ARTICLE XVII
DEVELOPMENT/IMPACT FEES

SECTION 21-310 - PEDESTRIAN SYSTEM (SIDEWALK) DEVELOPMENT FEES

21-310.01 - Intent; Purpose; Basis

a. Pedestrian systems are located within the public right-of-way and are a component of the City's overall transportation system. This project approach is based on the premise that all the elements of the public right-of-way provide a community-wide, public benefit, not just the roadway used for vehicles.

b. Pedestrian System Development Fees allow the cost of constructing new sidewalks to be broad based and borne by new development activities. This system allows the City flexibility to establish priorities for new sidewalk locations.

c. The City shall be responsible for construction of new sidewalks, outside of new residential subdivisions and replacement of sidewalks on existing City streets.

d. The City shall carry out an active inspection and repair program with repairs being made on a priority basis versus a random complaint basis.

e. The general aesthetic care of sidewalks within the City's right-of-way area is the responsibility of each adjacent property owner.

21-310.02 - Definitions

a. New Building Construction - new building construction shall mean any structure designed or built for the support, enclosure, shelter or protection of persons and/or animals or movable property. It includes all structures used for housing, warehousing, business, commercial or industrial purposes whether temporary or permanent.

b. Storage Sheds - shall be considered an accessory use to the principle permitted use. Sheds shall not be misconstrued with warehouses, mini-warehouses or separate buildings used for commercial or industrial type storage units.

c. Roadway/Streets - public or private roads falling into one of several categories as defined in Article II of the Land Development Code and which classification is consistent with the Comprehensive Plan.

21-310.03 - Exemptions; Non-Exemptions; Waivers

a. Exemptions:

   1. New residential subdivisions providing sidewalks on both sides of all streets;
   2. Storage sheds

b. Non-Exemptions:

   1. Established developments or other areas that may not have the necessary pedestrian/sidewalk facilities needed, will not be exempt from development fees for new

building construction.

c. Waivers:

1. All applications for a waiver from the required sidewalk construction will be reviewed and approved by the Technical Review Committee (TRC).
2. If the TRC grants a favorable decision for the waiver, the TRC will then make a recommendation for the amount of compensation the owner/developer must contribute to the Pedestrian System Development Fund.
3. Once the TRC completes their recommendation, the application will be forwarded to the City Council for final approval.

21-310.04 - Pedestrian System Development Fee Schedule

a. New Construction: Fees shall be calculated per linear foot of property frontage. Rates may vary depending on roadway classifications. For property located on more than one street, the property frontage shall mean the street-addressed side/location. The Pedestrian System Development Fee Rate Schedule shall be established by ordinance of the City Council.

b. Fee Adjustment: City Staff shall review all fees relating to this Section every two (2) years. All adjustments shall be based on the percentage change as contained in the U.S. Bureau of Labor Statistics Southeast Regional CPI (Consumer Price Index – All Urban Consumer) and shall be automatically adjusted on October 1 of every other fiscal year.

SECTION 21-311 - TREE PRESERVATION/RELOCATION DEVELOPMENT FEES

21-311.01 - Intent; Purpose

The City desires to improve the appearance of the City; protect and improve property values by protecting certain trees to aid in the stabilization of soil by the prevention of erosion and sedimentation; reduce stormwater runoff and assist with the replenishment of groundwater supplies.

Based on the requirements contained in Chapter 21 (Land Development Code), Article V (Site Design Criteria), Sections 21-54 (Landscaping Requirements) and 21-55 (Tree Protection Requirements), the City acknowledges that there are certain extenuating circumstances during new construction and/or development.

21-311.02 - Tree Relocation Maintenance/Monitoring Requirements

Any person conducting tree relocation activities shall:

a. Maintain the health of a relocated tree for a period of two (2) years following final inspection and approval.

b. Replace, with an equivalent cross Sectional area, within sixty (60) days, a relocated tree that dies or is determined by the City to be effectively destroyed within two (2) years of being relocated. The two (2) year maintenance period shall begin anew whenever a tree is

replaced.

21-311.03 - Tree Relocation Bond Requirements

a. Unless otherwise exempted by this Article, any person conducting tree relocation activities must post a bond to insure the survival of the relocated tree designated for preservation. Said bond shall meet the approval of the City Attorney's office and may be in the form of a letter of credit drawn upon banks or savings and loan institutions legally doing business in the State of Florida, cash bonds issued by an insurance company legally doing business in the State of Florida or other acceptable means as approved by the City Attorney's Office. This bond shall be in addition to any other bond that may be required by any other governmental entity.

b. Determination of the bond amount shall be computed pursuant to the Tree Relocation Fee Schedule as established by ordinance of the City Council.

c. Governmental entities are exempt from bond requirements.

d. Release of Bonds. Tree relocation bonds will be released upon successful tree relocation as set forth in this Article and upon written approval by the City.

e. Drawing on Bonds. If a tree is determined by the City to be effectively destroyed within two (2) years from the date of relocation, the bond shall be drawn upon and funds will be deposited into the Tree Replacement Trust Fund. Said funds will be expended pursuant to Section 21-311.05 of this Article.

21-311.04 - Payment in Lieu of Tree Replacement

If it is determined by the City that tree replacement is not feasible due to lack of available planting space, the following applies:

a. The person conducting the tree replacement activity shall, in lieu of actual tree replacement, pay a replacement contribution into the City Tree Replacement Trust Account.

b. The replacement contribution will be determined using a Replacement Tree Fee Schedule as established by ordinance of the City Council.

21-311.05 - Tree Replacement Account

a. Establishment. A City Tree Replacement Account is hereby established as a depository for tree replacement fees and monies.

b. Dispersal of Assets. The funds in said account shall be expended, utilized and disbursed for the planting of trees, palms, shrubbery, ground cover, ornamentals and accent plantings; and to cover any other ancillary costs including but not limited to: landscaping, irrigation, sprinkler systems and other items or materials necessary and proper for the preservation, maintenance, relocation or restoration of tree and landscaping ecosystems on any public land within the City. These monies may also be utilized to engage support elements such as

landscape architects and additional personnel, if deemed necessary in the opinion of the City Manager, following established City procedures.

c. All monies deposited for use as specified in this Section shall be deposited in an appropriate line code as determined by the Finance Department.

SECTION 21-320 - RECREATIONAL PARKS AND OPEN SPACE IMPACT FEES

21-320.01 - Intent; Purpose

This Section is established to address the need for capital funds to support the orderly expansion of the City's recreational parks facilities. The impact fees provide for the funding of recreational parks facilities and improvements related thereto by imposing fees upon new construction that are commensurate with or less than the burdens reasonably anticipated to be imposed by them.

This Section is intended to implement and be consistent with the City of Edgewater Comprehensive Plan.

21-320.02 - Payment required

Any person who, after the effective date of this Article, seeks to develop land by applying for the issuance of a building permit for a dwelling unit, as defined in the Land Development Code, shall be required to pay a Recreational Parks and Open Space Impact Fee.

21-320.03 - Basis for imposition

a. The fee imposed shall be a result of the City's fee calculation studies which shall be designed to ensure that the impact fee imposed is rationally related to the benefit received by the applicant.

b. Recreational Parks and Open Space Impact Fee Formula.

The following formula shall be used to determine the impact fee per unit of development:

Impact Fee = Park Fee + Fee in Lieu
Park Fee = (Overall Estimated Cost/Population) * (Functional Population/Unit)
Fee in Lieu = Land Acquisition Cost/ERU

21-320.04 - Adjustments

In the event that an applicant believes the impact of his/her new dwelling units will be less than that set forth herein, the applicant may, at his/her option, submit evidence to the City in support of an alternative recreational parks and open space impact assessment. Based upon convincing and competent evidence, the City may adjust the impact fee as appropriate for that particular property.

21-320.05 - Review of Fees

City staff shall review all fees relating to this Section every two (2) years. All adjustments shall

be based on a review of parkland and recreational facility Level of Service (LOS) standards located in the Comprehensive Plan, population projections, value of facility improvements, and cost of parkland acquisition.

