

ORDINANCE NO.

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, AMENDING PROVISIONS OF ARTICLE VIII OF CHAPTER 2-31 OF THE MANATEE COUNTY CODE OF ORDINANCES RELATING TO FACILITY INVESTMENT FEES FOR THE MANATEE COUNTY PUBLIC UTILITIES SYSTEM; ESTABLISHING REVISED FACILITY INVESTMENT FEES FOR WATER AND WASTEWATER SERVICE; AMENDING SECTION 2-31-205 TO REVISE FINDINGS; AMENDING SECTION 2-31-206 TO REVISE DEFINITIONS; AMENDING SECTION 2-31-207 TO REVISE CUSTOMER AND SERVICE CLASSIFICATIONS; AMENDING SUBSECTION 2-31-208 TO ESTABLISH REVISED WHOLESALE WATER AND WASTEWATER FACILITY INVESTMENT FEES; AMENDING SECTION 2-31-208 TO ADD SUBSECTION 2-32-208(d) TO ESTABLISH POLICY OF FACILITY INVESTMENT FEES NOT REFUNDED TO WHOLESALE CUSTOMERS FOR REDUCTIONS IN RESERVE CAPACITY; SECTION 2-31-209 TO REVISE RETAIL POTABLE WATER AND WASTEWATER FACILITY INVESTMENT FEES; AMENDING SUBSECTION 2-31-209(b) TO ESTABLISH REVISED RETAIL WASTEWATER FACILITY INVESTMENT FEES BY METER SIZE; AMENDING SUBSECTION 2-31-209(d) TO ESTABLISH REVISED RETAIL FACILITY INVESTMENT FEES BY CUSTOMER CLASSIFICATION; AMENDING SECTION 2-31-211 TO REVISE USE OF FACILITY INVESTMENT FEES; ADDING SECTION 2-31-213 TO ESTABLISH ALTERNATIVE FEE CALCULATION; ADDING SECTION 2-31-214 TO ESTABLISH FACILITY INVESTMENT FEE REFUNDS; ADDING SECTION 2-31-215 TO ESTABLISH MISCELLANEOUS PROVISIONS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; 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, and other applicable provisions of law, together with resolutions adopted by the Board of County Commissioners of Manatee County; and

WHEREAS, Section 2-31-103, Manatee County Code of Ordinances, authorizes the county to prescribe, fix, establish and collect fees, rentals or other charges for the facilities and services furnished by the public utilities system on an equitable basis; and

WHEREAS, on June 2, 2015 the Board of County Commissioners adopted and enacted Ordinance No.15-22 providing for Facility Investment fees for wastewater service of the public utilities system; and

WHEREAS, Ordinance No. 15-22 is codified as Article VIII of Chapter 2-31 of the Manatee County Code of Ordinances; and

WHEREAS, on November 9, 2010, the Board of County Commissioners adopted and enacted Ordinance No. 10-70 amending certain provisions of Article VII of Chapter 2-31 of the Manatee County Code of Ordinances and establishing revised Facility Investment Fees for the

public utilities system, including potable water, wastewater, and fire service; and

WHEREAS, consultants retained by the county have recommended amendments to certain provisions of Article VIII of Chapter 2-31 of the Manatee County Code of Ordinances and have recommended revisions to certain Facility Investment Fees for potable water, wastewater; and fire service of the public utilities system; and

WHEREAS, the Board of County Commissioners has reviewed the recommended amendments and the recommended revisions to certain Facility Investment Fees and has determined that the revised Facility Investment Fees are necessary to fund capital costs and related costs to accommodate new development; and

WHEREAS, Section 2-31-103, Manatee County Code of Ordinances, provides that fees, rentals or other charges for the facilities and services of the public utilities system, or any revision of such fees, rentals or other charges, shall be fixed and established by the Board of County Commissioners at a public hearing; and

WHEREAS, Section 163.31801, Florida Statutes, requires a county to adopt an ordinance imposing or amending impact fees; and

WHEREAS, Section 163.31801, Florida Statutes, requires that notice be provided no less than ninety (90) days before the effective date of an ordinance imposing a new or increased impact fee; and

WHEREAS, Section 2-31-103, Manatee County Code of Ordinances, requires notice of public hearing to be published at least once not less than ten (10) days prior to such public hearing in a newspaper of general circulation in the county; and

WHEREAS, Section 2-31-103, Manatee County Code of Ordinances, requires the Board of County Commissioners, at the public hearing, to disclose all purposes for which any increased and/or new fees, rentals or other charges will be used; and

WHEREAS, notice of public hearing to consider Ordinance No. _____ was duly published in a newspaper of general circulation in Manatee County; and

WHEREAS, on _____, 2019, the Board of County Commissioners held a public hearing to consider Ordinance No. _____; and

WHEREAS, at the public hearing, the Board of County Commissioners disclosed all purposes for which any increased and/or new Facility Investment Fees established in Ordinance No. _____ will be used; and

WHEREAS, the Board of County Commissioners finds that it is in the best interest of the county and the customers of the public utilities system, and the owners and holders of bonds issued to finance the construction of the public utilities facilities, to amend certain provisions of Article VIII of Chapter 2-31 of the Manatee County Code of Ordinances, to authorize providing credits against the payment of Facility Investment Fees for certain capital improvements, and to

establish revised Facility Investment Fees for potable water, wastewater, and fire service of the public utilities system.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

ARTICLE VIII. - FACILITY INVESTMENT FEES

Sec. 2-31-205. - Findings.

