendar year and shall be based on the city's cost of funds for the immediately preceding fiscal year. Failure to make such an adjustment in any given January shall not preclude retroactive adjustments of such interest rates.

(3) The city council hereby delegates to the city manager the power and authority to enter into, modify, and release such extended payment agreements in conformance with the provisions of this division.

(4) Upon satisfactory payment of all principal, interest, and associated costs under an extended payment agreement, the city shall execute a satisfaction of lien and record same in the Official Records of Collier County.

(b) In the event a building permit issued for a development expires prior to commencement of any part of the development for which the building permit was issued, the applicant may, within 90 days of the expiration of the building permit, apply for a refund of the entire impact fee. Failure to timely apply for a refund of the impact fee shall result in the waiver of any right to a refund.

(c) The obligation for payment of the impact fee shall run with the land. Assignment of impact fee credits from one parcel of land to another parcel of land shall not be permitted except in accordance with the requirements of section 52-~~62~~ 142

(1) The application for refund shall be filed with the city manager and shall include: the name and address of the applicant; the location of the property; the date the impact fee was paid; a copy of the receipt of payment for the impact fee; and the date the building permit was issued and the date of expiration.

(2) After verifying that the building permit has expired before the development had commenced, the city manager shall refund the impact fee.

(3) If a building permit is subsequently issued for a development on the same property, which was the subject of a refund, the impact fee in effect at the time the building permit is issued must be paid.

(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.

(e) The impact fee shall be paid in addition to all other fees, charges, and assessments due for the issuance of a building permit.

(Ord. No. 04-06, § 7, 5-3-2004; Ord. No. 2006-16, § 1, 11-6-2006)

Sec. 52-~~60~~ 140. - Use of funds.

(a) The city council hereby establishes or reaffirms the establishment of two separate accounts, one entitled "water impact fee account" for water and a second entitled "wastewater impact fee account" for wastewater.

(b) The funds deposited into each impact fee account shall be used solely for the purpose of providing growth necessitated improvements and additions to the water and wastewater facility for which the impact fee was assessed including, but not limited to the following:

(1) Design and construction plan preparation;

(2) Permitting and fees;

(3) Design, construction, management, and inspection of water and wastewater facilities;

(4) Land and materials acquisition, surveying, soil samples, material testing, including costs of acquisition and condemnation;

(5) Aquifer storage facilities;

(6) Right-of-way acquisition, including costs of acquisition and condemnation;

(7) Development of raw water sources;

(8) Acquisition of capital equipment and apparatus;

(9) Debt service;

(10) Update to impact fee studies;

(11) Any other expenses as then allowed by law.

(c) The moneys deposited into the impact fee account shall be used solely to finance water and wastewater facilities required by growth as projected in the impact fee studies, the comprehensive plan, on in the city's then current utility master plan and/or capital improvement program.

(d) The impact fee collected pursuant to this division shall be returned to the then current owner of the property for which such fee was paid if such fees have not been expended or encumbered prior to the end of the fiscal year immediately following the sixth anniversary of the date when the respective impact fee was paid. Refunds shall be made only in accordance with the following procedure:

(1) The then current owner shall petition the city manager for the refund prior to the end of the fiscal year immediately following the sixth anniversary of the date of the payment of the respective

impact fee.

(2) Submittal to the city manager, and shall contain:

a. A notarized sworn statement that the petitioner is the then current owner of the property for which the impact fee was paid;

b. A copy of the dated receipt issued for payment of such fee or such other record as would clearly indicate payment of such fee;

c. A certified copy of the latest recorded deed; and

d. A copy of the most recent ad valorem tax bill.

(3) Within 90 days from the date of receipt of a complete petition for refund, the city manager will advise the owner of the status of the impact fee requested for refund, and if such impact fee has not been expended or encumbered within its applicable time period, then it shall be returned to the then current owner. For the purposes of this section, fees collected shall be deemed to be spent or encumbered on the basis of the first fee in shall be the first fee out. Such funds may be encumbered by contract, bond, resolution, ordinance, or otherwise.

(4) Impact fee moneys refunded by the city manager in accordance with this paragraph (d) shall be paid with interest accrued to the principal being refunded but not to exceed the rate of five percent simple interest.

(e) Failure to file a timely petition for a refund upon becoming eligible to do so shall be deemed to have waived any claim for a refund, and the city shall be entitled to retain and apply the impact fee for growth necessitated capital improvements and additions to the respective public facilities.

(Ord. No. 04-06, § 8, 5-3-2004)

Sec. 52-~~61~~ 141. - Alternative fee calculation.