21-320.06 - Credits

a. An applicant shall be entitled to a credit against the Recreational Parks and Open Space Impact Fee assessed pursuant to this Article in an amount equal to the cost of off-site improvements and the cost of improvements to on-site recreational facilities which create excess capacity for the general public or contributions to the City of land, money or services by the applicant or his predecessor in interest as a condition of any development agreement entered into with the City prior to the effective date of this Article. Such credit shall be based on the following criteria:

    1. The actual cost or estimated cost based on recent bid sheet information of the City or County, of off-site related improvements by the applicant to the recreational system. Off-site improvements eligible for a credit are those improvements proposed that will benefit not only the dwelling units on-site, but also the general public. Improvements not eligible for a credit are those recreational facilities that are privately owned or that serve only the dwelling units within the development.
    2. The actual cost or estimated cost of improvements based on recent bid sheet information of the City or County with respect to that portion of on-site recreational improvements which creates excess capacity for the general public.
    3. The contribution of land, money or services by the applicant for off-site improvements to the City's recreational system and for improvements to on-site recreational facilities which create excess capacity for the general public. The credit for land contributed will be based on a pro rata share of the appraised land value of the parent parcel as determined by an MAI appraiser selected and paid for by the applicant and approved by the Technical Review Committee (TRC) or based on such other method as may be mutually agreed upon by the applicant and the TRC. In the event that the TRC disagrees with the appraised value, the City may select and pay for another appraiser, and the credit shall be an amount equal to the average of the two appraisals.
    4. Unless otherwise provided in a development agreement between the City and the applicant or his/her predecessor in interest, no credit for contributions or donations made prior to the effective date of this Article shall be granted unless the cost of the improvements was paid for or the contributions were made within the two years prior to the effective date of this Article.
    5. No credit shall exceed the amount of the Recreational Parks and Open Space Impact Fees assessed herein.

b. The amount of the credit shall be determined by the TRC. However, the determination may be appealed to the City Council, whose decision shall be final and binding on the applicant.

c. Any credit issued pursuant to this Article may be transferred by the applicant to any successor interest in the property.

d. Except as provided herein, previous development agreements wherein voluntary Recreational

Parks and Open Space Impact Fees were specified and paid shall be binding as to any building permit already issued on land subject to the development agreement.

e. Notwithstanding the criteria specified herein, if any of the development agreements provide that credits against future Recreational Parks and Open Space Impact Fees enacted by the City will be granted for specified contributions to the City of land, money or services for improvements to the City's recreational system, such credits against the Recreational Parks and Open Space Impact Fee shall be granted on the basis provided for in such agreement.

21-320.07 - Vested rights

a. It is not the intent of this Article to abrogate, diminish or modify the rights of any person that has vested rights pursuant to a valid governmental act of the City. An applicant may petition the City Council for a vested rights determination which would exempt the applicant from the provisions of this Article. Such petition shall be evaluated by the City Attorney and a recommendation thereon submitted to the City Council based on the following criteria:

    1. Expenditures or obligations made or incurred in reliance upon an authorizing act are reasonably equivalent to the fee required by Sections 21-320.03; 21-320.04 and 21-320.05.

b. If an applicant has previously entered into a development agreement with the City with conditions regarding off-site recreational improvements, the applicant or his successor in interest may request a modification of the prior development agreement in order to bring the conditions into consistency with this Article. Any request for such modification must be filed with the Development Services Department within one year of the effective date of this Article.

21-320.08 - Exemptions

The following shall be exempt from payment of the Recreational Parks and Open Space Impact Fee:

a. Those dwelling units which have been issued a building permit prior to the effective date of this Article.

b. Those dwelling units which have received a certificate of occupancy prior to the effective date of this Article.

c. Additions or expansions to single-family residences.

21-320.09 - Separate account to be kept

The Recreational Parks and Open Space Impact Fees collected by the City pursuant to this Article shall be kept separate from other revenue of the City. Funds withdrawn from this account must be used solely in accordance with the provisions of this Article. The disbursal of funds shall require the approval of the City Council.

21-320.10 - Use of funds

a. The funds collected by reason of establishment of the Recreational Parks and Open Space Impact Fee in accordance with this Article shall be used solely for the purpose of planning, acquisition, expansion and development of off-site improvements to the City's recreational system determined to be needed to offset the impacts of new development within the City. Off-site improvements are improvements to recreational parks which are not on the property upon which dwelling units will be constructed.

b. All funds shall be used in a manner consistent with the principles set forth in Florida Statutes and case law and otherwise consistent with all requirements of the Constitutions of the United States and the State of Florida. Said funds shall not be used to maintain or repair existing recreational facilities.

c. Any funds on deposit not immediately necessary for expenditure shall be invested in interest bearing accounts. All income derived shall be deposited in the Recreational Parks and Open Space Impact Fee Account. Applicants shall not receive credit for or be entitled to interest from the investment of funds.

21-320.11 - Penalties for offenses

Violations of this Article shall constitute a misdemeanor enforceable in accordance with the City Code or by an injunction or other legal or equitable relief in Circuit Court against any person violating this Article, or by both civil injunctive and criminal relief.

SECTION 21-321 - FIRE PROTECTION AND EMS IMPACT FEES

21-321.01 - Intent; Purpose

a. This Section is intended to implement and be consistent with the City of Edgewater's Comprehensive Plan.

b. The purpose of this Section is to ensure that the new development pays a fair share of the anticipated costs of equipment and facilities necessary to provide fire protection for new development.

21-321.02 - Imposition of Fees

a. Any person who, after the effective date of this Article, seeks to develop land by applying for the issuance of a building permit for one of the land use types specified herein shall be required to pay the Fire Protection and Emergency Medical Services (EMS) Impact Fee.

b. When a change of use, redevelopment or modification of an existing use requires the issuance of a building permit, the impact fees shall be based upon the net increase in the impact fee for the new use as compared to the previous use.

21-321.03 - Fees

a. The amount of Fire Protection and EMS Impact Fees imposed under this Section shall be as established by ordinance of the City Council.

b. Fire/EMS Impact Fee Formula.

The following formula shall be used to determine the impact fee per unit of development:

Impact Fee = Functional Population/Unit * Cost/Functional Population

21-321.04 - In-Kind Contributions; Refusal of Adjustment; Covenants

a. Independent calculations for credits for in-kind contributions made after the effective date of this Article shall be submitted to and approved by the City Manager prior to effecting the contribution.

b. The City Manager's action in adjusting or refusing to adjust the impact fee pursuant to an independent calculation shall be in writing and must be transmitted by certified mail to the fee payer.

c. The City Manager shall require that a covenant running with the land be executed and recorded on the subject property where: the independent calculation is based on a use of land having a lesser impact than that upon which the schedule is based, as applicable; the property could be put to a use having a greater impact than that proposed with such use not requiring future approval by the City; or for such other reasons necessary to ensure compliance with this Article. The covenant shall hold the fee simple interest in the land and mortgage as appropriate. The covenant shall recite this Article and the facts and reasons underlying its execution. It shall set forth the restrictions on the property and the terms and conditions under which it may be released.

21-321.05 - Review of Fees

a. City staff shall review all fees relating to this Section every two (2) years. All adjustments shall be based on the functional population methodology, with a review of current level of service, and using the most recently available data from Institute of Transportation Engineers (ITE), Volusia County Appraisers Office, and value of capital facility improvements.

21-321.06 - Trust Fund

The Fire/EMS Impact Fee shall be deposited in a Fire/EMS Impact Fee Trust Fund. The trust fund shall be invested by the City in interest bearing sources and all income derived shall accrue to the trust fund. The funds shall be used only for capital improvement costs for which the impact fee was levied and which would add capacity needed to serve new development. The City Manager shall identify in the City's annual budget the designated capital improvements for which the Fire/EMS Impact Fees will be spent. The funds shall remain restricted to the Fire/EMS Trust Fund and the requirements of this Section. The City Manager shall ensure that

these designated funds are expended and accounted for in accordance with the provisions of this Section. The City shall maintain such records and documentation necessary to allow the effective audit of the use of the Fire/EMS Impact Fees.