The board of county commissioners relies upon the following findings in the adoption of this article:

- (a) The county retained Public Resources Management Group, Inc., and ~~McKim & Creed Engineers, P.A.~~, to prepare a report entitled "~~Manatee County, Florida Water and Wastewater System Facility Investment Fees _____,~~" dated, ~~July 27, 2006~~ 2018 ("facility investment fees study"), which is incorporated herein by reference.
- (b) The facility investment fees study sets forth reasonable analyses and methodologies for determining the impacts of new development on the county's public utilities facilities.
- (c) The facility investment fees study is based on the most recent and localized data for the county's public utilities system.
- (d) The facility investment fees established in this article are based on the facility investment fees study and additional calculations by county staff.
- (e) Public Resources Management Group, Inc., and county staff have reviewed and recommended amendments to the article relating to the facility investment fees for potable water and wastewater ~~and fire service~~.
- ~~(f) By letter dated October 22, 2010, which is incorporated herein by reference, Public Resources Management Group, Inc., has determined that the amendments are consistent with the facility investment fees study.~~
- (f g) There is a rational relationship between the amount of the facility investment fee and the impacts on the county's public utilities system created by new development.
- ~~(g h)~~ The amount of the facility investment fee expressed on an equivalent residential connection basis approximates each customer's the estimated proportional share of the total capital costs of facilities serving available to provide service to such equivalent residential connections all customers of the public utilities system.
- (h i) The county retained Carollo Engineers to prepare a report entitled "Level of Service Evaluation Final" dated June 2015, which is incorporated herein by reference.
- (i) This article provides for accounting and use of facility investment fees for capital costs of facilities in the public utilities system and other related costs.

Sec. 2-31-206. - Definitions.

As used in this article, the following words and terms shall have the following meanings, unless otherwise specifically provided:

- (a) *AWWA*. American Water Works Association.
- (b) *Board*. Board of County Commissioners of ~~m~~Manatee County, Florida.
- (c) *Contract*. A written legally executed agreement binding two (2) or more parties to certain terms and conditions.
- (d) *County*. Manatee County, Florida, a political subdivision of the State of Florida.
- (e) *County administrator*. The administrator of the county or the county administrator's designee.
- (f) *Customer*. The applicant that has requested service ~~and for the use of~~ purchases potable water service or and/or wastewater service for the benefit of such applicant which is subject to the payment of facility investment fees.

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- (1) ~~Wholesale~~: The municipal or county government purchasing potable water for resale or supplying wastewater for treatment.
- (2) ~~Retail~~: The property owner, the owner as recorded on the county ad valorem tax rolls, renter, or lessee, who is responsible for all fees and charges for potable water and wastewater service.
- (g) *Dwelling unit*. One or more rooms in a residential or commercial building or residential portion of a building which are used or intended for use as a complete independent living facility for no more than one family and generally including which includes permanent provisions for living, sleeping, eating, cooking, and/or sanitation and is readily accessible in the interior to all spaces therein.
- (h) *Equivalent Residential Connection or ERC*. The measurement of water equal to 250 gallons per day (gpd) design flow amount and wastewater equal to 185 gallons per day (gpd) design flow amount whereby one ERC represents the amount of capacity required in the design of the water system to provide water service to a residential dwelling unit served by the smallest meter used by the county to provide water service and the amount of capacity required in the design of the wastewater system to provide wastewater service to a residential dwelling unit served by the smallest meter used by the county to provide wastewater service.
- (i) *Existing structure*. Any structure for which a certificate of occupancy or temporary certificate of occupancy has been issued.
- (j) *Facility investment fee cost (FIF)*. The estimated dollar investment or the capital cost of the facilities identified as System Improvements which are necessary to supply and distribute potable water or collect and treat wastewater which are recognized in the development of the facility investment fee the volume purchased by a typical customer in each class of customer.
- (k) *Facility investment fee (FIF)*. The fee charged to each new customer associated with new development or re-development requesting potable water and/or wastewater treatment service which approximates the customer's proportional share of the cost of System Improvements to service the development or re-development recognized as a facility investment fee cost.
- (l) *Governmental entity*. Any federal, state, regional, district, local, county, or municipal board, commission, agency, or other unit of government created or established by law, charter, or ordinance.
- (m) *Irrigation meter*. A potable water meter used exclusively for irrigation.
- (n) *Master meter*. A single meter serving two (2) or more units within a facility such as but not limited to a multifamily residential or multiunit commercial facility. This includes, without limitation, subdivisions, duplexes, condominiums, apartments, mobile home parks, travel trailer parks, hotels, motels, shopping centers, and office buildings.
- (o) *Master meter units*. The number of units served by a master meter. This includes individual dwelling or commercial units and common recreation or service units, such as swimming pools with sanitary facilities, laundry rooms, recreational halls, and offices with or without sanitary facilities. Units which are individually metered by the county are not included in the unit count for a master meter.
- (p) *MGD*. Million gallons per day.
- (q) *Potable water*. Water of sufficiently high quality that can be safely consumed.
- (r) *Project or development improvements*. The water and wastewater site improvements, capital facilities and infrastructure that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project.
- (s) *Property*. Improved or unimproved real property.

- (t) Reclaimed water. Wastewater that has received at least advanced secondary treatment and is converted into water that can be reused for non-potable water purposes after flowing out of a wastewater treatment facility.
- (u) Reserve capacity. A portion of the total capacity of the potable water or wastewater system which, through payment of an appropriate fee, has been or will be set aside for the exclusive use of the customer.
- (v) SWFWMD. Southwest Florida Water Management District.
- (w) System Improvements. The installed cost of utility infrastructure and capital improvements that are public facilities and are designed to provide potable water and wastewater treatment service, which would include conveyance facilities, to the community at large, in contrast to "project improvements."
- (x) User. The owner, lessee, tenant, occupant, or other person, business, or corporation receiving potable water, wastewater, and/or fire service.
- (y) Utility Service Area. Includes the boundaries of water supply and wastewater service areas established by the Comprehensive Plan as adopted by the board plus any additional properties located outside such approved area which have been granted the receipt of potable water and/or wastewater service from the county public utilities system as approved by the Board.
- (z) Wastewater. Spent or used water with dissolved or suspended solids and waste products which is discharged from homes, commercial establishments, farms, and industries and any other discharges to the county utility system.

Sec. 2-31-207. - Customer and service classifications.