(a) The impact fee may be determined by an alternative fee calculation of the fiscal impact of the development on the water and wastewater facilities if:

(1) Any person commencing a development which increases demand on the water and wastewater facility chooses to have the impact fee determined by the alternative fee calculation; pays to the city in full the impact fee calculated pursuant to the applicable impact fee rate schedule; pays a nonrefundable alternative fee calculation review fee of $2,500.00 initially, and the actual cost upon completed review if in excess of $2,500.00; or any other review fee amount then established by the city council by ordinance or resolution; and

(2) The applicant believes that the nature, timing or location of the proposed development makes it likely to generate impacts costing less than the amount of the impact fee rate calculations in Appendix "A", as applicable for the water and wastewater facilities at issue; and

(3) The applicant commences the alternative fee calculation process by requesting in writing to the city manager, and attends a pre-application meeting within 180 days of the issuance of the building permit for the development.

(b) The alternative fee calculation shall be undertaken through the submission of an impact analysis

for the water and wastewater facilities, which shall be based on data, information, methodology and assumptions contained in this division and/or the impact fee studies incorporated herein, or an independent source, including local studies for alternative impact fee calculations performed by others within the immediately preceding three years, provided that the independent source is a local study supported by a data base adequate for the conclusions contained in such study performed pursuant to a methodology generally accepted by professionals in the field of expertise for the water and wastewater facilities and based upon standard sources of information relating to facilities planning, cost analysis and demographics and generally accepted by professionals in the field of expertise for the water and wastewater facilities. Technical details of approach, methodology, procedures, and other matters relating to the alternative fee calculation may be addressed in an administrative procedures manual.

(c) The alternative fee calculation shall be submitted by the applicant for the proposed development and shall be prepared and certified as accurate by persons accepted by the city as qualified professionals in the field of expertise for the water and wastewater facilities, and shall be submitted to the city manager.

(d) If the city manager determines that the alternative fee calculation is acceptable, and the city's cost to accommodate the proposed development is substantially different than the impact fee established pursuant to section 52-~~57~~ 137, the amount of the impact fee shall be reduced to a dollar amount consistent with the amount determined by the alternative fee calculation and presented to city council for review and approval.

(e) In the event the applicant disagrees with a decision of the city manager that effectively results in a denial of the alternative fee calculation, the applicant may file a written appeal petition with the city council not later than 30 days after receipt of notice of such a decision by the city manager. In reviewing the decision, the city council shall use the standards established herein. The appeal petition must advise the city council of all issues and shall explain the precise basis the applicant asserts that the decision(s) of the city manager is/are alleged to be incorrect.

(Ord. No. 04-06, § 9, 5-3-2004)

Note—See editor's note for § 52-57

Sec. 52-~~62~~ 142. - Developer contribution credit.

(a) A person may apply for a credit against any impact fee owed, pursuant to section 52-~~57~~ 137, for a water and wastewater facility for any contribution, construction, or land dedication conveyed to, accepted, and received by the city for the water and wastewater facility. The city may grant a credit against the impact fee imposed against a development for the construction, installation or contribution of water and wastewater facilities, or improvements and additions thereto, or land dedication related thereto, required pursuant to a development order for the development, or not required by such development order. Such construction, contribution or land dedication shall be subject to the approval of the city council as described herein and shall be an integral part of, and a necessary accommodation to, existing or contemplated water and wastewater facilities.

(b) A credit granted against the impact fee for certain dedications of land, contributions of construction or installation of water and/or wastewater systems, buildings, facilities and/or improvements and/or additions thereto, made to the water and wastewater systems, whether required to be made pursuant to a development order by the city or not, shall be subject to the following standards:

(1) The dedicated land shall be an integral part of, and a necessary accommodation to, contemplated off-site improvements to the water and wastewater system needs, whether onsite or off-site.

(2) The credit for a dedication of land shall not exceed the fair market value of the land dedication as based upon a written appraisal by a qualified and professional appraiser acceptable to the city, based upon comparable sales of similar property between unrelated parties in a bargaining transaction as of the date of the contribution; the date of the commencement of the construction; the date of the land dedication; or for dedications, the day before the date of the issuance of the development order approval (zoning amendment, site plan approval, PUD approval, or other development order approval) wherein the contribution, construction or land dedication was proffered or required; whichever occurs first.