21-321.07 - Collection, Administrative Fees and Use of Funds

a. The fee payer shall pay the Fire/EMS Impact Fee to the City for deposit into the Fire/EMS Impact Fee Trust Fund prior to the issuance of a building permit which may be required for development listed in the schedule contained in Section 21-321.03. No building permit may be issued until such fees have been paid or until the City has accepted title to land area meeting the standards set out in this Article. For land uses not requiring a building permit, an alternative development order shall not be granted until the impact fees have been paid.

b. In lieu of all or part of the impact fees, City Council may accept the offer by a fee payer to dedicate land and/or construct all or part of a Fire/EMS project. Such construction must be in accordance with State, County and City design standards applicable to the project. The fee payer shall submit a project description in sufficient detail to allow the preparation of an engineering and construction cost estimate.

c. If the City Council accepts such offer, the City Manager shall credit the cost of this construction against the Fire/EMS Impact Fee otherwise due. The portion of the fee represented by the facilities construction shall be deemed paid when the construction is completed and accepted by the City or when the fee payer posts security as provided in subsection (d) of this Section for the costs of such construction. The portion of the fee represented by land dedication shall be deemed paid when the title to the land dedicated for that purpose has been accepted by the City.

d. Security in the form of a performance bond or escrow agreement shall be posted with and made payable to the City in an amount approved by the City Manager equal to one hundred ten percent (110%) of the full cost of such construction. If construction of the project is not to be completed within one year of the acceptance of the offer by the City, the amount of security shall be increased by ten percent (10%) compounded, for each year of the life of the security. The security shall be reviewed and approved by the City Manager's office prior to acceptance of the security by City Council.

e. No impact fee is required for the issuance of any building permit for residential use which does not result in an additional living unit.

f. All funds collected pursuant to this Section shall be promptly transferred for deposits into the Fire/EMS Trust Fund. Impact fee collections shall be used exclusively for land acquisition, capital improvements, purchases or expansion related to the public purpose for which such fees were collected, with the exception of impact fee administrative costs pursuant to paragraph (g) below. Funds shall be expended in the order in which they are collected.

g. The City shall be entitled to retain up to four percent (4%) of the impact fees collected as an administrative fee to offset the costs of administering this Section.

h. If any impact fees that are paid by check, draft or other negotiable instrument, do not clear;

the building permit or development order authorizing the development for which the impact fee was paid shall be suspended and the City shall send the appropriate suspension notice to the fee payer by certified mail. If the impact fee, together with any charges for funds not clearing, are not paid within ten (10) business days following mailing of the notice, the building permit or development order shall be of no further force and effect for purposes of this Article and a stop work order shall be issued and remain in effect until such time as the impact fee is paid and the funds clear.

21-321.08 - Credits

a. An applicant shall be entitled to a credit against the Fire Protection and EMS Impact Fees assessed pursuant to this Section in an amount equal to the cost of improvements which create excess capacity for the general public or contributions to the City of land, money, facilities, equipment or services by the applicant or his predecessor in interest as a condition of any development agreement entered into with the City. Such credit shall be based on the following criteria:

   1. The actual cost or estimated cost, based on recent bid sheet information of the City of Edgewater or Volusia County, of off-site improvements. Improvements eligible for a credit are those improvements proposed that will benefit not only the dwellings on-site, but also the general public. Improvements not eligible for a credit are those facilities that are privately owned or that serve only the dwellings within the development.
   2. The actual cost or estimated cost of improvements based on recent bid sheet information of the City of Edgewater or Volusia County with respect to that portion of on-site improvements which creates excess capacity for the general public.
   3. The contribution of land, money, facilities, equipment or services by the applicant for improvements to the City's Fire/Rescue Department which creates excess capacity for the general public. Services must relate directly to the provision of land, facilities or equipment. The credit for land contributed will be based on a pro rata share of the appraised land value of the parent parcel as determined by an MAI appraiser selected and paid for by the applicant and approved by the City Manager or based on such other method as may be mutually agreed upon by the applicant and the City Manager. In the event that the City disagrees with the appraised value, the City may select and pay for another appraiser and the credit shall be an amount equal to the average of the two (2) appraisals.
   4. Unless otherwise provided in a development agreement between the City and the applicant or his predecessor in interest, no credit for contributions or donation made prior to the effective date of this Article shall be granted unless the cost of the improvements were paid for or the contributions were made within the two (2) years prior to this Article.
   5. No credit shall exceed the amount of the fire impact fee assessed under Section 21-321.03 of this Article.
   6. No credit shall be allowed for the over-sizing of water lines, widening of roads or other improvements with only an indirect benefit for fire protection.

b. The amount of the credit shall be determined by the City Manager. However, the determination may be appealed to the City Council, whose decision shall be final and binding

on the applicant.

c. Any credit issued pursuant to this Section may be transferred by the applicant to any successor in interest in the property.

21-321.09 - Exemptions

The following shall be exempt from payment of the Fire Protection and EMS Impact Fee:

a. Those residential or nonresidential dwellings which have been issued a building permit or certificate of occupancy prior to the effective date of this Article, as may be amended from time to time.

b. Additions to or expansions of single-family dwellings that do not create an additional living unit.

c. The replacement of a building, mobile home, or structure that was in place on the effective date of this Article or the replacement of a building, mobile home or structure that was constructed subsequent thereto and for which the correct impact fee had been paid or otherwise provided for, with a new building, mobile home or structure of the same use, provided that no additional impact fee will be produced over and above that produced by the original use of the land.

21-321.10 - Appeals

Any decision made by the City Manager or his designee in the course of administering this Article may be appealed in accordance with those procedures set forth in this Code for appeals of administrative decisions.

21-321.11 - Lien/ Withholding of Permits for Non-Payment

a. If through error, omission or intent that the impact fee imposed under this Article is not paid in full, the amount unpaid together with statutory interest accruing from thirty (30) days following the date written notice was sent by certified mail, shall be a lien against the property on which the specific development from which the impact fee is due. Notice of the lien shall be recorded in the official records of the Clerk of the Circuit Court, in and for the County of Volusia. The lien shall have priority over all liens, mortgages and encumbrances, except taxes. If the notice of lien is not recorded within three (3) years following the date the building permit is issued for the development for which the impact fee is owed, the lien shall be of no force and effect. If this shall occur, the amount of the impact fee is due and payable to the City of Edgewater. If the lien remains unpaid for more than thirty (30) days following recording, it may be foreclosed in the manner provided by law for foreclosures of mortgages on real property.

b. If the impact fee remains unpaid, no further building permits of any type shall be issued on the property for which the impact fee remains unpaid. Building permits, including certificates of occupancy and/or occupancy permits may be issued only upon full payment of any previously owed impact fee, together with any interest owing and current impact fee, if

any.

21-321.12 - Violations; Relief

Knowingly furnishing false information to the City Manager on any matter relating to the administration of this Article shall constitute a violation thereof. Violation of this Article shall constitute a misdemeanor enforceable in accordance with the City Code or by an injunction or other legal or equitable relief in the Circuit Court against any person violating this Article, or both civil injunctive and criminal relief.

SECTION 21-322 - POLICE IMPACT FEES

21-322.01 - Intent; Purpose

a. This Section is intended to implement and be consistent with the City of Edgewater's Comprehensive Plan.

b. The purpose of this Section is to ensure that new development pays a fair share of the anticipated costs of equipment and facilities necessary to provide police protection for new development.

21-322.02 - Imposition of Fees

a. Any person who seeks, after its effective date of this Article, to develop land by applying for the issuance of a building permit for one of the land use types specified herein shall be required to pay the Police Impact Fee in the manner and amount set forth in this Section.

b. When change of use, redevelopment or modification of an existing use requires the issuance of a building permit, the impact fees shall be based upon the net increase in the impact fee for the new use as compared to the previous use.

21-322.03 - Fees

a. The amount of the Police Impact Fee imposed under this Section shall be as established by ordinance of the City Council.

b. Police Impact Fee Formula.

   The following formula shall be used to determine the impact fee per unit of development:

   Impact Fee = Functional Population/Unit * Cost/Functional Population

21-322.04 - In-Kind Contributions; Refusal of Adjustment; Covenants

a. Independent calculations for credits for in-kind contributions made after the effective date of this Article shall be submitted to and approved by the City Manager prior to effecting the contribution.

b. The City Manager's action in adjusting or refusing to adjust the impact fee pursuant to an

independent calculation shall be in writing and must be transmitted by certified mail to the fee payer.

c. The City Manager shall require that a covenant running with the land be executed and recorded on the subject property where: the independent calculation is based on a use of land having a lesser impact than that upon which the schedule is based, as applicable; the property could be put to a use having a greater impact than that proposed with such use not requiring future approval by the City; or for such other reasons necessary to ensure compliance with this Article. The covenant shall hold the fee simple interest in the land and mortgage as appropriate. The covenant shall recite this Article and the facts and reasons underlying its execution. It shall set forth the restrictions on the property and the terms and conditions under which it may be released.

21-322.05 - Review of Fees

a. City staff shall review all fees relating to this Section every two (2) years. All adjustments shall be based on the functional population methodology, with a review of current level of service, and using the most recently available data from Institute of Transportation Engineers (ITE), Volusia County Appraisers Office, and value of capital facility improvements.

21-322.06 - Trust Fund

The Police Impact Fee shall be deposited in a Police Impact Fee Trust Fund. The trust fund shall be invested by the City in interest bearing sources and all income derived shall accrue to the trust fund. The funds shall be used only for capital improvement costs for which the impact fee was levied and which would add capacity needed to serve new development. The City Manager shall identify in the City's annual budget the designated capital improvements for which the Police Impact Fee will be spent. The funds shall remain restricted to the Police Trust Fund and the requirements of this Section. The City Manager shall ensure that these designated funds are expended and accounted for in accordance with the provisions of this Section. The City shall maintain such records and documentation necessary to allow the effective audit of the use of the Police Impact fees.