There are two (2) classes of customers: (1) wholesale and (2) retail.

- (a) Wholesale service. Municipalities, political subdivisions, or other governmental entities and public-private utilities with rates with rates regulated by the Florida Public Service Commission or by the county that have their wastewater treated by the county and/or purchase potable water from the county potable water system as a single resale customer for the purpose of reselling the purchased service to their ~~these~~ retail customers located within their utility service jurisdictions.
- (b) Retail service classifications. The property owner, the owner as recorded on the county ad valorem tax rolls, renter, or lessee, who is the ultimate recipient of potable water and/or wastewater service provided by the county and who is responsible for all fees and charges for such potable water and/or wastewater service. Retail service shall include the following classifications:
 - (1) Residential, single-family. All residences containing one dwelling unit, individually metered and not connected in any manner to a commercial establishment. This includes individually metered mobile homes located in a mobile home park.
 - (2) Residential, multifamily. All residential structures containing two (2) or more dwelling units. Included are the following:
 - a. Single-family residences in subdivisions served by master meters;
 - b. Existing duplexes served by one meter; and
 - c. Condominiums, apartments, and mobile home parks served by master meters.
 - (3) Mobile home. Individual mobile homes, as defined F.S. § 513.01, which are individually metered and not located in a mobile home park, as defined F.S. § 513.01.
 - (4) Travel Trailer Recreation Vehicle. A vehicular type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle pursuant to F.S. § 320.01 and Includes the following:

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- a. Individual Recreation vehicles individually metered; and
 - b. Recreation vehicles parks served by master meters.
- (5) ~~Hotel or motel. An establishment containing multiple rooms intended for temporary, short-term lodging. Any building or portion thereof, or a group of buildings which provides two (2) or more lodging units that provide sleeping accommodations and other amenities such as a restaurant for transient occupancy on a daily, weekly, or similar short-term basis and shall include, but shall not be limited to, motel, inn, motor inn, motor lodge, boatel, tourist cabin and tourist court.~~
 - (6) *Commercial.* Includes, but is not limited to, rooming houses, retail and wholesale sales operations, office buildings, shopping centers, warehouses, bakeries, vending operations, laundries, retirement/rest/nursing homes, restaurants, hospitals, schools, churches, government facilities, and other related service operations.
 - (7) *Industrial and Manufacturing.* Reference Chapter 2 of the Land Development Code and includes Aall manufacturing, agricultural, chemical, and food processing plants.
 - (8) *Large user.* A commercial or industrial customer with a reserve capacity of either water service or wastewater service on an individual service basis that equals or exceeds an average of one million gallons per day (1 MGD).
 - (9) *Wastewater only.* Any customer connected to the wastewater system who uses other than county potable water service.
 - (10) *Metered irrigation.* A residential or commercial customer with a potable water meter or reclaimed water meter for the sole purpose of watering grass and vegetation. No impact shall be made upon the wastewater system as a result of this service.
 - (11) *Public fire protection.* Public fire hydrants and other devices used to supply potable water or reclaimed water to meet general firefighting requirements.
 - (12) *Private fire protection.* Separate fire connections, standpipes with hose attachments, tanks, and automatic sprinkler systems located on and providing fire service to a customer's property.
 - (13) *Other.* Any other retail service not defined (ie Accessory Dwelling Units, Tiny Houses), where rules have not been developed per Land Development Code, fees will be based on flow/demand on the system.

Sec. 2-31-208. - Wholesale potable water and wastewater facility investment fees.

- (a) ~~All wholesale customers are required to enter into a contract with the county for the purchase of potable water or wastewater service. The contract will specify a reserve capacity and may include provisions for changing the reserve capacity. Unless otherwise specified by contract, reserve capacities for existing wholesale customers are as follows:~~

	Potable Water	Wastewater
Longboat Key	2.5 MGD	2.26 MGD
Palmette	2.0 MGD	0 MGD
Bradenton	0.5 MGD	0 MGD
Sarasota County	6.0 MGD	0 MGD

Reserve capacities may be increased by amendment of the contract or in accordance with provisions specified in the contract.

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(b) Subject to availability, new or existing wholesale customers may purchase potable water or wastewater reserve capacity in accordance with provisions specified in the contracts for such service. Wholesale customers shall pay a facility investment fee of ~~seven six thousand one hundred sixty four fifty six dollars (\$7,164,560.00)~~ \$6,856.00 per one thousand (1,000) gallons of potable water reserve capacity per day or ~~fourteen seventeen thousand four one hundred fourteen sixty two dollars (\$14,414,162.00)~~ per one thousand (1,000) gallons of wastewater reserve capacity per day in excess of the reserve capacities established in subsection (a) of this section.

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(c) The reserve capacities for wholesale customers are subject to upward adjustments by amendment of the contracts or in accordance with provisions specified in the contracts. The reserve capacities for wholesale customers are also subject to downward adjustments, in the county's discretion, should:

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- (1) Drought or other natural conditions result in insufficient ground or surface water to meet the needs of all users of the county potable water system; or
- (2) The county's SWFWMD water use permit(s) be modified so as to allow lesser quantities of potable water usage; or
- (3) A wholesale customer's contract with the county expire or be terminated.

(d) If a wholesale customer reduces its reserve capacity in accordance with the terms of a contract or an amendment to a contract and FIFs were previously paid to the county for such capacity that will no longer be reserved by the respective wholesale service customer, no reimbursement of any previously paid FIFs for the reserve capacity reduction will be made to the wholesale customer. To the extent that a wholesale service customer subsequently elects to increase its reserved capacity after first electing to reduce its reserved capacity, such wholesale service customer shall pay the then prevailing facility investment fee for the increase in serviced capacity being requested.

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Sec. 2-31-209. - Retail potable water and wastewater facility investment fees.

(a) *General requirements.*

(1) Any ~~Connection~~ to the county public utilities system requires payment of facility investment fees. Lift stations not dedicated to the county will be charged facility investment fees.

