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ORDINANCE NO. 2005-11

AN ORDINANCE OF THE CITY OF HALLANDALE BEACH, FLORIDA TO REPEAL ORDINANCE NO. 80-32 AND DIVISION 2, SECTIONS 30-71 THROUGH 30-76 IN ARTICLE II, CHAPTER 30 OF THE CITY CODE, ENTITLED "UTILITIES": PROVIDING FOR THE IMPOSITION OF CONNECTION IMPACT FEES ON NEW WATER USERS FOR CAPITAL EXPANSION OF THE CITY'S WATER PRODUCTION AND DISTRIBUTION SYSTEM IN ORDER TO SERVE SUCH NEW CONNECTIONS; PROVIDING FOR AUTHORITY TO ENACT THE ORDINANCE; PROVIDING FOR COMMISSION FINDINGS; PROVIDING DEFINITIONS; PROVIDING APPLICABILITY; REQUIRING PAYMENT OF WATER CONNECTION IMPACT FEES; PROVIDING A FEE SCHEDULE; PROVIDING FOR THE PERIODIC ADJUSTMENT OF FEES; PROVIDING EXEMPTIONS; PROVIDING THE TIMING OF PAYMENT; PROVIDING OPTIONS TO FINANCE FEE PAYMENTS; PROVIDING FOR THE ESTABLISHMENT OF A WATER IMPACT FEE TRUST FUND FOR EACH TYPE OF FEE; PROVIDING FOR USE OF THE TRUST FUND MONIES; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Chapter 180 of the Florida Statute provides local municipalities with the authority to establish and operate water utility systems; and

WHEREAS, the City Commission of Hallandale Beach has received and accepted the Municipal Services Impact Fee Study (the "Impact Fee Study") prepared by Public Resources Management Group, Inc. as of September 2004; and

WHEREAS, the Impact Fee Study sets forth the calculations and basis for the connection impact fees utilized and associated with water production and distribution; and

WHEREAS, in order to equitably distribute the proportionate fair share of new expansion related capital costs on new users of the system that create the need for such expansion, enacting this ordinance by the City of Hallandale Beach satisfies the needs identified by the study and serves the best interests of the City's residents.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE
37 CITY OF HALLANDALE BEACH, FLORIDA:

38 SECTION 1. Chapter 30, Article II, Division 2 of the City of Hallandale Beach's Code of
39 Ordinances is hereby amended and reads as follows:

40 Article II, Division 2. "WATER CONNECTION IMPACT FEE
41
42 DIVISION 2. WATER CONNECTION IMPACT FEE

43
44 Section 30-71. Short Title

45
46 This article shall be known and may be cited as the "City of Hallandale Beach Water
47 Connection Impact Fee Ordinance."

48
49 Section 30-72. Authorization

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51 This article is enacted pursuant to Chapter 180 of the Florida Statute which provides local
52 municipalities with the authority to establish and operate water utility systems.

53
54 Section 30-73. Commission Findings

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56 The Hallandale Beach City Commission hereby makes and expresses the following findings,
57 purposes, and intent:

- 58
59 (1) Significant growth is expected to occur in the areas that are provided water utility
60 services by the City.
61
62 (2) Growth within the service area has resulted in the need to expand the water
63 production capacity with Broward County and North Miami Beach to accommodate
64 the demands imposed by such growth without decreasing the current level of utility
65 services at the cost of existing users.
66
67 (3) Expansion of water utility services to accommodate new growth shall promote and
68 protect the interests and general welfare of the residents of Hallandale Beach.
69
70 (4) In order for future growth to pay more equitably the cost of expanding the water
71 production and distribution system to meet the demands imposed by such growth,
72 the City Commission finds that the adoption of water connection impact fees, to be
73 levied as one-time charges upon new users (connections) or new demand on the
74 system created through expansions or renovations, is an appropriate and equitable
75 method of capital cost recovery.
76
77 (5) The intent of the water connection impact fee is to recover only the pro rata share of
78 the costs incurred to meet the demands of growth.
79

- 80 (6) The report entitled "City of Hallandale Beach, Florida Municipal Impact Fee Study",
81 dated September 10, 2004, sets forth a reasonable methodology and analysis for the
82 determination of the impact of new development on the need for and costs of
83 additional water capital facilities in the City of Hallandale Beach.
84
- 85 (7) The Commission's intent is to expend the Water Connection Impact Fees collected
86 pursuant to this article only for the purposes for which they were collected,
87 specifically, to defray the capital cost incurred to meet the demands imposed by
88 growth.
89