21-322.07 - Collection, Administrative Fees and Use of Funds

a. In lieu of all or part of the impact fees, City Council may accept the offer by a fee payer to dedicate land and/or construct all or part of a Law Enforcement project. Such construction must be in accordance with State, County and City design standards applicable to the project. The fee payer shall submit a project description in sufficient detail to allow the preparation of an engineering and construction cost estimate.

b. If the City Council accepts such offer, the City Manager shall credit the cost of this construction against the Police Impact Fee otherwise due. The portion of the fee represented by the facilities constructed shall be deemed paid when the construction is completed and accepted by the City or when the fee payer posts security as provided in subsection (d) of this Section for the costs of such construction. The portion of the fee represented by land dedication shall be deemed paid when the title to the land dedicated for that purpose has been accepted by the City.

c. Security in the form of a performance bond or escrow agreement shall be posted with and made payable to the City in an amount approved by the City Manager equal to one hundred ten percent (110%) of the full cost of such construction. If construction of the project is not to be completed within one year of the acceptance of the offer by the City, the amount of security shall be increased by ten percent (10%) compounded for each year of the life of the security. The security shall be reviewed and approved by the City Manager's office prior to acceptance of the security by City Council.

d. No impact fee is required for the issuance of any building permit for residential use which does not result in an additional living unit.

e. All funds collected pursuant to this Section shall be promptly transferred for deposits into the Police Trust Fund. Impact fee collections shall be used exclusively for land acquisition, capital improvements, purchases or expansion related to the public purpose for which such fees were collected, with the exception of impact fee administrative costs pursuant to paragraph (g) below. Funds shall be expended in the order in which they are collected.

f. The City shall be entitled to retain up to four percent (4%) of the impact fees collected as an administrative fee to offset the costs of administering this Section.

g. Any impact fees that are paid by check, draft or other negotiable instrument, that do not clear; the building permit or development order authorizing the development for which the impact fee was paid shall be suspended and the City shall send the appropriate suspension notice to the fee payer by certified mail. If the impact fee, together with any charges for funds not clearing, are not paid within ten (10) business days following mailing of the notice, the building permit or development order shall be of no further force and effect for purposes of this Article and a stop work order shall be issued and remain in effect until such time as the impact fee is paid and the funds clear.

21-322.08 - Credits

a. An applicant shall be entitled to a credit against the Police Impact Fees assessed pursuant to this Section in an amount equal to the cost of improvements which create excess capacity for the general public or contributions to the City of land, money, facilities, equipment or services by the applicant or his predecessor in interest as a condition of any development agreement entered into with the City. Such credit shall be based on the following criteria:

    1. The actual cost or estimated cost based on recent bid sheet information of the City of Edgewater or Volusia County, of off-site improvements. Improvements eligible for a credit are those improvements proposed that will benefit not only the dwellings on-site, but also the general public. Improvements not eligible for a credit are those facilities that are privately owned or that serve only the dwellings within the development.
    2. The actual cost or estimated cost of improvements based on recent bid sheet information of the City of Edgewater or Volusia County with respect to that portion of on-site improvements which creates excess capacity for the general public.
    3. The contribution of land, money, facilities, equipment or services by the applicant for improvements to the City's Police Department which creates excess capacity for the

general public. Services must relate directly to the provision of land, facilities or equipment. The credit for land contributed will be based on a pro rata share of the appraised land value of the parent parcel as determined by an MAI appraiser selected and paid for by the applicant and approved by the City Manager or based on such other method as may be mutually agreed upon by the applicant and the City Manager. In the event that the City disagrees with the appraised value, the City may select and pay for another appraiser, and the credit shall be an amount equal to the average of the two (2) appraisals.

4. Unless otherwise provided in a development agreement between the City and the applicant or his predecessor in interest, no credit for contributions or donation made prior to the effective date of this Article shall be granted unless the cost of the improvements were paid for or the contributions were made within the two (2) years prior to the effective date of this Article.
5. No credit shall exceed the amount of the Police Impact Fee assessed under Section 21-322.03 of this Article.
6. No credit shall be allowed for security systems, widening of roads or other improvements with only an indirect benefit for police protection.

b. The amount of the credit shall be determined by the City Manager; provided, however, that the determination may be appealed to the City Council, whose decision shall be final and binding on the applicant.

c. Any credit issued pursuant to this Section may be transferred by the applicant to any successor in interest in the property.

21-322.09 - Exemptions

The following shall be exempt from payment of the Police Impact Fee:

a. Those residential or nonresidential dwellings which have been issued a building permit or certificate of occupancy prior to the effective date of this Article, as may be amended from time to time.

b. Additions to or expansions of single-family dwellings that do not create an additional living unit.

c. The replacement of a building, mobile home or structure that was in place on the effective date of this Article or the replacement of a building, mobile home or structure that was constructed subsequent thereto and for which the correct impact fee had been paid or otherwise provided for, with a new building, mobile home or structure of the same use, provided that no additional impact fee will be produced over and above that produced by the original use of the land.

21-322.10 - Appeals

Any decision made by the City Manager or his designee in the course of administering this Article may be appealed in accordance with those procedures set forth in this Code for appeals of administrative decisions.

21-322.11 - Lien; Withholding of Permits for Non-Payment

a. If through error, omission or intent the impact fee imposed under this Article is not paid in full, the amount unpaid, together with statutory interest accruing from thirty (30) days following the date written notice was sent by certified mail, shall be a lien against the property on which the specific development for which the impact fee is due. Notice of the lien shall be recorded in the official records of the Clerk of the Circuit Court, in and for the County of Volusia. The lien shall have priority over all liens, mortgages, and encumbrances, except taxes. If the notice of lien is not recorded within three (3) years following the date the building permit is issued for the development for which the impact fee is owed, the lien shall be of no force and effect. If this shall occur, the amount of the impact fee is due and payable to the City of Edgewater. If the lien remains unpaid for more than thirty (30) days following recording, it may be foreclosed in the manner provided by law for foreclosures of mortgages on real property.

b. If the impact fee remains unpaid, no further building permits of any type shall be issued on the property for which the impact fee remains unpaid. Building permits, including certificates of occupancy and/or occupancy permits may be issued only upon full payment of any previously owed impact fee, together with any interest owing and current impact fee, if any.

21-322.12 - Violations; Relief

Knowingly furnishing false information to the City Manager on any matter relating to the administration of this Article shall constitute a violation thereof. Violation of this Article shall constitute a misdemeanor enforceable in accordance with the City Code or by an injunction or other legal or equitable relief in the Circuit Court against any person violating this Article or both civil injunctive and criminal relief.

SECTION 21-323 - TRANSPORTATION/ROAD IMPACT FEES

21-323.01 - Short Title; Statutory Authority; Applicability of Section

a. This Section shall be known and may be cited as the City of Edgewater Road Impact Fee Ordinance.

b. The planning for new and expanded roads needed to serve new growth and development that generate additional traffic and the implementation of these needs through the comprehensive planning process are the responsibility of the City under F.S. §163.61 et seq., F.S. ch. 166, and various special acts relating to the power of the City undertaking zoning, planning and development activities and is in the best interest of the health, safety and welfare of the citizens of the City. This Section is adopted pursuant to F.S. ch. 166 and the City Charter.

c. Applicability. This Section shall apply throughout the City of Edgewater.

21-323.02 - Purpose and Intent

a. The purpose of this Section is to enable the City to allow growth and development to proceed in compliance with the adopted Comprehensive Plan and to regulate growth and development so as to require it to share in the burdens of growth by paying its pro rata share for the reasonably anticipated costs of needed roadway improvements.

b. This Section is intended to implement and be consistent with the City's Comprehensive Plan.

c. It is not the purpose of this Section to collect fees from growth and development in excess of the cost of the reasonably anticipated improvements to the road network needed to serve the new growth and development. It is specifically acknowledged that this article has approached the problem of determining the Road Impact Fee in a conservative and reasonable manner. This Section will only partially recoup the governmental expenditures associated with growth. Existing development will be required to pay a fair share of the cost of needed improvements to the road network.

21-323.03 - Definitions and Rules of Construction

For the purposes of administration and enforcement of this Section, unless otherwise stated in this Section, the following rules of construction shall apply to the text of this Section:

a. In case of any difference of meaning or implementation between the text of this Section and any caption, illustration, summary table or illustrative table, the text shall control.

