

ORDINANCE NO. 15-08

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, REGARDING PUBLIC UTILITIES; AMENDING CHAPTER 2-31 OF THE MANATEE COUNTY CODE OF ORDINANCES TO ESTABLISH PROVISIONS FOR UTILITY CONNECTIONS FOR NEW DEVELOPMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Manatee County, a political subdivision of the State of Florida, owns and operates the Manatee County public utilities system pursuant to Section 125.01, Florida Statutes, Chapter 153, Florida Statutes, Chapter 63-1598, Laws of Florida, as amended, Chapter 2-31, Article IV, Manatee County Code of Ordinances (the “Code”), and other applicable provisions of law; and

WHEREAS, on March 20, 1979, the Board of County Commissioners of Manatee County, Florida, enacted Ordinance No. 79-4, codified as Division I of Article I of Chapter 2-31 of the Code, which established general requirements for the construction and operation of the County’s potable water system and wastewater system; and

WHEREAS, the Board of County Commissioners of Manatee County has determined that it is in the best interest of the county to amend the general requirements for the construction and operation of the County’s potable water system and wastewater system set forth in Division I of Article I of Chapter 2-31 of the Code as provided in this Ordinance, to establish provisions governing connections to the potable water system and wastewater system by new development.

BE IT ORDAINED by the Board of County Commissioners of Manatee County, Florida:

Section 1. Purpose and Intent. This Ordinance is enacted to carry out the purpose and intent of, and exercise the authority set forth in, Article VIII of the Florida Constitution, Section 125.01, Florida Statutes, Chapter 153, Florida Statutes, and Chapter 63-1598, Laws of Florida.

Section 2. Findings. The Board of County Commissioners relies upon the following findings in the adoption of this Ordinance:

1. The findings contained in the recitals above are true and correct.

Section 3. Amendment of Division I of Article I of Chapter 2-31 of the Code. Division I of Article I of Chapter 2-31 of the Code is hereby amended to add Section 2-31-5 as set forth in Exhibit “A” to this Ordinance.

Section 4. Codification. The publisher of the County's Code, the Municipal Code Corporation, is directed to incorporate the amendments in Section 3 of this Ordinance into the Code.

Section 5. Severability. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

Section 6. Effective Date. This Ordinance shall become effective as provided by law.

PASSED AND DULY ADOPTED, with a quorum present and voting, by the Board of County Commissioners of Manatee County, Florida, this the __ day of _____, 2015.

**BOARD OF COUNTY COMMISSIONERS OF
MANATEE COUNTY, FLORIDA**

By: _____
Chairperson

ATTEST: R.B. SHORE
Clerk of the Circuit Court

By: _____
Deputy Clerk

Exhibit "A"
Amendment to Division I of Article I of Chapter 2-31
Water, Sewers and Sewage Disposal, In General
Manatee County Code of Ordinances
(new Section 2-31-5 to be added, to read in its entirety as follows)

Sec. 2-31-5. Connection required; extensions and oversizing; connection criteria.

- (a) *Definitions.* For purposes of this Section, the following terms shall have the following meanings.
- (1) *Alternative connection* shall mean a connection to the potable water system or the wastewater system approved pursuant to subsection (e)(4) hereof.
 - (2) *Available* shall (a) for purposes of determining connections to the wastewater system, have the meaning set forth in Section 381.065(2)(a), *Florida Statutes*, as amended, or its successor provision of law, and (b) for purposes of determining connections to the potable water system, mean that the right-of-way or easement in which an adjacent line is located directly abuts the property line of the property to be served.
 - (3) *County engineer* shall mean the official designated by the County Administrator to act as the chief engineer with respect to providing the oversight and planning for the construction and expansion of the potable water system and the wastewater system.
 - (4) *Developer* shall mean the owner of a development or the agent of such owner who shall have the legal authority to act upon the owner's behalf.
 - (5) *Development* shall have the meaning set forth in the Manatee County Land Development Code.
 - (6) *Potable water system* shall mean collectively the county's potable water treatment physical plant and its potable water distribution system.
 - (7) *Wastewater system* shall mean collectively the county's wastewater treatment physical plants and their respective wastewater collection systems.
- (b) *Connection required.*
- (1) *Connection to the county's potable water system.* All new development in the county's Potable Water/Waste Water Service Area for which service is available must connect to the county potable water system to the extent required pursuant to the Manatee County Comprehensive Plan.