90 **Section 30-74. Definitions**

91
92 Unless specifically defined below, words or phrases used in this article shall be
93 interpreted to give this article its most reasonable application, consistent with state and federal
94 law and other city and county regulations. The following words and phrases shall have the
95 following meanings unless the context requires otherwise:
96

- 97 (1) *City commission* or *city* means the City Commission of the City of Hallandale Beach,
98 Florida, a political subdivision of the state.
99
- 100 (2) *Building* means any structure whether temporary or permanent, built for the support,
101 shelter, or enclosure of persons, chattels, or property of any kind. This term shall
102 include tents, trailers, mobile homes, or any vehicles serving in any way the function
103 of a *Building*. This term shall not include temporary construction sheds or trailers
104 erected to assist in construction and maintenance during the term of a Building
105 Permit.
106
- 107 (3) *Building Permit* means an official document or certificate issued by the authority,
108 city or county, having jurisdiction authorizing the commencement of construction of
109 any Building or parts thereof; the term also includes construction plan approval for
110 new mobile home development and new recreational vehicle spaces.
111
- 112 (4) *Comprehensive Plan* means the Comprehensive Plan of the City of Hallandale Beach
113 adopted and amended pursuant to the Local Government Comprehensive Planning
114 and Land Development Act.
115
- 116 (5) *Dwelling Unit* means any housing unit for the purpose of providing residential
117 shelter, each single-family residential unit, residential condominium, duplex, triplex,
118 mobile home, modular housing, manufactured home, or multiple family unit
119 designated or intended to provide human habitation.
120
- 121 (6) *Encumbered*, in reference to funds for capital improvements, means funds committed
122 in the capital improvements program for a specified improvement on a specified time
123 schedule.
124
- 125 (7) *Equivalent Residential Unit (ERU)* is the level of service (LOS) expressed as the
126 amount of usage (gallons) allocated on an average daily basis, and whereas one (1)
127 ERU represents the reserved capacity (average daily usage) of one residential unit.

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- (8) *Existing Structure* means a structure for which an impact fee has never been paid.
- (9) *Land* means the earth, water and air above, below, or on the surface, and includes any improvements or structures customarily regarded as land.
- (10) *New Structure* means a structure for which the Building Permit was issued on or after the effective date of this Ordinance.
- (11) *Non-residential Structure* means any Building which encloses space for the occupancy by persons or their activities, other than residential dwellings, including but not Limited to professional buildings, commercial and industrial buildings, hotels, and motels.
- (12) *Residential Structure* means Dwelling Unit as defined above.
- (13) *Schedule of Connection Impact Fees* means the schedule of fees incorporated in Section 30-77 of this article.

Section 30-75. Applicability

This article shall apply within the water service territory of the City of Hallandale Beach, including those areas that are annexed into the City after the effective date of this Ordinance.

Section 30-76. Payment of Water Connection Impact Fees

Imposed. Any person who seeks to connect to the City of Hallandale Beach's water system, or whom expands and/or changes the use of an existing facility beyond the current reserved capacity for such facility is hereby required to pay a water connection impact fee in the manner and amount set forth in the Schedule of Connection Impact Fees. ~~The water connection impact fee shall be payable when the Building Permit is issued for one or more Dwelling Units or when a request for capacity is requested.~~

Basis. The water connection impact fees are based on equivalent residential units (ERUs). An ERU shall mean any structure which provides living accommodations for a single family (Single Family Residence). A structure shall be charged according to the number of ERUs located in each structure. The City of Hallandale Beach defines an ERU as 350 gallons per day for the water system.

Section 30-77. Schedule of Water Connection Impact Fees

- (1) Specified Uses

The water connection impact fee shall be payable using the following schedules:

Water Connection Impact Fee Schedule

Residential

Dwelling Type	ERU Factor	Impact Fee Per Unit
Single-family	1.00	\$1,240
Duplex	0.73	905
Triplex, 4-plex, 5-plex, Condo or Co-op Apartments	0.60	740
Triplex / 3 Meters	0.67	830
Duplex / 2 Meters	0.80	990
Single House and Apartment	0.67	830
Trailer or Trailer Park	0.47	580
Townhouse	0.87	1,075
4-plex / 4 Meters	0.53	655

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Non-Residential

Meter Size	ERU Factor	Impact Fee
3/4 Inch	0.80	\$990
1 Inch	2.00	2,480
1 ½ Inch	4.00	4,960
2 Inch	6.40	7,935
3 Inch	14.00	17,360
4 Inch	24.00	29,760
6 Inch	50.00	62,000

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(2) Unspecified Uses

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If the type of connection that is being applied for is not readily specified on the Schedule of Water Connection Impact Fees, the City Manager or designee shall determine the appropriate fee by considering demographic or other documentation, which is available.