1. The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
2. Words used in the present tense shall include the future; and words in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
3. The phrase "used for" includes "arranged for," "designed for," "maintained for" or "occupied for."
4. The word "person" includes an individual, a corporation, a partnership, a governmental entity or agency, an incorporated association or any other similar entity.
5. The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of a like kind or character.
6. Any road right-of-way used to define transportation impact fee zone boundaries may be considered to be within any zone it bounds for purposes of using these funds.
7. The land use types listed shall have the same meaning as contained in the Land Development Code and City of Edgewater Code of Ordinances.

b. The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

Accessory use means any use or attached or detached structure clearly incidental, subordinate and related to the principal use or structure and located on the same lot with such principal use or

structure.

Apartment means a rental dwelling unit that is located within the same building with at least two (2) other dwelling units. Sites included in this land use are triplexes and all types of apartment buildings. The apartments in this land use include both low-rise or "walk-up"dwellings and high-rise.

Applicant means any person applying for or who has been granted a permit to proceed with a project.

Average trip length means the average length in miles of external trips.

Building means any structure with an impervious roof built for the support, shelter or enclosure of persons, animals, chattels or property of any kind, which has enclosing walls for fifty percent (50%) or more of its perimeter. The term "building" shall be construed as if followed by the words "or part thereof."

Building area means the area included within surrounding exterior walls, or exterior walls and fire walls.

Building permit means the documentation required by the municipal building code authorizing construction or alteration of any building.

Capacity means the maximum number of vehicles for a given time period which a road can safely and efficiently carry; usually expressed in terms of vehicles per day.

Capital improvement includes transportation planning, preliminary engineering, engineering studies, design and construction plan preparation, land surveys, right-of-way acquisition, engineering, permitting and construction of all the necessary features for any road construction project including, but not limited to:

1. Construction of new through lanes.
2. Construction of new turn lanes.
3. Construction of new bridges.
4. Construction of new drainage facilities and utilities in conjunction with new roadway construction.
5. Purchase and installation of traffic signalization (including new signalization and upgrading signalization).
6. Construction of curbs, medians, shoulders, sidewalks and bike paths.
7. Relocating utilities to accommodate new roadway construction.

Certificate of occupancy means the official document or permit issued by the City evidencing the completion of construction of a building in accordance with all applicable codes and its legal entitlement to permanent occupancy and use.

Collecting agency means the local governmental authority having jurisdiction to authorize the making of any material change of any structure, including the construction, enlargement, alteration or repair of buildings, or the local governmental authority having jurisdiction to

authorize rezoning or special exceptions that make material changes in the use or appearance of land without making material changes of any structures on the land.

Dwelling means one or more rooms in a building forming a separate and independent housekeeping establishment, arranged, designed or intended to be used or occupied by one family, and having no enclosed space or cooking or sanitary facilities in common with any other dwelling unit with no ingress or egress through any other dwelling unit, and containing permanent provisions for sleeping facilities, sanitary facilities and not more than one kitchen facility.

Dwelling, manufactured means a dwelling fabricated in a manufacturing facility and bearing a seal certifying it is constructed to standards as adopted under the authority of F.S. § 553.35 et seq. And rules adopted by the Florida Department of Community Affairs under Chapter 9B-1 et seq., Florida Administrative Code.

Dwelling, mobile home means a single-family dwelling fabricated in a manufacturing facility, having a width of more than 8 ½ feet and a length of more than forty (40) feet, and bearing a seal certifying it is constructed either to the Federal Manufactured Housing Construction and Safety Standards Code or to obsolete ANSI 119.1 Mobile Home Design and Construction Standards.

Dwelling, single-family means a building containing only one dwelling. This term includes a manufactured or mobile home dwelling.

Expansion. Expansion of the capacity of a road applies to all road and intersection capacity enhancements and includes extensions, widening, intersection improvements, upgrading signalization and improving pavement conditions.

External trip means and refers to any trip that has either its origin or destination at the development site and that impacts the major road network.

Fee payer means any person or entity who pays a transportation/road impact fee or his/her successor in interest with the right or entitlement to any refund of previously paid development impact fees which is required by this Section and which has been expressly transferred or assigned to the successor in interest. In the absence of an express transfer or assignment or entitlement to any refund or previously paid development impact fees, the right or entitlement shall be deemed "not to run with the land."

Frontage road and marginal-access road means a minor street which parallels and is adjacent to an arterial, thoroughfare or state road, and which provides access to abutting properties and protection from through traffic.

Hotel means a place of lodging that provides sleeping accommodations, restaurants, cocktail lounges, meeting and banquet rooms or convention facilities, and other retail and service shops. Some of the sites included in this land use category are actually large motels providing the facilities of a hotel.

Land development activity generating traffic means the carrying out of any building activity or the making of any material change in the use of appearance of any structure or land that attracts

or produces vehicular trips over and above that produced by the existing use of the land.

Lot means an area of land which abuts a street and which either complies with or is exempt from the City Subdivision Regulations and is sufficient in size to meet the minimum area and width requirements for its classification.

Major sports facility means a stadium or racetrack for major sports events with a permanent seating capacity of at least 5,000 spectators. Further, a major sports facility is characterized by infrequent use such that there are no more than thirty (30) days of use per year where the facility is at, or above, ten percent (10%) occupancy. Actual fee for this land use category, provided it meets the definition, is based on the rate of frequency of use (greater than ten percent {10%} occupancy) on an annual basis.

Mobile Home Park means an area of land under one ownership where designated spaces for mobile home dwellings are rented. The overall operation is managed on a full or part time basis and provides various services and facilities for common use.

Motel means a place of lodging that provides sleeping accommodations and often a restaurant. Motels generally offer free on-site parking and provide little or no meeting space.

Multiple-family dwelling means a building containing three (3) or more dwellings intended to be occupied primarily by permanent residents.

Off-site improvements means road improvements, other than those referenced in the definition of site-related improvements, located outside of the boundaries of the parcel proposed for development, which are required to serve the development's external trips.

Percent of new trips means the number of new trips generated by the land development activity.

Site-related improvements means capital improvements and right-of-way dedications for direct access improvements to the development in question. Direct access improvements includes, but not limited to, the following:

1. Site driveways and roads;
2. Right and left turn lanes leading to those driveways and roads;
3. Traffic control measures for those driveways and roads;
4. Acceleration/deceleration lanes;
5. Frontage roads;
6. Median openings/closings; and
7. Roads necessary to provide direct access to the development.

Square foot, for the purpose of the fee schedule, subsection 3-323.05(f)(1), means total square footage of a building area, excluding overhangs.

Thoroughfare system means any roadway that has been designated as either an arterial or collector in the Transportation Element of the City's Comprehensive Plan.

Thoroughfare system plan means the thoroughfare plan as set out and included in the

Comprehensive Plan.

Traffic generation statement means a documentation of proposed trip generation rates submitted prior to and as a part of a traffic impact analysis. This documentation shall include actual traffic generation information from a representative sampling of existing similar developments.

Transportation/road impact fee and fee means the fee required to be paid in accordance with this Section.

Trip means a one-way movement of vehicular travel from an origin (one trip end) to a destination (the other trip end).

21-323.04 - Interpretation of Article; Enforcement; Penalty

a. Interpretation. The provisions of this Section shall be liberally construed to effectively carry out its purposes in the interest of public health, safety, welfare and convenience.

b. Methods of enforcement. The City shall withhold any certificate of occupancy of any final inspection approval for construction applicable to this Section until the required fee has been paid.

c. Penalty. A violation of this Section shall be punishable according to applicable municipal codes.

21-323.05 - Imposition of Fee

a. Applicability of fee.
    1. Any person who makes or causes the making of an improvement to land which will generate additional traffic and which requires the issuance of a building permit, or any person who changes the use of any building to one which will generate additional traffic, shall be required to pay a Transportation/Road Impact Fee in the manner and amount set forth in this Section.
    2. No person shall undertake construction of an improvement for which the fee imposed by this Section is applicable without having paid the proper transportation/road impact fee imposed by this Section. No person shall change the use or allow a change in use of any building where the fee imposed by this Section is applicable without having paid the proper Transportation/Road Impact Fee imposed by this Section.

b. No county or municipal certificate of occupancy, business tax receipt or use permit for which a complete application is submitted after January 31, 2005, for any activity requiring payment of an impact fee pursuant to this Section shall be issued unless and until the transportation/road impact fee required by this Section has been paid. The obligation of a person to pay the fee imposed by this Section shall not be extinguished by the inadvertent failure of the City to collect the fee at the time required.

c. Methods of determination. The Transportation/Road Impact Fee for any development activity generating traffic in the City shall be determined either by using the fee schedule set forth in subsection (f)(1) of this Section, or by using the method set forth in Section 21-

323.05.

d. Presumption of maximum impact. Development is presumed to have the maximum impact on the road network. The proposed development activity for which an application for a building permit has been filed shall be presumed by the City engineer or his designee to generate the maximum number of average daily vehicle trips, vehicle miles of travel and lane miles of travel.

e. Transportation/Road Impact Fee formula.