- (2) *Connection to the county's wastewater system.* All new development in the county's Potable Water/Wastewater Service Area for which service is available must connect to the county wastewater collection system to the extent required pursuant to the Manatee County Comprehensive Plan, unless such new development receives approval for on-site sewage disposal systems as provided for in the Manatee County Comprehensive Plan.
- (c) *Disconnection from utility system prohibited.* Where development is approved based on receiving potable water and wastewater service from the county's potable water system and wastewater system, disconnection from services is prohibited.
- (d) *Oversizing of infrastructure.* The county may require oversizing of potable water or wastewater mains or other infrastructure or extension of mains beyond the distances required in this chapter to ensure efficient expansion of the potable water system and wastewater system. If such oversizing or extensions are required, the county will enter into an agreement with the developer. The agreement will specify, among other things, the required oversizing and/or extensions, the responsibility of financing the required oversizing and/or extensions, and the basis for the reimbursement of facility investment fee credits the county will provide to the developer, if any.
- (e) *Connection Criteria.*
 - (1) *System Master Plans.* The county shall adopt and maintain, by resolution of the board, master plans for the construction and build-out of the potable water treatment plant, potable water distribution system, the wastewater treatment plants, the wastewater collection systems and the reclaimed water distribution system. The master plans shall be updated on a regular basis.
 - (2) *Consistency with System Master Plans.* Except when the county engineer approves an alternative connection pursuant to subsection (4) hereof, all connections to the potable water system and the wastewater system shall be engineered and constructed in a manner that is consistent with the plans, specifications and size as documented in (a) the potable water system distribution master plan, and (b) the applicable wastewater treatment plant's collection system master plan.
 - (3) *Feasibility of Extensions.* Potable water and wastewater utility lines may be extended consistent with the respective master plans if an appropriate number of customers are being added to reasonably maintain, operate and financially support the infrastructure extension which shall be determined by the county. Alternative systems may be appropriate consistent with the Manatee County Comprehensive Plan.
 - (4) *Alternative Connections.* The county engineer, may, in his or her discretion, approve an alternative connection to the potable water system or the wastewater system, provided the following criteria are met:

- a. The proposed alternative connection shall, in the opinion of the county engineer, be designed, engineered and constructed (1) to fit within the existing potable water system or wastewater system without compromising its functionality, (2) to not impair the ability of the county to construct the potable water system or wastewater system in accordance with the applicable master plan, and (3) to not place the potable water system or wastewater system at financial risk. No alternative connection shall be approved by the county engineer unless all necessary rights of way or easements and supporting infrastructure are in place and available to serve the alternative connection.
- b. The county engineer shall verify that the existing potable water system or wastewater system, as the case may be, shall have sufficient capacity to support the alternative connection, taking into consideration all existing connections and future anticipated connections.
- c. The developer shall complete construction of the alternative connection and utilize the available capacity within the time frame set forth in the agreement executed pursuant to paragraph d. below. Any available capacity committed to the project that is not utilized within such time frame shall no longer be subject to a reservation for the project, and the developer shall be required to reapply to the county to use such capacity.
- d. The developer shall enter into an agreement with the county obligating the developer to continue to meet the requirements of this section and any special conditions imposed by the county engineer. Such agreement shall be recorded in the official records and obligate all future owners of the subject property. The county shall charge a reasonable administrative fee for the cost of processing and recording the agreement, to be established pursuant to a resolution adopted by the Board of County Commissioners.
- e. The county engineer may impose special conditions upon the approval of an alternative connection to assure compliance with the requirements of this chapter. Upon approval of the alternative connection and execution and recordation of the agreement required in paragraph d. above, the developer shall be authorized to install the alternative connection at its sole expense.
- f. No credit against the facility investment fee levied pursuant to Article VIII of this chapter shall be awarded to a developer for an alternative connection, except for those components of an alternative connection that, in the opinion of the county engineer, can be utilized by the county as future components of the potable water system and/or wastewater system built out in accordance with the applicable master plan.
- g. The county may require upfront payment of a portion of the facility investment fee to ensure funds in place to mitigate the impact of the alternative connection.