(3) In the case of contributions of construction or installation of improvements, the value of the proposed contribution shall be adjusted upon completion of the construction to reflect the actual costs of construction or installation of improvements contributed by the developer. The actual cost of construction for the contribution shall be based upon costs certified by a professional engineer or architect, as appropriate. However, in no event shall any upward adjustment in the credit amount as set forth in the developer contribution agreement between the owner and the city exceed 15 percent above the initial certified estimate of costs for contributions as provided by the professional engineer or architect, as appropriate. Upon adjustment of the value of the developer's contribution, the contribution credit shall be adjusted accordingly.

(4) Until the contribution credit is finally adjusted upon completion of construction, no more than 75 percent of the initial estimate of costs for contributions to the water and wastewater systems identified in the contribution agreement shall be actually applied or used in the calculations of available credit against water and wastewater systems impact fees.

(5) No credit whatsoever for lands, easements, construction or infrastructure otherwise required to be built or transferred to the city shall be considered or included in the determination of any value of any developer's contribution.

(6) All construction cost estimates shall be based upon, and all construction plans, specifications, and conveyances shall be in conformity with, the construction standards and procedures of the city. All plans, specifications, or designs must be approved by the city manager prior to commencement of construction.

(7) No credit for a water and wastewater facility shall exceed the impact fee imposed by this division, unless a credit (developer's) agreement has been completed pursuant to the requirements of this section.

(8) No credit shall be issued when such plan, viewed in conjunction with other existing or proposed plans, will adversely impact the cash flow or liquidity of the impact fee account in such a way as to frustrate or interfere with other planned or ongoing growth necessitated capital improvements and additions to such waster and wastewater systems; and the proposed time schedule for completion of the plan is consistent with the then most recently adopted five-year capital improvement program for the water and wastewater facility.

(9) Except as provided in this section, no other dedications of land, contributions of off-site improvements, contributions of construction or installation of improvements shall be entitled to developer contribution credit from the impact fee.

(c) An applicant who desires to make a dedication of land or contribution for impact fee credits shall, prior to issuance of a building permit, submit to the city a proposed plan for the dedication of land or for the contribution.

(d) Upon approval of a proposed plan of dedication or contribution, the city manager shall determine the amount of developer credit and shall approve the timetable for completion of construction.

(e) Upon approval of a plan for the dedication or contribution, a developer contribution agreement shall be entered into between the city and the owner. A nonrefundable processing, review and audit fee of $2,500.00 shall be due once the voluntary plan has been approved and prior to the preparation of a contribution agreement by the city.

(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.

(g) Any applicant who submits a proposed credit agreement pursuant to this division and desires the immediate issuance of a building permit shall pay the impact fee prior to or at the time of the application for the building permit. Said payment shall be deemed paid "under protest" and shall not be construed as a waiver of any review rights. Any difference between the amount paid and the amount due, as determined by the city manager, shall be refunded to the applicant or owner.

(h) In the event the amount of impact fee credit, pursuant to an approved contribution or dedication, exceeds the total amount of impact fee imposed upon the development, the contribution agreement may provide for the future reimbursement to the owner of the excess of such contribution credit from future receipts by the city of impact fees. However, no reimbursement shall be paid until such time as all development at the location that was subject to the credit has been completed. Such reimbursement shall be made over a period of five years from the date of completion of the development as determined by the city.

(Ord. No. 04-06, § 10, 5-3-2004; Ord. No. 2006-16, § 1, 11-6-2006)

Sec. 52-~~63~~ 143. - Collection of impact fees in default.

Whenever the city determines that an impact fee was not paid prior to the issuance of a building permit for the affected development, or connection to the water or wastewater system, the city shall proceed to collect the impact fee as follows:

(a) The city shall serve a "notice of impact fee statement" upon the applicant at the address set forth in the application for building permit, and the owner at the address appearing on the most recent records maintained by the property appraiser of the county. The city shall also attach a copy of the "notice of impact fee statement" to the building permit posted at the affected

development site if the building is under construction. 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, or by any other evidence of the date that the "notice" was received by the addressee. The "notice of impact fee statement" shall contain a description of the property and shall advise the applicant and the owner as follows:

(1) The amounts due, the date that the impact fee became delinquent, and that as of that date the unpaid impact fee became subject to the delinquency fee, and that interest began to accrue on that date, and that such interest will continue to accrue thereafter until all amounts due are paid in full; that in the event the impact fee and the delinquency fee are paid in full within 30 days after receipt of the "notice," all interest that would have otherwise accrued will be waived; that in the event the impact fee is not paid in full within 30 days after receipt of the "notice", a lien against the property for which the building permit was secured may be recorded in the official records book of the county for all amounts then due after approval by the city manager.