Commented [AP9]: Sec. 2-31-207 (A)

(2) Facility investment fees for potable water service and facility investment fees for wastewater service for each individually metered residential dwelling unit that was were established on and after December 10, 1981, shall be determined according to either the actual meter size servicing the property or a 5/8 -inch x 3/4-inch meter size, whichever is greater.

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(3) The size of service and/or reserve capacity made by a customer requesting reserve capacity shall be based on calculations certified in writing by a professional engineer registered in the State of Florida or as determined and approved by the county administrator.

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(4) The facility investment fee is in addition to all other service charges and fees charged by the county to establish and subsequently use the utility service being requested by the customer.

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(5) The facility investment fee is not transferable to real property at a location other than that for which it was paid.

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(6) The facility investment fee to be charged to a customer reserving capacity shall be the facility investment fee in effect at the time of issuance of a building permit. Facility investment fee payments will not be accepted without the existence of a valid application for building permit. The facility investment fee for reinstallation of meters pulled for uninhabitable properties and reinstalled after eighteen (18) months shall be the difference between the facility investment fee in effect at the time of reinstallation and the facility investment fee in effect when the meter was pulled.

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(7) The facility investment fee to be charged shall be based on the customer classification according to the schedule established in subsection (d) of this section. The meter size facility investment fee listed in subsection (d) shall be determined according to the schedule established in subsection (b) of this section.

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(8) The county shall award credits against facility investment fees for improvements that the county engineer has concluded 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. Such credits may be used to offset the facility investment fees due on an individual permit, but only to reduce that portion of the fees that is attributable to the proportionate cost of similar system line extensions, as reflected in the facility investment fees study or the wastewater facility investment fees study relied upon in section 2-31-205 and memorialized in an impact fee credit agreement (to the extent the developer is not reimbursed for the cost thereof). Such credits shall be awarded, administered and used in accordance with the requirements of Section 807 of the Manatee County Land Development Code, or its successor provision.

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(b) Retail facility investment fees by meter size.

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Meter Size (in inches)	Potable Water FIF		Wastewater FIF	
	Residential *	Commercial	Residential ²	Commercial
5/8 x 3/4	\$1970 1,714.00	\$2,056.00	\$3027 3,175.00	\$3,651.00
3/4	\$2955 2,571.00	\$3,085.00	\$4541 4,762.00	\$5,476.00
1	\$4925 4,285.00	\$5,142.00	\$7568 7,937.00	\$9,128.00
1 1/2	\$9850 8,570.00	\$10,284.00	\$15135 15,875.00	\$18,256.00
2	\$15760 13,712.00	\$16,454.00	\$24126 25,400.00	\$29,210.00
3	\$31520 27,424.00	\$32,908.00	\$48432 50,800.00	\$58,420.00
4	\$49250 42,850.00	\$51,420.00	\$75675 79,375.00	\$91,281.00
6	\$98,500.00	\$151,350.00	412,500	
8	\$157,600.00	\$242,160.00	660,000	
10	\$226,550.00	\$348,105.00	948,750	
Over 10 6	\$7.164 per gallon per day n/a	\$6.856 per gallon per day	\$14.414 per gallon per day	\$17.162 per gallon per day

* No meters will be installed for individually-metered residential service greater than 4-inches in size.

(c) In the interest of promoting residential fire protection, single-family residential potable water and fire line services may be combined. Meter upsizing of one-line size for the 5/8 -inch x 3/4-inch service and the 3/4-inch service will be provided at no additional facility investment fee when such upsizing results from fire sprinkler installation. This does not apply to irrigation/fire line combinations. No combined residential potable water/fire line meters of more than one inch will be approved.

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(d) Retail facility investment fees shall be determined based on by customer classification as follows:

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Classification	Potable Water FIF	Wastewater FIF

(1)	Residential, single-family	Meter size FIF	Meter size FIF
(2) a, d, c	Residential, multifamily	(a) \$1345 1,028.00 per dwelling unit (b) \$1,028.00 per dwelling unit (c) \$857.00 per dwelling unit	(a) \$2028 1,905.00 per dwelling unit (b) \$1,905.00 per dwelling unit (c) \$1,587.00 per dwelling unit
(3)	Mobile home	Meter size FIF	Meter size FIF
(4)	Travel trailer	Meter size FIF	Meter size FIF
(5)	Hotel or motel	Meter size FIF	Meter size FIF
(6)	Commercial and industrial	Meter size FIF	Meter size FIF
(7)	Large user	\$76164 6,856.00 per 1,000 gallons of reserve capacity per day	\$14414 17,162.00 per 1,000 gallons of reserve capacity per day
(8)	Combined commercial and residential*	\$1345 1,028.00 per unit plus meter size FIF	\$2028 1,905.00 per unit plus meter size FIF
(9)	Combined commercial and hotel or motel	Meter size FIF	Meter size FIF
* <u>Commercial and residential service</u> must be separately metered <u>for properties that have combined customer use categories.</u>			

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(e) *Contracts.*

- (1) Any retail potable water or wastewater customers located outside the geographic boundaries of the county are required to enter into a contract with the county for the purchase of potable water or wastewater service. The contract will specify the facility investment fees to be paid by for such customers to the county as a condition of receiving service.
- (2) All large users are required to enter into a contract with the county for the purchase of potable water or wastewater service. The contract will specify a reserve capacity and may include provisions for changing the reserve capacity. The reserve capacities for large users are subject to upward adjustments by amendment of the contracts or in accordance with provisions specified in the contracts and will be subject to the application of additional facility investment fees for such upward capacity adjustments; no refunds of previously paid facility investment fees by large users will be made if a downward adjustment.