The following formula shall be used to determine the impact fee per unit of development:

Impact Fee = (1/2)*(TGR)*(%NT)*(DF)*(ATL)*(CC/LM)(WCL)
Where:
TGR = trip generation rate assigned to each land use
NT = new trips generated by the land use
DF = distribution factor of trips utilizing the thoroughfare network
ATL = average trip length utilizing the thoroughfare network
CC = average road construction cost
LM = lane miles
WCL = weighted capacity per lane mile

f. The Transportation/Road Impact Fee shall be determined in accordance with the Transportation/Road Impact Fee Schedule established by ordinance of the City Council.

g. Credits for completed and accepted non-site-related improvements shall be determined for each application, and shall be deducted from the Transportation/Road Impact Fees listed in the Transportation/Road Impact Fee Schedule, at the time transportation/road impact fees are to be paid. The value of non-site-related improvements for which credits may be allowed shall be determined by the director of development services.

h. Credits for the present value of future gas or motor fuel tax payments utilized to fund capacity expansion of the thoroughfare road systems are included in the calculations of the fee schedule set out in this Section.

i. The fees charged for a building with more than one use shall be for that use having the highest traffic generation rate except for church buildings with mixed uses or buildings with residential and non-residential mixed uses. If the church building has more than one use, the separate uses are to be identified and appropriately charged according to the fee schedule. If a building has residential and non-residential uses, the square footage of the building identified as residential will be charged based on the number of dwelling units. The square footage identified as non-residential shall be charged for that use having the highest traffic generation rate.

j. If the type of development activity for which a building permit is applied is not specified on the fee schedule set out in this Section, the City shall use the fee applicable to the most nearly comparable type of land use on the fee schedule. The City shall be guided in the selection of a comparable type by the report titled “Institute of Transportation Engineers, Trip

Generation: An Information Report" (sixth or any subsequent editions). If the City determines that there is no comparable type of land use on the fee schedule set out in this Section, then the fee shall be determined by using traffic generation statistics contained in the report titled "Institute of Transportation Engineers, Trip Generation: An Information Report" (sixth or any subsequent edition), average trip length and percent of new trips based upon the best data available to the City and by applying the formula set forth in subsection (e) of this Section.

k. In the case of an expansion of an existing use on the same lot or an adjoining lot (which may be intersected by an easement or right-of-way) requiring the issuance of a building permit, the impact fee shall be based upon the net increase in the impact fee for the new as compared to the previous use. The City shall be guided in this determination by the report titled "Institute of Transportation Engineers, Trip Generation: An Information Report" (sixth or any subsequent edition).

l. The transportation/road impact fee on a shopping center shall be computed using one retail-commercial rate for all stores except the out-parcels, which shall be calculated using the rate for that land use from the transportation/road impact fee schedule.

m. If an affidavit is filed by the owner of real property with the county or municipality certifying that a farm building on a farm is exempt from issuance of a building permit under Florida law, then the building shall also be exempt from impact fee charges.

n. Road construction and right-of-way credits issued by the City can be transferred between lots with identical land uses.

21-323.06 - Independent calculation

a. Any person may determine their Transportation/Road Impact Fee by providing independent traffic documentation that their impact on the thoroughfare system is less than the Transportation/Road Impact Fee as determined under subsection (f)(1) of Section 21-323.05. The documentation submitted shall show the basis upon which the Transportation/Road Impact Fee has been calculated, which shall conform to the following factors:

    1. The trip generation rate, trip length and the percent of new trips shall be documented together. In no event shall they be documented separately. All other variables in the Transportation/Road Impact Fee formula cannot be altered, but shall be based upon data current at the time this fee shall be due. Petitioners requesting to undertake an independent calculation may substitute the trip generation rate and the percent of new trips and trip length in the Transportation/Road Impact Fee formula with data obtained from approved traffic surveys and actual traffic counts generated by approved traffic study sites.
    2. The unit of measure used for trip generation in the independent calculation must be identical to the one used in the Transportation/Road Impact Fee formula, in order to measure accurately the project's impact on the thoroughfare system.
    3. If a single business or shopping center is studied, at least two (2) sites within the City of Edgewater must be tested. The results of each site must be added together and

averaged to obtain an alternative trip generation rate, trip length and percent of new trips. The results can be substituted in the Transportation/Road Impact Fee formula. If the study results indicate a lower fee, the charges will be adjusted accordingly.

4. If no suitable alternative site is available as determined by the City staff, the applicant may pay the Transportation/Road Impact Fee and employ a licensed engineer to conduct a traffic study on the project site within six (6) months after the enterprise is open for business. The traffic study time-frame and monitoring points must be approved by the City staff. Only the trip generation rate, trip length and the percent of new trips can be used in the analysis. Once the results of each sampling point are added together and averaged they may be substituted in the Transportation/Road Impact Fee formula. The results will be used to determine an appropriate impact fee. If the traffic study results indicate a lower fee and accepted by the City staff, the difference will be refunded to the applicant. All refunds are subject to Section 21-323.10. This documentation shall be prepared and presented by licensed engineers. Specific actions such as the number of manual or automated counts, number of personal surveys, location of the sampling stations and the layout of the study sites will be negotiated by the applicant and City staff.

21-323.07 - Review of Fees

City staff shall review all fees relating to this Section every two (2) years. All adjustments shall be based on a review of transportation Level of Service (LOS) standards located in the Comprehensive Plan, population projections, anticipated impacts to the transportation system through proposed development and value of transportation related capital improvements.

21-323.08 - Payment

a. Time of payment; lien.

1. The person applying for the issuance of a building permit shall pay the transportation/road impact fee.

   The obligation for payment of the impact fee shall run with the land. However, this Section shall not be construed to relieve an applicant of responsibility or liability for payment of the impact fees imposed by this Section.

   If no building permit is required upon a change of use of a building, the fee imposed by this Section shall be payable at such time as the person making such change shall be required to apply for a business tax receipt.

2. All fees due under this Section shall become a lien at the time of the issuance of a business tax receipt, such fees shall be due, and shall remain a lien, coequal with the lien of all State, District, County and Municipal taxes, superior in dignity to all other liens, titles and claims, until paid. Such lien shall be upon the land on which an improvement is made requiring the payment of fees and shall be for the amount of the fee required, as well as for all penalties and interest due under the provisions of this Section.

b. Method of payment. Payment of Transportation/Road Impact Fees shall be made to the City

of Edgewater.

c. Disposition of funds. All funds collected shall be promptly transferred for deposit into a Transportation/Road Impact Fee trust fund and used solely for the purposes specified in this Section.

d. Interest and administrative; penalty.

    1. Interest at the rate set by law for judgments shall be due on all fees due under this Section from the time such fee was due according to the terms of subsection (a) of this Section. The inclusion in this Section of provisions concerning interest due shall be deemed to be cumulative of the City's rights already existing as a matter of law to prejudgment interest upon sums which are certain and due and payable at a specified time. Accordingly, the requirement for the payment of interest shall be deemed to apply retroactively to all fees which have previously become due under the terms of this Section; and nothing in this Section shall be construed in derogation of such right otherwise existing at law.
    2. There shall be due and payable to the City an administrative penalty of five percent (5%) per month to a maximum of twenty-five percent (25%) of all fees unpaid at the time they were due according to the terms of this Section. Such administrative penalty shall accrue monthly on the anniversary of the date when such fee should have been paid. In the case of fees previously due under the terms of this Section, such penalty shall accrue at the rate of five percent (5%) per month to a maximum of twenty-five percent (25%) with the first monthly penalty accruing one (1) month following the effective date of the ordinance from which this subsection (e) is derived.
    3. The City Attorney or a duly authorized representative may execute, serve upon the owner by certified mail and record a notice of nonpayment in the official records of the county, which shall contain the legal description of the property and the amount of the impact fee liability. Said notice shall thereupon operate as a lien against such property for the amount of the impact fee, together with interest, penalties, and the costs and fees for collection, coequal with the lien of all State, County, District and Municipal taxes.

21-323.09 - Trust funds; Use of funds

a. Trust funds.

    There are hereby established a separate transportation/road impact fee trust fund. Subsequent to the adoption of the ordinance from which this Section is derived, should any parcel or area of land located within a zone be annexed into the City, the boundaries shall be deemed amended as of the date of annexation so as to include the land annexed within the zone of such municipality. Such amendment of zones shall be for the purposes of this Section only and shall not affect any prior payment of fees or expenditure of funds attributable to the annexed property.

b. Use of funds; administrative fee.