(b) Upon becoming delinquent, a delinquency fee equal to ten percent of the total impact fee imposed shall be assessed. Once delinquent, the total impact fee, plus delinquency fee, shall bear interest at the then applicable statutory rate for final judgments calculated on a calendar day basis, until paid in full.

(c) Should the impact fee not be paid promptly, the city shall serve a "notice of lien" upon the delinquent applicant, if the building is under construction 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 delinquent owner that due to their failure to pay the impact fee, the city may file a claim of lien with the clerk of the circuit court.

(d) The collection and enforcement procedures set forth in this section shall be cumulative with, supplemental to and in addition to, all other applicable procedures provided in any other ordinances or administrative regulations of the city or any applicable law or administrative regulation of the State of Florida. 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 of Florida.

(e) If the total impact fees have not been received by the city within 30 days of the posting of the notice of claim of lien (or receipt of the notice by the owner or trustee), the city manager may then, regardless of the filing of any appeal petition, file a claim of lien with the clerk of the circuit court and record same in the Official Records of Collier County. The recorded claim of lien shall contain the legal description of the property, the amount of the delinquent impact fee, plus the delinquency fee and interest, and the date the impact fee became due. Once recorded, the claim of lien shall constitute a lien against the property described therein. The city manager may proceed expeditiously to collect, foreclose, or otherwise enforce said lien.

(f) After the expiration of 30 days from the date of recording of the claim of lien, as provided herein, 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. ch. 173, as then amended, which provisions are hereby incorporated herein in their entirety to the same extent as if such provisions were set forth herein

verbatim.

(g) The liens for delinquent impact fees imposed hereunder shall remain liens, coequal with the lien of all state, county, district and municipal taxes, superior in dignity to all other filed liens and claims, until paid as provided herein.

(h) The foregoing paragraphs of this section notwithstanding, all impact fees not paid to the city in full when due shall automatically become "delinquent." Moreover, when any impact fees become delinquent anywhere throughout the unified whole of the respective development, the city is authorized to withhold every then unissued development order(s) and permits applied for by, or on behalf of, the landowner or the developer, and in addition apply any and all of the civil penalties and remedies set forth in the land development code until all such delinquent impact fees have been paid to the city in full.

(Ord. No. 04-06, § 11, 5-3-2004)

Sec. 52-~~64~~ 144. - Update requirement.

(a) This division and the impact fee studies shall be reviewed by the city council initially in connection with its approval of the capital improvements element of its comprehensive plan as then, and to the extent, required by F.S. § 163.3177. This division and the impact fee studies should be reviewed at least every five years. All reviews shall consider new estimates of population and other socioeconomic data; changes in construction, land acquisition and related costs and adjustments to the assumptions, conclusions or findings set forth in the studies adopted by section 52-~~55~~ 135. The purpose of this review is to evaluate and revise impact fees to assure that they do not exceed the reasonably anticipated costs associated with the improvements and additions necessary to offset the demand on the water and wastewater facilities generated by development. In the event the review of this division alters or changes the assumptions, conclusions and findings of the studies adopted by reference in section 52-~~55~~ 135, revises or changes the water and wastewater facilities, or alters or changes the amount of impact fees, the studies adopted by reference in section 52-~~55~~ 135 shall be amended and updated to reflect the assumptions, conclusions and findings of such reviews.

(b) Simultaneous with the review of the impact fee studies required in subsection (a), the city council shall review the capital improvements element to determine the availability and adequacy of revenue sources to construct improvements and additions to the water and wastewater facilities determined in the impact fee study to be required to accommodate existing development.

(Ord. No. 04-06, § 12, 5-3-2004)

Sec. 52-~~65~~ 145. - Incorporation of administrative procedures manual.