(f) *Conditions.*

- (1) Applicants requiring potable water and/or wastewater service for a structure to service the needs of the property shall pay the appropriate facility investment fees at the time of issuance of a building permit.
- (2) If an applicant requests an extension of a previously issued building permit and the facility investment fees have not been paid, the applicant shall pay the facility investment fees at the time the extension is requested. The facility investment fees to be charged shall be the facility investment fees in effect at the time the extension is requested.
- (3) If an applicant with a building permit was obligated to pay facility investment fees prior to the issuance of a certificate of occupancy under the county's utility rate resolution, the applicant shall pay the facility investment fees in effect at the time the building permit was issued. However, if an extension of the building permit is requested, the provisions of subsection (f)(2) of this section shall apply.

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Commented [AP22]: 2-31-207(D)

(4) If an applicant has paid facility investment fees required by this article and has obtained a building permit, and the building permit later expires without the possibility of further extension, the applicant shall be entitled to a refund of the facility investment fees paid that correspond only to the specific development for which the permit was issued, without interest. To be eligible for a refund, the applicant shall be required to submit an application for a refund to the county administrator within thirty (30) days after the expiration of the building permit for which the facility investment fees were initially paid.

(5) Applicants requiring wastewater service for an existing structure not previously served who pay for an extension of wastewater service shall pay the wastewater corresponding facility investment fee, unless the applicant connects to the wastewater system within one hundred twenty (120) days from the date of notification of line certification by the county. An existing structure shall be any structure for which a certificate of occupancy or temporary certificate of occupancy has been issued before the date of notification of wastewater line certification by the county. Connection must occur within one hundred twenty (120) days or the facility investment fee will be payable, as determined by the county administrator.

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(6) The owners of single-family and multifamily residential dwelling units listed in the customer classifications in paragraphs (d)(1) and (d)(2) of this section, for which a certificate of occupancy or temporary certificate of occupancy has been issued on or before the date of certification of the line extension, may pay the required facility investment fees in accordance with the time payment provisions of this paragraph, provided that they meet the conditions specified below. The owners of properties listed in the commercial classifications in subsection (d) of this section may also be permitted to make time payments if the county administrator determines that health issues and financial hardship exist. Requests for time payments for commercial properties must be made by the county health department and approved by the county administrator. The conditions for time payment are as follows:

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- a. In addition to the principal amount of the applicable facility investment fees, the property owners shall pay interest on the outstanding balance at an annual rate of the prime interest rate in effect on January 1 of each year plus three (3) percent;
- b. To qualify for time payment under this paragraph, the owners of the property must not have any delinquent accounts and must enter into a contract with the county providing that the balance due shall constitute a lien against the real property which will be connected to the potable water and/or wastewater system and that the balance due, if any, will be fully paid at the time of the sale or other transfer of title to the real property;
- c. The owners of the property shall agree to maintain billing of the time payment of the facility investment fees in the names of the property owners until all facility investment fees due and interest is are paid and the lien is satisfied;
- d. A contract to pay the applicable facility investment fees will provide for a maximum of one hundred twenty (120) payments to include principal and interest, payable by monthly billing;
- e. If not timely paid, the unpaid balance and interest accrued thereon, together with attorney's fees and costs, may be recovered in a civil action in any manner authorized by law, and any such lien and accrued interest may be foreclosed or otherwise enforced by action or suit as for the foreclosure of a mortgage on real property; and
- f. Upon receipt of full payment of the principal amount and interest, the county administrator shall be authorized to execute and record a satisfaction of the lien on the real property.

(7) If an applicant changes the type of service or increases the size of the potable water meter at an existing service connection, the applicant shall pay the difference between the current potable water and wastewater facility investment fees for the existing meter size and the corresponding facility investment fees for the new meter size. If an applicant decreases the size of the potable water meter for an existing service, no facility investment fee refund shall be paid to the applicant.

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(8) When the owner of one dwelling unit of a duplex served by a single meter installs separate meters, no additional the facility investment fee will not be charged for this change in the metering of utility service.

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(9) If an existing residential structure is converted from a single dwelling unit to a duplex which results in an additional dwelling unit served, one additional potable water and wastewater facility investment fee will be charged based on the customer classification shown on paragraph (d)(2) of this section.

(10) If an existing residential structure is converted to a multiunit facility, the additional potable water and wastewater facility investment fees will be charged for each additional dwelling unit added to the converted structure based on the customer classification shown on paragraph (d)(3) of this section.

(11) An existing master meter customer may convert to individual meters upon approval by the county administrator.

a. No additional facility investment fee will be charged to residential customers for this change in the metering of utility service.

b. Each individual commercial and industrial customer will be charged a facility investment fee based on meter size. The difference between the applicable facility investment fee for the existing master meter and the applicable facility investment fee for a reduced size meter may be applied toward the facility investment fee for the new meter or meters.

(12) The facility investment fee for wastewater only accounts may be based on a potable water usage calculation certified by a professional engineer registered in the State of Florida and based upon the most recent localized data and upon approval by the county administrator.

Commented [AP27]: 2-31-208(C)

~~(13) Alternative methods of calculation may be specified by the county administrator shall be considered based on section 2-31-213 and based on the most recent and localized data.~~

Commented [AP28]: 2-31-208(C)

(14) An applicant may demonstrate, through a report by a professional engineer registered in the State of Florida to the satisfaction of the county administrator and based on the most recent and localized data, that a specific amount of potable water to be used by the applicant will not be returned to the wastewater system in the form of wastewater. At the discretion of the county administrator the applicant may be charged a lower wastewater facility investment fee corresponding to the approximate use of the county wastewater system. If at a future time the applicant increases the amount of wastewater delivered to the county wastewater system above the amount upon which the initial facility investment fee was based, the applicant shall pay the difference between the wastewater facility investment fee for the new level of use of the wastewater system, as determined by the county administrator, and the corresponding current facility investment fee paid by the applicant for the estimated initial level of service.

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(15) If an existing residential or commercial customer with one meter installs two (2) meters, one for potable water and one for irrigation, separate facility investment fees, corresponding to the schedule established in subsections (b) and (d) of this section, will be charged for each meter. For agricultural purposes, an irrigation only meter may be installed as a primary meter. The facility investment fees must be paid prior to installation. The minimum size allowed for irrigation meters is three-quarter inch. A valid plumbing permit must be presented at the time of payment.