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(3) Change in Use or Density

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In the case of change in use, redevelopment, or expansion or modification of an existing use of a site, the water connection impact fee shall be based upon the net increase in the type and number of units (residential) or in the size of the meter (non-residential).

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Section 30-78. Periodic Adjustment of Water and Wastewater Connection Impact Fees

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The Schedule of Connection Impact Fees in Section 30-77 herein is established and will be included in the issuance of the "Schedule of Fees and Charges" or "Fee Booklet". On October 1 of each year after the adoption of this article, the Schedule of Connection Impact Fees in Section 30-77 herein shall be adjusted during the budget process and adopted via the fee booklet resolution.

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Section 30-79. Exemptions

Definitions: For the purpose of this section, the terms listed below shall have the meanings shown:

Affordable Housing shall mean housing intended for occupancy by persons of low or moderate income as defined in Florida Statute § 420.9071, or any successor statute, and as to which the monthly rent or mortgage payment does not exceed thirty (30) percent of the income levels specified for persons of low or moderate income in Florida Statute § 420.9071 or any successor statute.

Developer shall mean the person or entity responsible for developing and constructing Affordable Housing.

Other Available Funds shall mean any funds so designated by the City of Hallandale Beach to be used for economic development incentives.

It is the intent of this article that all new users (connections) or new demand on the system created through expansions or renovations, pay its apportioned share of capital costs as outlined in Section 30-77 of the Schedule of Connection Impact Fees; therefore, all impact fees calculated are to be collected. The purpose of this section is to encourage development of Affordable Housing through the use of Other Available Funds. When Other Available Funds are designated and available for economic development incentives, the City of Hallandale Beach reserves the right to waive direct payment of the municipal services impact fees by the Developer and to pay the impact fees from the Other Available Funds account.

Applicants for Building Permits who wish to seek an exemption from Water Connection Impact Fees shall apply for the exemption on forms prescribed by the City Manager or his designee. The applicant must certify either that the property is within a Community Redevelopment District or that upon completion the Dwelling Unit(s) will qualify as Affordable Housing and will be maintained as Affordable Housing in accordance to City policy after issuance of a Certificate of Occupancy. If the Dwelling Units are not maintained as Affordable Housing, then the impact fees which would have been payable but for this exemption shall be due and payable at once, prorated on an annual basis for the number of years less than the amount designated by City policy during which the Dwelling Units will not be maintained as Affordable Housing.

Any exemption sought must be approved by the City Manager before it takes effect. Applicants will be expected to meet with the City Manager to provide evidence in support of their claim to an exemption. No exemption shall be automatic and it shall be within the sole discretion of the City Manager whether to grant or deny any exemption, based not only on the criteria specified herein to qualify for the exemption but also on the availability of Other Available Funds and such other considerations as the City Manager deems appropriate in the public interest.

-No other exemptions and/or provisions are expressed or implied by this section-

246 **Section 30-80. Required Time of Payment**

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248 **Impact fees must be paid at the time of application for complete new service or to**
249 **separate/upgrade existing service. A certificate of occupancy (where applicable) will not be**
250 **issued until these fees have been paid.**

251
252 **Section 30-81. Financing Policy**

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254 **In order to be eligible for financing required payments of water connection impact fees,**
255 **the cumulative fees must exceed twenty thousand dollars (\$20,000). In addition, the development**
256 **or project for which financing is being sought must qualify either as Affordable Housing as**
257 **defined in this Ordinance, or must constitute a commercial or industrial venture.**

258
259 **Any applicant who seeks to finance connection impact fees shall apply on forms**
260 **promulgated by the City Manager or his designee, and shall include with the application proof of**
261 **qualification as Affordable Housing, or a commercial or industrial venture. Any application for**
262 **financing must be approved by the City Manager, which shall have sole discretion to approve or**
263 **reject any application based on the criteria in this Ordinance, the financial health and status of**
264 **the Trust Funds created by this Ordinance, and such other factors as the City Manager deems**
265 **relevant in the public interest. Financing of connection impact fees is not a matter of right.**

266
267 **Financing Terms**

- 268
269 (1) **Financing will be established at a five-year fixed rate, which the rate shall be equal to**
270 **the prime rate which is available at that time at local banking institutions.**
271
272 (2) **The customer shall pay twenty (20) percent of the total connection impact fees at the**
273 **time financing is extended and the balance shall be paid over five (5) years and the**
274 **deferred balance shall bear interest at the prime rate available at local banks on the**
275 **date the financing is extended.**
276
277 (3) **The connection impact fee obligation shall be paid in monthly installments.**
278
279 (4) **The balance due to the City may be paid in full at any time before the maturity date**
280 **without payment of penalty.**