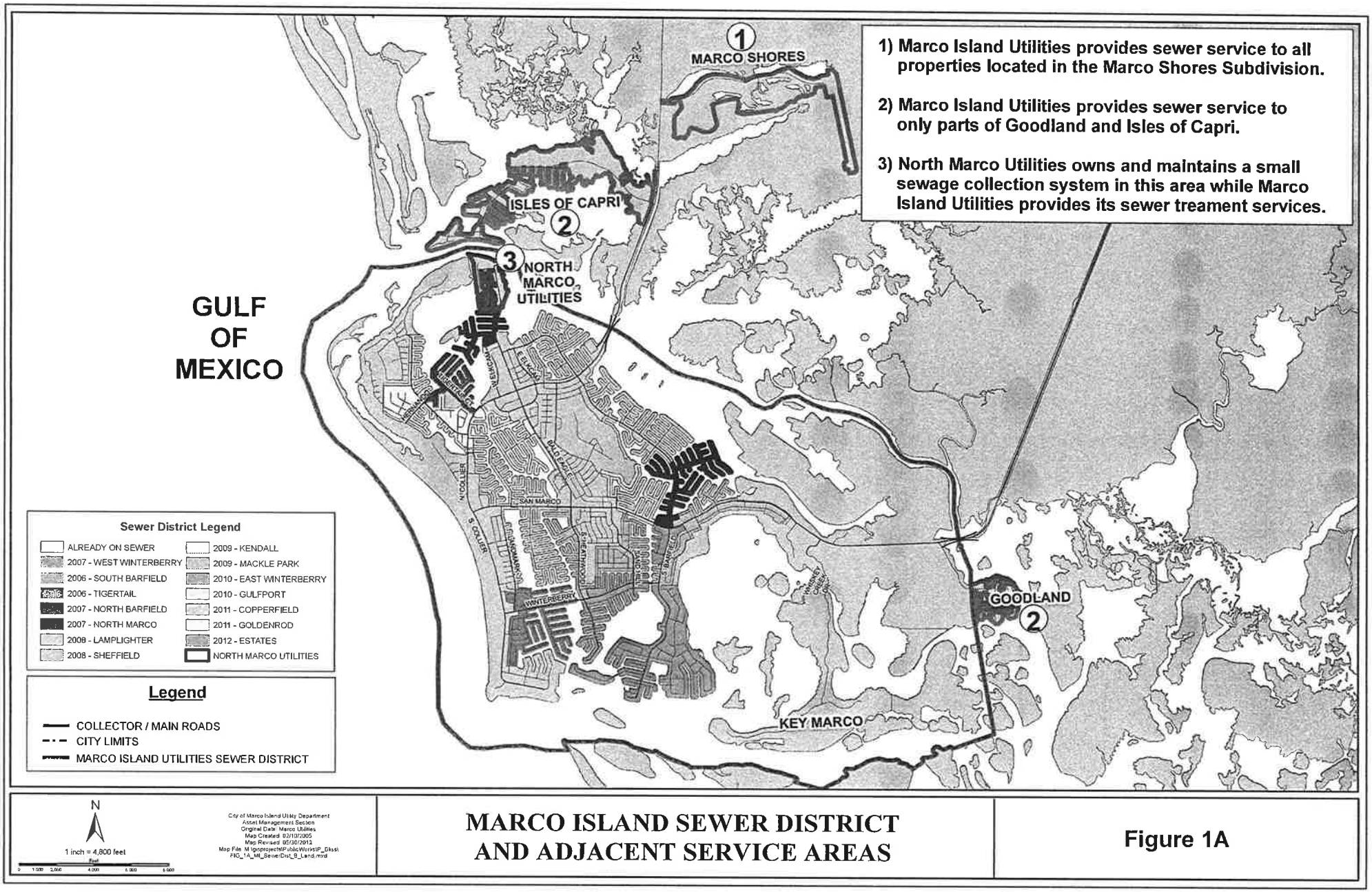
The currently existing administrative procedures manual(s) for the Marco Island Utilities Department are incorporated and referenced herein except to the extent that it conflicts or varies the terms of this division.

(Ord. No. 04-06, § 13, 5-3-2004)

Secs. 52-~~66~~ 146—52-~~70~~ 170. - Reserved.