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(16) If separate meters are installed at a multifamily residential facility for purposes of irrigation of the immediate surrounding premises, facility investment fees for the potable water irrigation use shall be based on meter sizes will be charged; such fees will be in addition to the facility investment fees charged for the multifamily residential dwelling unit component of the facility.

Sec. 2-31-210. - Fire service facility investment fees.

(a) Connection of fire lines to the county potable water system requires payment of facility investment fees based on meter size for meters smaller than three (3) inches or line size for lines three (3) inches or larger according to the following schedule:

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Meter or Line Size (in inches)	Fire Service FIF
1	172 150.00
1½	345 300.00
2	552 480.00
3	1103 960.00
4	1724 1,500.00
6	3,448.00
8	5,516.00
10	7,929.00
Over 4 10	3.5% of potable water FIF based on meter size

- (b) No individual fire lines under one-inch shall be installed.
- (c) Fire line connections downstream of a potable water master meter are not subject to the facility investment fees listed in this section.

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Sec. 2-31-211. - Use of facility investment fees.

- (a) Facility investment fees collected by the county shall be used only for capital costs of construction and related costs, including engineering, legal, financing, administrative, debt service, and other lawful purposes (the "FIF expenses"), for increases in or expansions of capacity or capital requirements required solely due to new development. Facility investment fees shall not be used for expenses due to upgrading a facility which benefits existing customers or increased expenses due to operation or maintenance of an expanded or upgraded facility.
- (b) Due to the timing of when capital expenditures are incurred to provide increases in or expansions of capacity required solely due to new development and when facility investment fees may be collected associated with the use of such facilities, the county shall consider any FIF expenses that were initially funded from non-facility investment fee funds but were identified to be funded from facility investment fees once they are realized, to be available for reimbursement from such future facility investment fee collections to the funds the initially funding the capital improvements.

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- (c) The county shall provide for accounting and reporting of facility investment fee collections and expenditures in accordance with applicable law, including F.S. § 163.31801, and generally accepted accounting principles. The county shall account for the revenues and expenditures of the individual utility facility investment fees in a separate interest-bearing accounting fund. Interest earned on facility investment fee proceeds on deposit in such funds shall be considered as part of such fund and subject to the same restrictions on use applicable to the facility investment fees in such funds.

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- (ed) Monies in the facility investment fee funds shall be considered to be spent or encumbered in the order collected, on a first-in/first-out basis.

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Sec. 2-31-212. - Financial assistance for retail potable water and wastewater facility investment fees for affordable multifamily residential units.

- (a) The recitals of Ord. No. 07-48 are adopted by the board of county commissioners as findings of the county and are incorporated herein by reference.
- (b) The recitals of Ord. No. 17-069 are adopted by the board of county commissioners as findings of the county and are incorporated herein by reference.

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- (bc) Financial assistance for retail potable water and wastewater facility investment fees is hereby established for the purpose of assisting eligible property owners who construct affordable multifamily residential units in unincorporated Manatee County.
- (cd) As used in this section, the following words and terms shall have the following meanings unless a different meaning clearly appears from the context:
- (1) *Affordable* shall have the same meaning as defined in Section 2004 of the Manatee County Land Development Code.
 - (2) *Low income household* shall have the same meaning as defined in Section 2004 of the Manatee County Land Development Code.
 - (3) *Owner* shall have the same meaning as defined in Section 2004 of the Manatee County Land Development Code.
 - (4) *Very low income household* shall have the same meaning as defined in Section 2004 of the Manatee County Land Development Code.
- (de) The county administrator is authorized to administer the financial assistance established by this section.
- (ef) The financial assistance shall be funded by revenues derived from the county public utilities system after all current obligations under the bond resolution have been satisfied. No county funds payable from tax revenues shall be expended or used for any financial assistance established by this section. The provision of financial assistance by the county in the manner described in this section does not constitute a debt of the county within the meaning of any constitutional or statutory prohibition. Neither the taxing power nor the full faith and credit of the county is pledged in any way to provide the financial assistance contemplated in this section. The county may modify or discontinue the financial assistance established in this section by amendment or repeal of this section at a public hearing following publication of notice of public hearing at least once not less than ten (10) days prior to such public hearing in a newspaper of general circulation in the county as required by section 2-31-103 (d), Manatee County Code of Ordinances.
- (fg) Eligibility for the financial assistance for potable water and wastewater facility investment fees is limited to all real property owners who meet the following criteria:
- (1) A land use restriction agreement or other document must be recorded in the public records of Manatee County, Florida, limiting the property to affordable housing for low income households and very low income households;
 - (2) The land use restriction agreement or other document must be effective for a minimum period of time until repayment of the financial assistance or expiration or termination of the contract for time payments, whichever date occurs last;
 - (3) A building permit application must be submitted to the county for construction of multifamily residential units on the property;
 - (4) The retail potable water and wastewater facility investment fees imposed for the multifamily residential units must be based on the customer classification for residential, multifamily, as described in subsection 2-31-209(d)(2) of the Manatee County Code of Ordinances;
 - (5) The multifamily residential units must be designated as affordable housing by the county community services department for occupancy and occupied by low income households or very low income households; and
 - (6) A minimum of twenty-five (25) per cent of the total multifamily residential units must be reserved for occupancy by low income households or very low income households.
- (gh) Applications for financial assistance for affordable multifamily residential units must be completed and signed by all owners of the real property upon which such units have been approved for construction. The property owners shall submit the application, financial data concerning the affordable multifamily residential units and the property, a title opinion prepared by an attorney

licensed in Florida showing ownership of the property and all mortgages, liens, and other encumbrances recorded on the property, and copies of all documentation required by subsection (f) of this section to the county administrator. The county administrator shall evaluate the credit status of the property owners, review the title opinion of the property, and determine whether the property owners meet the eligibility criteria specified in subsection (f) of this section and comply with the conditions specified in subsection (h) of this section. The county administrator shall approve or deny the financial assistance. Upon approval of the financial assistance, the county shall pay the facility investment fees established by section 2-31-209 of the Manatee County Code of Ordinances. The facility investment fees paid by the county shall be limited to the amount imposed for those multifamily residential units designated as affordable for low income households and very low income households. The property owners shall repay the applicable facility investment fees to the county in accordance with the conditions for time payments set forth in subsection (h) of this section.

