

ORDINANCE NO. 24-17

AN ORDINANCE OF THE CITY OF COOPER CITY, FLORIDA, AMENDING CHAPTER 8 OF THE CITY’S CODE OF ORDINANCES, ENTITLED “GARBAGE, TRASH, AND VEGETATIVE GROWTH;” AMENDING ARTICLE II, ENTITLED “COLLECTION AND DISPOSAL OF GARBAGE AND TRASH;” BY SPECIFICALLY AMENDING SECTION 8-23, ENTITLED “COST MAY BE ADDED TO BILL FOR WATER AND SEWER SERVICE; EXEMPTION FOR PART-TIME RESIDENTS;” AMENDING CHAPTER 19 OF THE CITY’S CODE OF ORDINANCES, ENTITLED “UTILITIES;” AMENDING ARTICLE III, ENTITLED “WATER AND WASTEWATER SYSTEMS;” BY SPECIFICALLY AMENDING SECTION 19-72, ENTITLED “DEFINITIONS;” AMENDING SECTION 19-74, ENTITLED “APPLICATION FOR SERVICE;” FURTHER ARTICLE IV, ENTITLED “STORMWATER MANAGEMENT UTILITY;” BY SPECIFICALLY AMENDING SECTION 19-155, ENTITLED “STORMWATER MANAGEMENT UTILITY FEE CREATED;” AMENDING SECTION 19-157, ENTITLED “BILLING, PAYMENT, PENALTIES, AND ENFORCEMENT;” AND AMENDING SECTION 19-158, ENTITLED “ADJUSTMENT OF FEES;” PROVIDING FOR EACH OWNER OF RESIDENTIAL REAL PROPERTY IN THE CITY TO BE RESPONSIBLE FOR THE PAYMENT OF ALL APPLICABLE UTILITY FEES INCLUDING SOLID WASTE, WATER, SEWER AND STORMWATER MANAGEMENT FEES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Cooper City (“City”) provides certain utilities to residents and businesses in the City, including solid waste collection, water, sewer and wastewater utility services; and

WHEREAS, the City generally charges the fees for all utility services provided by the City a regularly issued utility bill for water and sewer charges; and

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WHEREAS, in an effort to ensure better collection of the utility fees for residential properties, the City’s professional staff has recommended that all residential utility accounts be opened in the name of the property owner; and

WHEREAS, on November 21, 2012, the Fourth District Court of Appeal expressly held that a City was not precluded from requiring utility accounts to be opened in the name of the landlord or property owner, See *Jass Properties v. City of North Lauderdale*, 101 S.3d 400 (4th DCA 2012); and

WHEREAS, the City Commission has held a public hearing in accordance with Florida law; and

WHEREAS, following proper notice to the public and after having received input and participation by interested members of the public and staff, the City Commission finds that this ordinance is in the best interest of the citizens, residents, and business establishments in the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF COOPER CITY, FLORIDA:

Section 1. **RECITALS ADOPTED.** That each of the above-stated recitals is hereby adopted and confirmed. All exhibits attached hereto are incorporated herein and made a part hereon.

Section 2. **CHAPTER 8 OF CITY CODE AMENDED.** That Article II, entitled “Collection and Disposal of Garbage and Trash” of Chapter 8, entitled “Garbage, Trash and Vegetative Growth” of the City of Cooper City Code of Ordinances, is hereby amended by specifically amending Section 8-23, entitled “Cost may be added to bill for water and sewer service; exemption for part-time residents,” to read, as follows:

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Sec. 8-23. - Cost may be added to bill for water and sewer service; exemption for part-time residents.

(a) The City may include the cost of collection and disposal of garbage and trash by adding the same to the property owner's regularly issued utility billing for water and sewer charges. The City shall have the right to reject partial payment of the complete utility bill and any partial payment, if accepted, shall first be allocated to payment of refuse charges.

(b) Any seasonal or otherwise part-time resident shall be exempt from the provisions of this section, provided that they shall have their water and sewer service disconnected for the period of their absence and pay the fees required thereby for disconnection and reconnection to the water and sewer system as provided by this Code.

Section 3. CHAPTER 19 OF CITY CODE AMENDED. That Article III, entitled “Water and Wastewater Systems” of Chapter 19, entitled “Utilities” of the City of Cooper City Code of Ordinances, is hereby amended by specifically amending Section 19-72, entitled “Definitions,” amending Section 19-74, entitled “Applications for Service,” to read, as follows:

Sec. 19-72. Definitions

...

Consumer shall mean any person, firm, association, corporation, governmental agency, or similar organization supplied with the availability of water ~~and~~ or sewer service by the City, which term shall also include developers and large users, and bulk users. For purposes of this chapter, the term “consumer” shall not include residential tenants.

...

Customer shall mean the individual or corporate entity responsible for payment of the security deposit and monthly service charges. This shall be either the owner of the property or an individual or corporate entity authorized by the owner to open the utility account. For purposes of this chapter, the term “customer” shall not include residential tenants.

...

Tenant shall mean non-residential or commercial tenants.

Sec. 19-74. - Application for service.