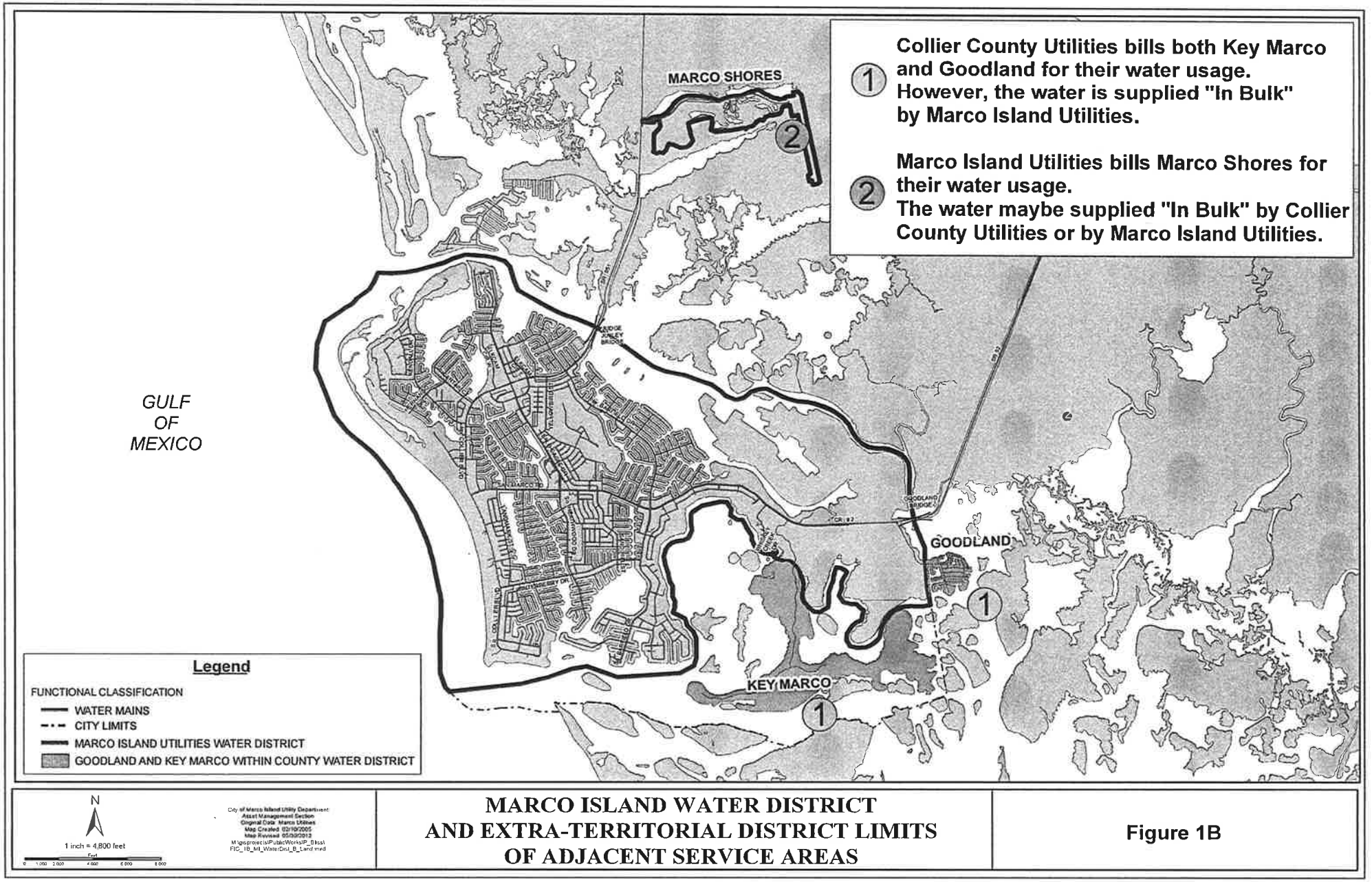
ARTICLE III. - RESERVED[46]

(46) **Editor's note—** Ord. No. 12-02, § 1, adopted Feb. 21, 2012, repealed Art. III, §§ 52-71—52-76, in its entirety which pertained to utilities advisory board and derived from Ord. No. 10-01, § 2, adopted Jan. 4, 2010.



MARCO ISLAND SEWER DISTRICT AND ADJACENT SERVICE AREAS

Figure 1A



MARCO ISLAND WATER DISTRICT AND EXTRA-TERRITORIAL DISTRICT LIMITS OF ADJACENT SERVICE AREAS

Figure 1B

~~ARTICLE III. - UTILITY OPERATION AND REGULATIONS~~ [30]

~~(30) Editor's note— Ord. No. 03-20, §§ 1—38, adopted Jan. 5, 2004, repealed art. III and enacted a new article as set out herein. The former art. III, §§ 18-71—18-76, pertained to water irrigation restrictions and derived from Ord. No. 02-31, §§ 1.1—1.3, 2.1, 3.1—3.12, 4.1—4.4, 5.1, 5.2 and 6.1, adopted Nov. 4, 2002. See the Code Comparative Table for further information. Section 1 of Ord. No. 06-09, adopted Aug. 7, 2006, amended the title of art. III, conservation regulations, to read as herein set out.~~

~~DIVISION 1. GENERALLY~~
~~DIVISION 2. WATER~~
~~DIVISION 3. WASTEWATER~~
~~DIVISION 4. RECLAIMED WATER~~
~~DIVISION 5. GREASE DAMAGE PREVENTION REGULATIONS~~

