



City of Apopka

CITY COUNCIL STAFF REPORT

Type of Form: Public Hearing/Ordinances/Resolution

Meeting Date: February 1, 2023

Department: Public Services

SUBJECT:

Ordinance No. 2993 – Amending Chapter 22 – Capital Facilities and Impact Fees, Article IV – Water, Sewer, and Reuse Capital Facility Fees and Fund, Section 22-97, Section 22-98, and Section 22-99.

REQUEST:

Accept the second reading of Ordinance No. 2993 – Amending Chapter 22 – Capital Facilities and Impact Fees, Article IV – Water, Sewer, and Reuse Capital Facility Fees and Fund, Section 22-97, Section 22-98, and Section 22-99.

SUMMARY:

On December 2, 2022, Raftelis Financial Consultants, Inc., has released the City of Apopka Water, Wastewater, and Reclaimed Water Rates and Impact Fees – 2022 Study Report. The study analysis encompassed a financial evaluation for the five (5) fiscal year period of October 1, 2021, through September 30, 2026. The study also established the level of service (LOS) for providing water, wastewater, and reclaimed water utility services and developed a fee per equivalent residential unit (ERU), based on the historical costs of the existing water, wastewater and reclaimed water system, the projected expansion related capital costs provided by the City, and a review of the remaining water, wastewater and reclaimed water capacity available in the System to service new growth. Ordinance No. 2993 will replace Ordinance No. 2474, adopted on February 17, 2016.

On January 18, 2023, City Council accepted the first reading of Ordinance No. 2993.

PUBLIC HEARING SCHEDULE:

January 18, 2023 – City Council (7:00 pm) – First Reading

February 1, 2023 – City Council (1:30 pm) – Second Reading and Adoption

DULY ADVERTISED:

January 13, 2023 – Apopka Chief

RECOMMENDED ACTION:

Public Services Department recommends approval of Ordinance No. 2993 – Amending Chapter 22 – Capital Facilities and Impact Fees, Article IV – Water, Sewer, and Reuse Capital Facility Fees and Fund, Section 22-97, Section 22-98, and Section 22-99.

RECOMMENDED MOTION:

Accept the second reading and adopt Ordinance No. 2993 – Amending Chapter 22 – Capital Facilities and Impact Fees, Article IV – Water, Sewer, and Reuse Capital Facility Fees and Fund, Section 22-97, Section 22-98, and Section 22-99.

ATTACHMENTS:

- Ordinance No. 2993
- City of Apopka Water, Wastewater, and Reclaimed Water Rates and Impact Fees – 2022 Report

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ORDINANCE NO. 2993

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA AMENDING THE CODE OF ORDINANCES OF THE CITY OF APOPKA BY AMENDING CHAPTER 22 – CAPITAL FACILITIES AND IMPACT FEES, ARTICLE IV – WATER, SEWER, AND REUSE CAPITAL FACILITY FEES AND FUND, SECTION 22-97 – WATER CAPITAL FACILITY FEE TO ESTABLISH WATER CAPITAL FACILITY FEES; BY AMENDING CHAPTER 22, ARTICLE IV, SECTION 22-98 – SEWER CAPITAL FACILITY FEE TO ESTABLISH SEWER CAPITAL FACILITY FEES; BY AMENDING CHAPTER 22, ARTICLE IV, SECTION 22-99 – REUSE CAPITAL FACILITY FEE TO ESTABLISH REUSE CAPITAL FACILITIES FEES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS, AND SETTING AN EFFECTIVE DATE.

WHEREAS, Section 166.021(3), Florida Statutes, provides, in pertinent part, that “[t]he Legislature recognizes that pursuant to the grant of powers set forth in Section 2(b), Art. VIII of the State Constitution, the legislative body of each municipality has the power to enact legislation concerning any subject matter upon which the state legislature may act” except for certain very limited matters; and

WHEREAS, the City Council of the City of Apopka, Florida, has determined that the continued protection of the health, safety, and welfare of its citizens is for the benefit of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA, AS FOLLOWS:

SECTION I. AMENDMENT - Chapter 22, Article IV, Section 22-97, Code of Ordinances, City of Apopka, is hereby amended to read as follows:

Sec. 22-97. – Water capital facility fee.

- (a) A capital facility fee, which represents the capital cost of the primary system capacity expansion, ~~as described in exhibit A, which is on file in the city clerk's office,~~ will be charged and paid in the manner described in this section. The city reserves the right to also require additional contributions or in-kind contributions, including, but not limited to, constructed donated facilities, as may be necessary to extend services or to further expand the primary system to facilitate the providing of services to the applicant's property, and if any oversizing is required, the applicant shall be reimbursed in accordance with this article. The city additionally reserves the right to amend this article so as to prospectively adjust the fees and charges assessed in this section. The applicant will be required to build or to provide the cost of construction of the secondary or local distribution system and all water facilities on the site, regardless of size, necessary to provide service to the land development activity.
- (b) The water capital facility fee charged shall be calculated as follows:
 - (1) *Residential capital facility fee, without reclaimed water available.* If a DEP permit or city permit is issued in the calendar year, the fee inside the corporate limits of the city ~~is as on file~~

1 ~~in the city clerk's office shall be \$3,305.00, and the fee outside the corporate limits of the city~~
2 ~~is shall be \$4,131.25 as on file in the city clerk's office.~~

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4 (2) *Residential capital facility fee, with reclaimed water available.* If a DEP permit or city permit
5 is issued in the calendar year, the fee inside the corporate limits of the city ~~is as on file in the~~
6 ~~city clerk's office shall be \$2,478.00 and the fee outside the corporate limits of the city is as on~~
7 ~~file in the city clerk's office shall be \$3,097.50.~~