Service shall be furnished only upon signed application accepted by City and the conditions of such application are binding upon the customer as well as upon the City. To obtain service, application shall be made at the City. Applications are accepted by the City with the understanding that there is no obligation on the part of the City to render service other than that which is then available from its existing water production and distribution equipment and service lines, and from its existing sewage treatment collection, transmission and treatment facilities. The applicant shall furnish to the City at the time of making application the name of the applicant, the ownership or other interest in or to the property or location and the legal description or street address at which service is to be rendered. Commencing on September 1, 2024, all applications for residential utility service submitted to the City pursuant to this chapter shall be furnished to the City and signed by the property owner and shall be opened in the property owner's name.

Application for service required by firms, partnerships, associations, corporation and others, shall be rendered only by duly authorized parties. When service is rendered under agreement or agreements entered into between the City and an agent of the principal, the use of such service by the principal shall constitute full and complete ratification by the principal of the agreement or agreements entered into between the City and an agent of the principal under which such service is rendered.

Section 4. **CHAPTER 19 OF CITY CODE AMENDED.** That Article IV, entitled “Stormwater Management Utility” of Chapter 19, entitled “Utilities” of the City of Cooper City Code of Ordinances, is hereby amended by specifically amending Section 19-155, entitled “Stormwater Management Utility Fee Created,” Section 19-157, entitled “Billing, Payment Penalties and Enforcement,” to read, as follows:

Sec. 19-155. - Stormwater management utility fee created.

(a) A stormwater management utility fee (the "fee"), is hereby created and imposed on all property within the City, and all properties annexed into the City subsequent to the effective date of this ordinance, for services and facilities provided by the stormwater management system. The property owner or non-residential tenant is responsible for payment of the fee. For the purpose of imposing the fee, all property within the City shall be classified either as:

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- (1) Undeveloped property;
- (2) Single-family residential property;
- (3) Duplexes;
- (4) Condo/multi-family residential property; or
- (5) Non-residential property:

Commercial;
 Industrial; or
 Institutional.

(b) Residential property owners in the City shall be responsible for the stormwater management utility fee imposed on their property pursuant to this chapter.

~~(b)~~(c) The City Manager or designee shall obtain a list each year from the Broward County Property Appraiser of property within the City and shall assign each parcel a classification as described in subsection (a), above.

Sec. 19-157. - Billing, payment, penalties and enforcement.

...

- (b) The stormwater management utility fee is for services furnished to the property and the fee, therefore, must be paid by the property owner. If the property subject to the fee is non-residential and is tenant occupied, the tenant will be responsible for the fee. In the event the fees are not satisfied by the non-residential tenant, the responsibility will be that of the property owner of record.

Section 5. It is the intention of the City Commission of the City of Cooper City that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Cooper City, Florida, and that the Sections of this ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section," "Article" or such other word or phrase in order to accomplish such intention.

Section 6. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

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Section 7. If any clause, section, or other part or application of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and so not affecting the validity of the remaining portions or applications remaining in full force and effect.

Section 8. This Ordinance shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED on First Reading this _____ day of _____, 2024.

PASSED AND FINAL ADOPTION on Second Reading this __ day of _____, 2024.

GREG ROSS
Mayor

ATTEST:

TEDRA ALLEN
City Clerk

ROLL CALL

Mayor Ross _____
Commissioner Green _____
Commissioner Katzman _____
Commissioner Mallozzi _____
Commissioner Shrouder _____

APPROVED AS TO LEGAL FORM:

JACOB G. HOROWITZ
City Attorney

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BUSINESS IMPACT ESTIMATE

8/27/2024 Meeting Date

Ordinance Title: Ordinance 24-17

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If any of the following exceptions to the Business Impact Estimate requirements apply, check the applicable box and leave the remainder of the form blank.

- The ordinance is required for compliance with federal or state law or regulation;
- The ordinance relates to the issuance or refinancing of debt;
- The ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;

- The ordinance is required to implement a contract or an agreement, including, but not limited to, any federal, state, local, or private grant, or other financial assistance accepted by the City;
 - The ordinance is an emergency ordinance;
 - The ordinance relates to procurement; or
 - The ordinance is enacted to implement the following:
 - a. Part II of Chapter 163, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements, and development permits;
 - b. Sections 190.005 and 190.046, regarding community development districts;
 - c. Section 553.73, relating to the Florida Building Code; or
 - d. Section 633.202, relating to the Florida Fire Prevention Code.
1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals, and welfare): **Ordinance transfers responsibility for unpaid utility bill payment to owners when tenants have left balances outstanding. It is public purpose to secure these expenses to maintain financial welfare of the utility and its bill paying customers to collect these fees.**
 2. Estimate the direct economic impact of the proposed ordinance on private, for-profit businesses in the City: **The proposed ordinance should have no impact on private, for-profit businesses in the City.**
 3. Estimate of direct compliance costs: **None**
 4. Any new charge or fee imposed by the proposed ordinance: **No**
 5. Estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs: **N/A**
 6. Estimate of the number of businesses impacted by the proposed ordinance: **N/A**
 7. Additional Information: _____