~~DIVISION 1. - GENERALLY~~

~~Sec. 18-61. - General provisions.~~

~~(a) *Compliance.* All water, wastewater, and/or reclaimed water service users are required to comply with all regulations and ordinances of the city governing such use.~~

~~(b) *Responsibility of city.* The city shall only be responsible for a good faith effort to provide reasonable water, wastewater, and reclaimed water service. Water service is subject to the continuing availability of raw water supply, and water, wastewater, and reclaimed water service is subject to the availability of the respective treatment plants capacity and all requirements of the law.~~

~~(c) *Service not guaranteed.* Location within the service areas of the city does not guarantee water or wastewater service. In the event that service or service capacity is not available for any reason, the property affected may be removed by ordinance from the service area without any liability attaching to the city.~~

~~(d) *Promulgation and enforcement of procedures and regulations.* The city manager shall have the power to promulgate procedures and regulations relative to the water, wastewater, and reclaimed water system. Such procedures and regulations shall be provided in the Utilities Department Manual of Standards and Specifications. Said manual will be adopted by city council and amended when necessary, by resolution. Water, wastewater, and reclaimed water construction improvements, rehabilitation, and repairs shall meet or exceed the requirements of the manual.~~

~~(Ord. No. 03-20, § 1, 1-5-2004)~~

~~Sec. 18-62. - Definitions.~~

~~The following words and phrases as used in this article shall have the following meanings:~~

~~*Address* means the "house number" (a numeric or alphanumeric designation) that, together with the street name, describes the physical location of a specific property. This includes "rural route" numbers but excludes post office box numbers. If a lot number in a mobile home park or similar community is~~

used by the U.S. Postal Service to determine a delivery location, the lot number shall be the property's address. If a lot number in a mobile home park or similar residential community is not used by the U.S. Postal Service (e.g., the park manager sorts incoming mail delivered to the community's address), then the community's main address shall be the property's address. If a property has no address it shall be considered "even-numbered".

Biochemical oxygen demand (BOD) 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).

City means the City of Marco Island, a Florida municipality. As used interchangeably, it means the city, the city utility department, and the water, wastewater, and reclaimed water systems owned and operated by the city.

Cross connection means any physical arrangement whereby a public water supply is connected directly or indirectly with any other water supply system, wastewater, drain, conduit, pool, storage reservoir, plumbing fixture, or any other device, facility or system which contains or may contain contaminated water, sewage, waste material, or other material or substance of unknown or potentially unsafe quality which may be capable of imparting contamination to the public water supply as a result of backflow. Bypass arrangements, jumper connections, changeable devices, or other devices through which or because of which backflow could occur are deemed to constitute cross connections.

Customer means any person, firm, corporation, or government entity, using or receiving water, reclaimed water, or wastewater collection services from the city.

Department means the Marco Island Utilities Department of the City of Marco Island.

Director means the director, or designated representative, in charge of the department, who is hereby invested with the authority and responsibility to administer and operate the water, wastewater, and reclaimed water systems of the city, and implement and enforce the provisions of this article.

Discontinuation of service means the cessation of a service.

Engineering manager means the individual or firm who approves technical specifications and drawings relating to the installation, construction, and rehabilitation of city utilities.

Equivalency factor means a factor used to represent the relative relationship between service connections based on water meter size. The equivalency factor is determined by dividing the continuous flow criteria per meter size by the continuous flow criteria of a five-eighths-inch meter as published by the American Water Works Association, and incorporated in F.A.C. 25-30.055.

Existing landscaping means any landscaping which has been planted and in the ground for more than 90 days.

Grease means a material either liquid or solid, composed primarily of fat or oil from animal or vegetable sources and is synonymous for the intent of this section with the terms fats, oils and grease.

Landscaping means shrubbery, trees, lawns, sod, grass, ground covers, plants, vines, ornamental gardens, and such other flora, not intended for resale, which are situated in such diverse locations as residential landscapes, recreation areas, cemeteries, public, commercial, and industrial establishments, public medians, and rights-of-way except athletic play areas as defined in F.A.C. 40E-24.101(2).