- (hi) Time payments for potable water and wastewater facility investment fees for affordable multifamily residential units shall be subject to the following conditions:
- (1) In addition to the principal amount of the applicable facility investment fees, the property owners shall pay interest at an annual rate equal to the prime rate in effect at the time the completed application for financial assistance is submitted to the county administrator;
 - (2) The owners of the property must enter into a contract with the county providing that the balance due shall constitute a lien against the real property which shall be connected to the potable water or wastewater system and that the balance due, if any, shall be paid at the time of the sale or other transfer of title to the real property;
 - (3) The owners of the property shall agree to maintain billing in the names of the property owners until all facility investment fees and interest due are paid and the lien is satisfied;
 - (4) A contract to pay the applicable facility investment fees shall provide for a maximum of thirty-six (36) payments to include principal and interest, payable by monthly billing;
 - (5) If not timely paid, the unpaid balance and interest accrued thereon, together with attorney's fees and costs, may be recovered in a civil action in any manner authorized by law, and any such lien and accrued interest may be foreclosed or otherwise enforced by action or suit as for the foreclosure of a mortgage on real property;
 - (6) The holders of any mortgages, liens, and other encumbrances recorded on the property shall execute, in the same manner as deeds are required to be executed, an instrument joining in and consenting to the contract with the county for time payments and the lien of the county for the applicable facility investment fees plus total interest;
 - (7) The property owners shall post a performance bond, letter of credit, or other security acceptable to the county in an amount equal to the applicable facility investment fees plus total interest as guarantee for payment in the event of bankruptcy, foreclosure, dissolution, or assignment; and
 - (8) The performance bond, letter of credit, or other security must be effective for a minimum period of time until expiration or termination of the contract for time payments.

Sec. 2-31-213. – Alternative Facility Investment Fee calculation.

- (a) The facility investment fee may be determined by an alternative fee calculation, based on most recent and localized data, of the fiscal impact of the development on the public facilities if:
- (1) Any customer commencing development which increases demand on any public facility which chooses to have the facility investment fee for that public facility determined by the alternative fee calculation shall pay to the county in full (1) the facility investment fee calculated pursuant to the applicable facility investment fee rate schedule contained in this section and (2) a non-refundable alternative fee calculation review fee to the county in an amount to be established by resolution, which shall not exceed the actual cost of reviewing the alternative fee calculation; and
 - (2) The customer (1) who believes that the base information used to calculate the facility investment fee for the customer's development is inconsistent, or (2) who has a unique or restrictive land use that can be verified through the county's building permit or business use permit process and

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believes that this results in a different value than that used to calculate the facility investment fee for the customer's development, or (3) whose land use is not listed in the retail customer classification schedule, or believes the use is incorrectly assigned in the retail facility investment fee schedule, or (4) believes that the nature, timing or location of the proposed development makes it likely to generate impacts costing less than the amount of the facility investment fee generated by application of Chapter 2-31, Article VIII, as applicable for the public facilities at issue; and

- (3) The customer commences the alternative fee calculation by obtaining a Request for Alternative Fee Calculation Form ("Request") from the Utilities Department. The form must be prepared and certified by an expert as defined in section 2-31-213(f). The Request must be submitted to the county administrator or designee and the pre-submission meeting described in subsection 2-31-213(b) must occur within ninety (90) days of the issuance of a certificate of occupancy or certificate of completion for the development; and
- (4) The customer submits to the county administrator a completed alternative fee calculation study as described in this section within twelve (12) months of the issuance of the certificate of occupancy or certificate of completion for the development. Prior to expiration of the foregoing twelve (12) month period, the customer may request in writing to the county administrator or designee up to a six (6) month extension of time to submit the completed alternative fee calculation study. Such extension request may be granted by the county administrator or designee for good cause shown for extending the time period in which the study is to be completed. Other extensions of time timely requested by the customer in writing may be granted.
- (b) Upon receipt of the Request, county will review the submission for completeness and sufficiency. If additional material is required for effective review, the county will notify the customer within ten (10) county business days subsequent to the date of receipt of the Request of the need for such additional material. The customer must provide the requested additional materials and information within fourteen (14) county business days of receipt of notice or the Request will be considered withdrawn.
- (c) Upon acceptance of the Request and prior to commencing the alternative fee calculation, the county will contact the customer to schedule a pre-submission meeting with the county administrator or designee to discuss the requirements, procedures and methodology of the alternative fee calculation. The pre-application meeting will normally cover the following topics: (1) proposed previous studies; (2) credits; (3) proposed study sites; (4) study data elements; (5) proposed data collection methodology; and (6) report format.
- (d) Subsequent to the pre-submission meeting, the customer shall submit three copies of the proposed approach to the alternative fee calculation to the county administrator. The county administrator shall have 30 county business days to respond in writing to the proposed approach. If the county administrator or designee concurs with the proposed approach, the customer will be notified to proceed with the alternative fee calculation. If the county administrator disagrees with the proposed approach, the county administrator shall identify the problem areas for the customer to incorporate and address in its resubmittal to the county. The customer shall be required to receive approval from the county administrator or designee prior to proceeding with the alternative fee calculation. If the county administrator or designee has not approved the customer's proposed approach after one resubmittal, the customer may request a decision from the county administrator whereupon the county administrator shall either approve, approve with conditions, or deny the proposed approach.
- (e) The alternative fee calculation shall be undertaken through the submission of an impact analysis for the public facilities at issue, which shall be based on data, information, methodology and assumptions contained in this chapter and/or the facility investment fee studies incorporated herein, or an independent source, including local studies for alternative facility investment 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 public facilities at issue 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 public facilities at issue. Technical details of approach, methodology,

procedures and other matters relating to the alternative fee calculation may be addressed in an administrative.