281
282 **Section 30-82. Water Connection Impact Fee Reserve Account Established**

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284 **There is hereby established one (1) non-lapsing reserve account; the Water Connection**
285 **Impact Fee Reserve Account.**

286
287 **Connection impact fees collected pursuant to this Ordinance shall be placed in the Water**
288 **Connection Impact Fee Reserve Account.**

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290 **Funds withdrawn from the Water Connection Impact Fee Reserve Account shall be used**
291 **in accordance with the provisions of this article.**

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293 **Section 30-83. Use of Municipal Services Impact Fee Funds**

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At least once each fiscal year, the City Manager or designee shall present to the City Commission a proposed capital improvement program for water services assigning funds from the connection impact fee reserve account to specific improvement projects and related capital costs. Monies not assigned in any fiscal year shall be retained in the connection impact fee reserve account until the next fiscal year.

Debt Service

In the event that bonds or other debt instruments are issued for advance provision of water production and distribution capital requirements for which the connection impact fees were intended to fund the growth related demands, impact fees may be used to pay debt service on such bonds or other debt instruments to the extent that the proceeds of the bonds (and a pro rata share of the cost of issuance) are expended upon the capital facilities.

Water Production and Distribution Services

Funds collected for water production and distribution services can be used for the purpose of acquiring or expanding capital equipment and/or facilities under the jurisdiction of the City.

Section 30-84. Personal Liability, Lien for Collection

Any person securing a Building Permit, and any person performing activities for which a Building Permit is required, and all owners of the land upon which such activities are performed, shall be jointly and severally liable for the water connection impact fees imposed by this Ordinance. In addition to any other remedy provided by law, the City may proceed in a court of competent jurisdiction to collect such fee from any or all of such persons as provided by law. The term *person* means any natural person, corporation, limited liability company, partnership, firm or other entity or organization, and with regard to any entity which is not a natural person, shall include the officers and directors of any corporation; the general partners of any general or limited partnership, the members of any limited liability company, and the equity owners of any other entity not specifically listed.

Failure to pay the water connection impact fees when determined by the City as required to satisfy the impact of development shall result in the amount becoming a lien against the property, as provided for herein. The City shall provide written notice of the fees due by one of the following: (1) personal service, (2) certified United States mail, return receipt requested, or (3) Federal Express or other equivalent overnight letter carrier. Upon failure to pay the fees within thirty (30) days of the date of notice, a Notice of Lien shall be served by one of the following: 1) personal service, (2) certified United States mail, return receipt requested, or (3) Federal Express or other equivalent overnight letter carrier, advising the property owner that the City shall file a Claim of Lien against the property in question. Once recorded, the Claim of Lien may be foreclosed as provided for in Chapter 170 and Chapter 173 of the Florida Statutes, or in the same manner as a real estate mortgage, or in any other manner now or hereafter specified by applicable law. The lien for unpaid impact fees shall be coequal with the lien for state, county, special district, and other taxes and superior in right to all other liens and encumbrances, including mortgages and judgment liens regardless of the date of creation or perfection thereof.

342 The liens shall have duration of twenty (20) years from the date of issuance of the Building
343 Permit.

344
345 SECTION 2. If any portion of this ordinance is declared invalid or unenforceable, then to
346 the extent it is possible to do so without destroying the overall intent and effect of this ordinance,
347 the portion deemed invalid or unenforceable shall be severed here from and the remainder of this
348 ordinance shall continue in full force and effect as if it were enacted without including the
349 portion found to be invalid or unenforceable.

350 SECTION 3. Ordinance No. 80-32 is repealed and all other ordinances or parts of
351 ordinances which are in conflict with this ordinance are hereby repealed, to the extent necessary
352 to alleviate the conflict, but shall continue in effect insofar as they are not in conflict herewith,
353 unless repeal of the conflicting portion destroys the overall intent and effect of any of the
354 conflicting ordinances, in which case those ordinances so affected shall be hereby repealed in
355 their entirety.

356 SECTION 4. This ordinance shall become effective upon its passage and adoption
357 according to law.

358 PASSED AND ADOPTED on first reading September 20, 2005,

359 PASSED AND ADOPTED on second reading September 26, 2005.

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365 ATTEST:

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MAYOR-COMMISSIONER


CITY CLERK

	VOTE	
	AYE	NAY
Mayor Cooper	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vice-Mayor Julian	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comm. Gibbons	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comm. Ross	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comm. Schiller	<input checked="" type="checkbox"/>	<input type="checkbox"/>