    1. Funds collected from Transportation/Road Impact Fees shall be used for the purpose of

capital improvements to and expansion of transportation/road facilities associated with the thoroughfare system plan. Such improvements shall be of the type made necessary by new development. Final determination of projects to be funded using transportation/road impact fee revenues shall be made by the City Council.

2. No funds shall be used for periodic or routine maintenance as defined in F.S. § 334.03.
3. Except as provided in subsection (5) of this subsection, funds shall be used exclusively for capital improvements or expansion within the municipal boundaries. Funds shall be deemed expended in the order in which they are collected.
4. The City shall, each fiscal year, prepare a preliminary capital improvement road program to be funded from each Transportation/Road Impact Fee Trust Fund.
5. The City shall be entitled to retain an amount not to exceed five percent (5%) of all impact fee funds it collects as an administrative fee to offset the actual administrative costs associated with the collection of the funds and administering this Section.

21-323.10 - Exemptions and credits

a. Exemptions.

The following activities shall be exempted from payment of the Transportation/Road Impact Fee:

1. All land development activities which have received a building permit prior to the effective date of the ordinance, as may be amended from time to time, from which this Section is derived, except as provided for in other Sections.
2. Alterations or expansions of an existing building where no additional units are created and where no additional vehicular trips will be produced over and above that produced by the existing use.
3. The construction of an accessory building which will not produce additional vehicular trips over and above that which is produced by the principal building or use of the land.
4. The replacement of a building with a new building, provided that no additional trips will be produced over and above those produced by the original use of the land.
5. City owned and City operated buildings, structures or uses used solely for general governmental purposes.

b. Credits.

1. No credit shall be given for site related improvements, except as provided for in subsection (2) of the subsection (b).
2. All roadway improvements and/or right-of-way dedications required under a City development order or approval which are included within the roads contemplated in Section 21-323.09(b)(1), except for those improvements deemed site related, shall be credited against Transportation/Road Impact Fees. In addition, any person who constructs or contributes land, money or services for any road improvements (whether site related or not) contemplated in Section 21-323.09(b)(1), which are included within the most recently adopted five (5) year work program shall be entitled to credits against Transportation/Road Impact Fees imposed pursuant to this Section in accordance with subsection (3) of this subsection (b).
3. Credits shall apply to the person making the contribution. Such person shall have the right to transfer all or a portion of the available credits. Any transfers of this type which occur shall be filed with the Development Services Department at the time of or prior to

the approval of a development order on a form provided by the City. The costs utilized in computing credits shall be reasonable, but not to exceed the actual costs of the improvements constructed or contributed. The person seeking determination of the credit shall present cost estimates and property appraisals prepared by qualified professionals to be utilized by the Public Works department and the Development Services Department in determining the amount of credits. The City retains the right to prepare its own cost estimate for its use in determining the credit allowed by this subsection.

21-323.11 - Periodic review

a. This Section shall be reviewed by the City Council no less than once every four (4) years.

b. The components of the Transportation/Road Impact Fee formula shall be reviewed by the City Council no less than once every four (4) years.

c. Failure of the City to undertake such a review shall result in the continued use and application of the existing fee schedule and other data.

21-323.12 - Administrative review; Procedures

a. A fee payer shall have the right of administrative review of any decision relating to:
    1. A determination that a development activity is required to pay an impact fee under this Section;
    2. A determination of the amount of the impact fee; or
    3. A determination regarding the amount or application of a credit to be applied against the impact fee.

The administrative review shall be in the form of an administrative review de novo of the decision.

b. Except as otherwise provided in this Section, the administrative review must be requested by the fee payer within forty-five (45) calendar days (including Sundays and legal holidays) from the date of issuance of the impact fee statement or the date of the decision sought to be reviewed, whichever shall last occur. Failure to request administrative review within the time provided in this subsection will be deemed a waiver of that right.

c. A written request for administrative review must be filed with the City Manager. The request shall contain the following:

    1. The name and address of the fee payer;
    2. The telephone number at which the fee payer may be reached during daytime hours;
    3. The legal description of the property in question;
    4. If issued, the date the building permit/impact fee statement was issued and the building permit/impact fee statement number;
    5. If paid, the impact fee receipt number and date of payment;
    6. A brief description of the nature of the land development activity to be undertaken pursuant to the building permit/impact fee statement; and
    7. A statement of the reasons why the fee payer is requesting the administrative review,

including any supporting information and site or construction plans, if appropriate.

d. Within fifteen (15) calendar days of receipt of a request for administrative review, the decision of the City Manager shall be final and shall be binding upon the fee payer and the City.

e. The determination of the City Manager may be reviewed by the City Council in accordance with Section 21-323.14.

21-323.13 - Final administrative review; Hearings

a. A fee payer who is aggrieved by a determination of the City Manager shall have the right to request a review hearing before the City Council.

b. A review hearing shall be limited to a determination of whether the City Manager correctly applied this Section to the facts and circumstances of the fee payer's case.

c. A review hearing shall be requested by the fee payer by filing a written request for same with the City Manager, within thirty (30) calendar days after the determination is made by the director. Failure to request a hearing within the time provided shall be deemed a waiver of such right.

d. The written request for review hearing to be filed with the City Manager shall contain the following:

1. The name of the party seeking the review and the address if a fee payer;

2. The legal description of the property in question;

3. If issued, the date the building permit/impact fee statement was issued and the building permit/impact fee statement number;

4. If paid, the impact fee receipt number and date of payment; and

5. A brief description of the nature of the land development activity being undertaken pursuant to the building permit/impact fee statement.

e. Upon receipt of a request for review hearing, the City Manager shall schedule a hearing before the City Council at a regular meeting or special meeting called for the purpose of conducting the hearing. The City shall provide the fee payer with reasonable written notice of the time and place of the hearing. A review hearing shall be held within forty-five (45) days of the date the request for hearing was filed.

f. The review hearing shall be held by the City Council and shall be conducted in a manner designed to obtain all information and evidence relevant to the requested hearing. Formal rules of civil procedure and evidence shall not be applicable; however, the hearing shall be conducted in a fair and impartial manner with each party having an opportunity to be heard and to present evidence.

SECTION 21-324 -WATER SYSTEM EXTENSION

21-324.01 - Intent; Purpose; Basis

a. The City of Edgewater, herein referred to as the "City", as the owner and operator of the water system, hereinafter referred to as the "Edgewater water system" or the "City water system", hereby establishes this extension policy for the purpose of creating a uniform method of determining the capital charges to be borne by property owners, builders or developers within the water service area to defray or partially defray the cost of an on-site water distribution system, the allocable share of an off-site water distribution system and the allocable share of treatment plant costs. The City declares that this extension policy has as its goal the establishment of a uniform method of computing or determining such charges to the end that all such charges shall be nondiscriminatory among consumers in the area and shall be applied as nearly as possible with uniformity to all consumers or prospective consumers within the present or future service area.

21-324.02 - Availability

The provisions of this extension policy are available to consumers and property owners throughout the water service area of the Edgewater water system which shall allow the City to recover operating costs and expenses, required debt service, contributions to renewal and replacement funds and allocations from the general revenue fund for costs reasonably related to the water system. The term "water service area" as used herein is that area defined as the City's water service area in the adopted Comprehensive Plan of the City of Edgewater, as may be amended from time to time.

21-324.03 - On-Site Facilities

1. Each developer, owner or builder (hereinafter referred to as "developer") shall be responsible for the design, installation, inspection and testing of the complete water system located in the streets or easements adjoining or within the boundaries of the developer's property.

2. The term "complete water system" as used herein includes, but is not limited to all component parts of a water distribution system, including pipes, valves, fittings, hydrants and all appurtenances as shown upon the approved design of such water distribution system.

3. In the event the City requires the installation of oversized lines or facilities designed to provide service for other properties, then the City shall pay for the cost of such oversizing by means of a direct cash payment by the City to the developer or a credit against water capital charges otherwise to be paid by the developer. The limited size of the developer's property for which service has been requested may indicate to the City the desirability of having the City design and install the water distribution system. In such event, the City reserves the right to compute the estimated cost of such extension and to require the developer to pay such cost of construction in lieu of the developer's installation of the water distribution system.