- (f) The alternative fee calculation shall be submitted by the customer for the proposed development and shall be prepared and certified as accurate by persons accepted by the county as qualified professionals in the field of expertise for the public facilities at issue and shall be submitted to the county administrator.
- (g) Within thirty (30) county business days of receipt of an alternative fee calculation, the county administrator shall determine if it is complete. If the county administrator determines the application is not complete, a written statement shall be sent to the customer at the address set forth in the application specifying the deficiencies. The county administrator will not be required to take any further action on the alternative fee calculation until all specified deficiencies have been corrected.
- (h) After the county administrator or designee determines that the alternative fee calculation is complete, the customer will be notified within ten (10) county business days of its completion, and the county administrator shall, within thirty (30) county working days, complete a review of the data, analysis, and conclusions asserted in the alternative fee calculation. If this review is not completed within these time frames, and if requested by the customer, the item will be scheduled for the next available board meeting.
- (i) If the county administrator or designee determines that in the alternative fee calculation the county's cost to accommodate the proposed development is statistically significantly different than the facility investment fee established pursuant to section 12-31-209, the amount of the facility investment fee shall be reduced to a dollar amount consistent with the amount determined by the alternative fee calculation, subject to the board's approval.

In the event the customer disagrees with a decision of the county administrator that effectively results in a denial of the alternative fee calculation, the customer may file a written appeal petition using the Appeal of Alternative Fee Calculation Administrative Decision Form ("Appeal Petition") obtained from the Utilities Department, with the board not later than sixty (60) days after receipt of notice of such a decision by the county administrator. In reviewing the decision, the board shall use the standards established herein. The Appeal Petition must advise the board of all issues and shall explain the precise basis the customer asserts that the decision(s) of the county administrator or designee is/are alleged to be incorrect. The Board shall make the final determination of the facility investment fee to be paid by the customer.

Sec. 2-31-214. – Facilities investment fee refunds.

- (a) The county shall award credits against facility investment fees for utility property, plant, and infrastructure contributed by the customer that the county engineer has concluded is a System Improvement that 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 planning documents and reports as periodically prepared and updated in support of infrastructure development to meet the projected utility service area by the County. Such credits may be used to offset the facility investment fees due on an individual permit, but only to reduce that portion of the fees that is attributable to the proportionate cost of similar system line extensions, as reflected in the facility investment fees study or the water and wastewater facility investment fees study relied upon in section 2-31-205 and memorialized in an impact fee credit agreement (to the extent the developer is not reimbursed for the cost thereof).
- (b) Timeliness of facility investment fee commitments and expenditures.
 - (1) Any facility investment fees collected that have not been spent or encumbered within twelve (12) years after the Certificate of Occupancy was issued shall be eligible to be refunded to the Customer or the Customer's Successor-in-Interest, along with interest at the portfolio year-end rate per annum since the date of payment, except as otherwise noted in this section.
 - (2) The board may by resolution extend for up to three (3) years the date at which facilities investment fees shall be refunded. Such an extension shall be made only upon a finding that within such three (3) year period, specific System Improvements for the water and/or wastewater system are planned and will be constructed that will sufficiently benefit the utility demand

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generating land development for which the facility investment fees were paid. In the case of such an extension, any facility investment fees collected that have not been spent or encumbered within such extension period shall be refunded to the Customer or the Customer's Successor-in-Interest, along with interest at the portfolio year-end rate per annum since the date of payment.

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- (3) In order to be eligible to receive a refund of facility investment fees, the Customer or the Customer's Successor-in-Interest shall be required to submit an application for such refund to the county administrator or designee. Refunds for proceeds not timely expended shall be made by the county within one (1) year following the twelfth year from the date on which the Certificate of Occupancy was issued for the utility demand generating land development or the expiration date of the extension, whichever is later. If the Customer or the Customer's Successor-in-Interest does not apply for a refund, the funds shall remain in the facility investment fee funds until spent.
- (4) If the Successor-in-Interest claims a refund of facility investment fees, the county administrator or designee may require written documentation that such rights have been conveyed to the claimant prior to issuing the requested refund.
- (5) The county administrator or designee shall approve the refund application if it is determined that the Customer has paid facility investment fees to the County which have not been spent within the period of time permitted under this section. The refund shall include the facility investment fees paid plus interest at the portfolio year-end rate per annum, less any applicable administrative fees adopted pursuant section 2-32-315.

Sec. 2-31-215. – Miscellaneous Provisions.

- (a) The board may adopt by resolution Administrative Procedures to implement this chapter.
- (b) The board may adopt a resolution providing for administrative fees to be retained by the county as payment for the expenses of collecting the facility investment fees and administering this chapter. Pursuant to Section 163.31801(3)(c), Florida Statutes, in no case shall the administrative fees adopted by the board exceed the actual costs to the county of paying such expenses.
- (c) At least once every five (5) years, the county administrator shall recommend to the board whether any changes should be made to the facility investment fee schedule as contained in this chapter and other sections of this chapter to reflect changes in the factors that affect the fee schedule and application to the customer classifications.
- (d) If the board borrows funds from non-facility investment fee sources for the funding of System Improvements with the intent of repaying those funds with facility investment fees, the following procedures shall apply. The board shall adopt a resolution finding that the expenditures for County System Improvements for which the funds are borrowed shall mitigate needs created by land development generating utility demand. The Board shall adopt a resolution providing for the appropriation and expenditure of facility investment fee funds in order to reimburse the source of the borrowed funds in the same manner that the facility investment fees would otherwise be expended.

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Secs. 2-31-216—2-31-250. - Reserved.