~~*Living unit* means any place of abode, which is suitable for permanent or transient family or individual residential use. Each such living unit shall be considered as single and separate.~~

~~*Lot* means any place, division or parcel of land.~~

~~*Master control valve* means the manually operated valve, located immediately downstream after the meter, which controls total flow to the customer's property.~~

~~*Multifamily residence* means all places of dwelling other than single family residences and duplexes having three or more living units.~~

~~*New landscaping* means any landscaping which has been planted and in the ground for 90 days or less.~~

~~*Persons* means any individual, firm, company, association, society, partnership, corporation, or group.~~

~~*Public wastewater systems* means a central sanitary sewer collection system owned and operated by the City of Marco Island or owned and operated by a private utility company that has a franchise granted by the Collier County Water and Wastewater Authority to provide and operate a sewer collection and transmission system within the legal boundaries of the City of Marco Island.~~

~~*Reclaimed water* means water, treated wastewater or wastewater effluent that has been appropriately treated and which, as a result of the treatment of wastes, is suitable and usable for direct beneficial uses or a controlled use by and for public agricultural, commercial, residential, or industrial developments, projects or purposes including, but not limited to, irrigation purposes in green areas of developments or other appropriate areas; water that has received at least secondary treatment and is reused after flowing out of a wastewater treatment plant.~~

~~*Residence with guesthouse occupying the same premises* means a residence with a guest house occupying the same premises shall be considered as a single family residence if served by a single water connection and meter.~~

~~*Sanitary sewer* is used interchangeably with sewer line and wastewater line. Sanitary sewer means a pipe which carries sewage and to which storm waters, service waters, and ground waters are not intentionally admitted.~~

~~*Service line* means that conduit for utility service directly after the meter or delivery box fittings.~~

~~*Significant industrial user* means any individual user of the city's wastewater disposal system who:~~

~~(1) Has a discharge flow of 25,000 gallons or more per average workday; or~~

~~(2) Has a flow greater than five percent of the flow in the city's wastewater treatment system; or~~

~~(3) Has in his wastes toxic pollutants as defined pursuant to federal or state statutes and rules; or~~

~~(4) Is found by the city, the state control agency, or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contribution industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.~~

Single-family residence means any single-family dwelling; interchangeable with the word household. In the case of a duplex, each unit shall be regarded as a single family dwelling.

System is used interchangeably with utility system. System means all water, wastewater, and reclaimed water mains, transmission lines, storage and pumping facilities, valves, service connections, meters, and treatment facilities.

Urban service area means the geographic area served by the city utilities as defined by Ordinance No. 03-13, as amended.

Utility agreement means a written agreement between the city and a property owner that establishes the terms and conditions pursuant to which the city will provide water, wastewater, and/or reclaimed water service.

Wasteful and unnecessary means allowing water to be dispersed without any practical purpose to the water use; for example, excessive landscape irrigation, leaving an unattended hose on a driveway with water flowing, allowing water to be dispersed in a grossly inefficient manner, regardless of the type of water use; for example, allowing landscape irrigation water to unnecessarily fall onto pavement, sidewalks and other impervious surfaces; allowing water flow through a broken or malfunctioning water delivery or landscape irrigation system.

Wastewater is used interchangeably with sanitary sewage and means a combination of any type of water-carried waste from residences, business buildings, institutions, industrial establishments, and any and all customer facilities together with such ground, surface, and storm waters as may be present, but does not mean nor include hazardous or toxic waste.

(Ord. No. 03-20, § 2, 1-5-2004; Ord. No. 06-09, § 2, 8-7-2006; Ord. No. 08-12, § 2, 10-6-2008; Ord. No. 10-05, § 2, 5-17-2010)

Sec. 18-63. - Illegal utility system connections.

(a) It shall be unlawful to make or cause to be made any connection with the city water, wastewater, and/or reclaimed water system for providing water, wastewater, or reclaimed water service to users; to use or be supplied with water or reclaimed water from the city without the water passing through a meter provided by the city; or in a manner so as to serve or connect any existing or additional dwelling units or commercial developments without paying all systems development charges, connection user fees, and all other required charges for said additional dwelling units or commercial development; or in a manner so as to enable a user to discharge into the wastewater collection system of the city without paying all system development charges, connection fees, user fees, and all other required charges for said wastewater service.

(b) Any person who is found by the city to have made or caused to have made any connection prohibited by paragraph (a) above shall be required by the city, in addition to any penalties imposed by this Code for violation of the above, to pay the following to the city:

(1) An amount equal to three times the unpaid plant capacity fees, connection fees and utility service charges imposed by the city for such connection and water and/or wastewater service provided. Said fees and charges shall be computed using the rates in effect at the time of the discovery of said illegal connection. For residential connections, the utility service charges shall be estimated by using the average water, wastewater, and/or reclaimed water use for similar types and sizes of residential users during the entire period from the date a certificate of occupancy was