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9 (3) *Adjustments to commercial capital facility fee.* As to commercial users or residential units
10 having commercial uses or which have been converted to legal commercial uses, the city, in its
11 discretion, may assess an adjusted or additional water capital facility fee if at any time the usage
12 of the connected unit changes or if it is determined by the city that the projected annual usage
13 was less than the actual annual usage.
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16 **SECTION II. AMENDMENT** - Chapter 22, Article IV, Section 22-98, Code of Ordinances, City
17 of Apopka, is hereby amended to read as follows:
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19 **Sec. 22-98. - Sewer capital facility fee.**
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21 (a) A capital facility fee shall be assessed by the city which represents the capital cost of the primary
22 system capacity expansion ~~as described in exhibit A, which is on file in the city clerk's office.~~

23
24 (b) The city reserves the right to also require additional contributions or in-kind contributions,
25 including, but not limited to, constructed donated facilities, as may be necessary to extend services
26 or to further expand the primary system to facilitate the providing of services to the applicant's
27 property, and if any oversizing is required, the applicant shall be reimbursed in accordance with
28 this article. The city additionally reserves the right to amend this article so as to prospectively adjust
29 the fees and charges assessed in this section. The applicant will be required to build or to provide
30 the cost of construction of the secondary or local collection system and all wastewater facilities on
31 the site, regardless of size, necessary to provide service to the land development activity.
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33 (c) The sewer capital facility fee charged shall be calculated as follows:
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35 (1) *Residential capital facility fee.* If a DEP permit or city permit is issued in the calendar year, the
36 fee inside the corporate limits of the city ~~is as on file in the city clerk's office shall be \$4,924.00,~~
37 ~~and the fee outside the corporate limits of the city is as on file in the city clerk's office shall be~~
38 \$6,155.00.
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40 (2) *Adjustments to commercial capital facility fee.* As to commercial users or residential units
41 having commercial uses or which have been converted to legal commercial uses, the city, in its
42 discretion, may assess an adjusted or additional sewer capital facility fee if at any time the
43 usage of the connected unit changes or if it is determined by the city that the projected annual
44 usage was less than the actual annual usage.
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46 (d) Any existing single-family home within the city limits with a fully functional septic system at the
47 time the city installs sewer lines, or at the time the property annexes into the city, will not be
48 required to connect to the city's sewer system. However, if the septic system should fail and require
49 replacement, the owner, tenant, or occupant of the lot or parcel of land would lose this exemption
50 and then be required to connect to the city system.
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2 **SECTION III. AMENDMENT** - Chapter 22, Article IV, Section 22-99, Code of Ordinances, City
3 of Apopka, is hereby amended to read as follows:

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5 **Sec. 22-99. - Reuse capital facility fee.**

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7 (a) A capital facility fee shall be assessed by the city which represents the capital cost of the primary
8 system capacity expansion ~~as described in exhibit A, which is on file in the city clerk's office.~~

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10 (b) The reuse capital facility fee charged per ERU shall be calculated as follows:

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12 (1) *Residential capital facility fee.* If a DEP permit or city permit is issued in the calendar year, the
13 fee inside the corporate limits of the city ~~is as on file in the city clerk's office~~ shall be \$3,903.00,
14 and the fee outside the corporate limits of the city shall be \$4,878.75 ~~is as on file in the city~~
15 ~~clerk's office.~~

16
17 (2) Single-family residential ERU shall be as follows:

18 a. Parcel size equal to or less than one-quarter of an acre equals one ERU.

19 b. Parcel size more than one-quarter up to one-half of an acre equals 1.25 ERU.

20 c. Parcel size greater than one-half of an acre equals 1.5 ERU.

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23 (3) Commercial reuse capital facility fee shall be equal to one ERU or greater based on the
24 following: amount of area to be irrigated in square feet divided by 10,000 square feet.

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27 (4) Adjustments to commercial facility fee. As to commercial users or residential units having
28 commercial uses or residential units which have been converted to legal commercial uses, the
29 city, in its discretion, may assess an adjusted or additional reuse capital facility fee if at any
30 time the usage of the connected unit changes or if it is determined by the city that the projected
31 annual usage was less than the actual annual usage.
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34 **SECTION IV. AUTHORIZING INCLUSION IN CODE.** The provisions of this ordinance shall
35 be included and incorporated into the Code of Ordinances of the City of Apopka, as additions or
36 amendments thereto

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38 **SECTION V. SEVERABILITY.** Should any word, phrase, sentence, subsection or section be
39 held by a court of competent jurisdiction to be illegal, void, unenforceable, or unconstitutional, then that
40 word, phrase, sentence, subsection or section so held shall be severed from this ordinance and all other
41 words, phrases, sentences, subsections, or sections shall remain in full force and effect.

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43 **SECTION VI. CONFLICTING ORDINANCES.** All ordinances or part thereof, in conflict
44 herewith are, to the extent of such conflict, repealed.

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46 **SECTION VII. EFFECTIVE DATE.** That this ordinance and the rules, regulations, provisions,
47 requirements, orders and matters established and adopted hereby shall take effect and be in full force and
48 effect immediately upon its passage and adoption.

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50 PASSED UPON at the first reading of the City Council, this , 2023

1 PASSED UPON at the second and final reading of the City Council, this , 2023.

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4 ATTEST:

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8 SUSAN M. BONE
9 City Clerk

BRYAN NELSON
Mayor

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12 APPROVED as to legal sufficiency and form:

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16 MICHAEL A. RODRÍGUEZ
17 City Attorney

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20 DULY ADVERTISED FOR PUBLIC HEARING:

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