SECTION 21-325 - WATER CAPITAL CHARGES

21-325.01 - Intent; Purpose; Basis

a. The intent of this Section is to establish charges for the purpose of compensating the City for costs incurred in providing water treatment facilities and in extending water distribution and transmission lines to a point of reasonable availability for connection to the City water system. The charges shall be computed on the basis of real property use, zoning and size in approximate proportion to the benefits received. The determination of the point of reasonable availability for connection to the City water system shall be determined in accordance with policies from time to time established by the City. As set forth in this Section, the developer may incur additional charges and expenses in order to obtain water service, which charges and expenses are not defrayed by its payment of water capital charges. Nothing contained in this Section shall be construed to obligate the City to extend water services to any lands within its water service area.

b. The water capital charge shall be established by ordinance of the City Council. Those persons, corporations or entities which have previously prepaid the existing water connection charge or who have entered into an agreement with the City providing credits against the water connection charge shall be exempt from paying this water capital charge. The amount of credit shall not exceed the amount prepaid or the approved credit authorized in the developer's agreement.

c. Water Capital Charge formula:

The following formula shall be used to determine the capital charge per unit of development:

Capital Charge = Total Capacity Cost * Equivalent Flow/ERU

d. The Total Capacity Cost is based upon a combination of existing available capacity and future capacity costs. The Level of Service (LOS) per ERU is established in the City's Comprehensive Plan. The allocation for the Capital Charge shall be as follows:

    1. Water

        (a) 50% Treatment Capacity Charge

        (b) 50% Distribution Capacity Charge

21-325.02 - Obligations of the City

a. The City shall maintain copies of this extension policy available for the inspection of any property owner, developer, builder or prospective consumer desiring information regarding all elements of the cost of connecting to the water facilities of the City. Such copies shall be maintained at the general office of the Edgewater water system.

b. The City shall maintain as-built information on its water facilities in the office of its designated representatives for the purpose of providing reasonable information concerning

the location of its water facilities.

c. The City shall install all meters upon the request of prospective consumers, provided that all fees and charges as described herein and the established meter installation fees have been paid in accordance with the provisions of the extension policy.

d. In instances where the City undertakes the installation of water distribution lines at the cost and expense of the developer in lieu of the developer's installation of such facilities, the City will provide laterals for water service to a developer's lot line ready for plumber's hookup and the installation of meters.

21-325.03 - Obligations of Developer

It shall be the developer's obligation to furnish to the City accurate information with regard to matters of engineering, construction of buildings and dwellings and proposed densities. Developers who increase their density factors and/or consumption requirements during the course of construction of the project are exposed to an adjustment in their hydraulic share for off-site facilities and/or an increase in connection charges applicable to the developer's project. The developer is responsible for errors or changes in engineering information furnished to the City when such error or change results in increased cost to the City for any construction which the City may undertake in connection with installing water distribution facilities or which could necessitate a new design or redesign of water distribution plans.

21-325.04 - Developer Agreements Required

An owner, builder or developer may be required to execute a developer's agreement setting forth such reasonable provisions governing a developer's and the City's responsibility pertaining to the installation of service facilities; the interconnection of plumber's lines with the facilities of the City; the manner and method of payment of contributions in aid of construction; matters of exclusive service rights by the City; standards of construction or specifications; time commitments to take and use water services; engineering errors and omissions; rules, regulations and procedures of the City; prohibitions against improper use of the City's facilities; and other matters normally associated with and contained in developer agreements. Nothing contained in such developer agreements shall be in conflict with this extension policy or the City's ordinances and resolutions governing rates, fees and charges for services and other requirements regarding the rendition of water utility service. The City may require that the developer, in addition to the contribution formulas set forth herein, bear the cost of the preparation of developer agreements by independent counsel or persons qualified to draft and prepare such agreements. Said charge shall not exceed that amount normally to be contemplated for such services.

21-325.05 - Easements and Right-of-Way

As a prerequisite to the construction of any water distribution system proposed to be connected to the facilities of the City, the developer shall grant to the City easements or rights-of-way corresponding with the installation of the proposed facilities. Such grant or conveyance shall be in a form satisfactory to the City Attorney. All such easements or rights-of-way shall be in a form acceptable to the City. Such conveyances when located on the property of the developer shall be made without cost to the City. The City reserves the right to require such easement or

right-of-way to the point at which the meter is proposed to be installed or at the point of deliver of service, being the point at which the facilities of the City join with the consumer's own installation.

21-325.06 - System Design; Independent Engineers; City's Engineer

a. The City shall recognize the design of water facilities prepared by a registered professional engineer regularly engaged in the field of civil engineering, covering the design of a developer's on-site water distribution system and any off-site facilities which may be required by the City; provided, however, that each such design shall be fully subject to the approval of the Director and shall conform in all respects to the criteria of the City governing the installation of utility facilities ultimately to be accepted by the City for ownership, operation and maintenance. In addition to other fees and charges, the City reserves the right to charge a review fee commensurate with the cost to the City of reviewing such engineering plans and furnishing to the developer's engineer various information regarding location and criteria. Any such review fee shall be in accordance with resolutions adopted by the City Council. All designs of water distribution facilities are at all times subject to the approval of other agencies having jurisdiction over such design.

b. The City maintains a relationship with its consulting engineer to provide utility design services to developers for the purpose of facilitating the design of a developer's on-site water distribution system and any off-site facilities which may be required by the City. Designs prepared by the City's consulting engineer are acceptable to the City but are at all times subject to the approval of any other governmental agencies having jurisdiction over the subject matter of such design. The cost of plans prepared by the City's consulting engineer shall be borne by the developer. However, in such cases the developer will not be required to pay the charge for review of such plans as provided for in subsection (a).

21-325.07 - Meter Installation and Connection Fees

a. The City shall charge to each prospective consumer requesting water service a meter installation fee to defray the City's cost of the meter and meter appurtenances and the cost of installation and related administrative and overhead costs. Such meter installation fee shall be in accordance with the Meter Installation Fee Schedule established by ordinance of the City Council. The City will require the payment of such meter installation fee concurrently with the request by prospective consumers for the meter installation. The meter installation fee shall be charged only one time for the installation of a meter at any one location. However, requests to exchange existing meters for meters of a larger size will result in a cost increase related to upsizing for the prospective consumer.

b. The City shall charge to each prospective consumer requesting connection to the City's water service system a meter connection fee. Such meter connection fee shall be in accordance with the Meter Connection Fee Schedule as adopted by ordinance of the City Council. Meter connection fees are minimum fees and assume that the consumer's facility is ready for a meter set. The Director may assess such other fee as necessary to recover the cost of meter connection.

21-325.08 - Inspection Fees

a. The City reserves the right to inspect the installation of all water distribution facilities installed by a developer or developer's contractors, which facilities are proposed to be transferred to the City for ownership, operation and control. Such inspection is designed to assure the City that waterlines are installed in accordance with approved designs and are further consistent with the criteria and specifications governing the kind and quality of such installation. The City further reserves the right to be present at tests of component parts of the water distribution system for the purpose of determining that the system, as constructed, conforms to the City's criteria for exfiltration, infiltration, pressure testing, line and grade. Such tests will be performed by the developer or developer's contractor but only under the direct supervision of the City's engineer or authorized inspector.

b. The City shall charge an inspection fee based on inspection time of the subject water facility as installed by the developer. The City maintains full-time inspection availability and the cost for inspection services as set forth herein is and shall continue to be designed to defray the actual cost of conducting such inspections and testing.

21-325.09 - Transfer of Contributed Property; Bills of Sale

a. Each developer who has constructed portions of the water distribution system on the developer's own property or on other property with respect to any required off-site facilities shall, prior to interconnection with the City's existing facilities, convey such component parts of the water distribution system free of patent and latent defects to the City by bill of sale in a form satisfactory to the City Attorney, together with such evidence as may be required by the City that the water distribution system is proposed to be transferred to the City is free of all liens and encumbrances.

b. Any facilities in the category of consumer's lines or plumber's lines located on the discharge side of the water meter or on the consumer's side of the point of delivery of service shall not be transferred to the City and shall remain the property of the developer, a subsequent owner-occupant or their successors and assigns. Such consumer's lines or plumber's lines shall remain the maintenance responsibility of the developer or subsequent consumers.

c. The City shall not be required to accept title to any component part of the water distribution system as constructed by the developer until the City has approved the construction of said lines, accepted the tests to determine that such construction is in accordance with the criteria established by the City and accepted for use by the FDEP and thereby has evidenced acceptance of such lines for the City's ownership, operation and maintenance.

d. The developer shall maintain accurate cost records establishing the construction costs of all utility facilities constructed by the developer and proposed to be transferred to the City. Such cost information shall be furnished to the City concurrently with the bill of sale and such cost information shall be a prerequisite for the acceptance by the City of the portion of the water distribution system constructed by the developer.

e. The City reserves the right to refuse connection and to deny the commencement of service to any consumer seeking to be connected to portions of the water distribution system installed

by a developer until such time as the provisions of this Section have been fully met by the developer or developer's successors or assigns.

21-325.10 - Off-Site Facilities; Refundable Advances

a. There are properties within the City's water service area where the City does not have in place the off-site water infrastructure facilities necessary to connect a developer's property to the City water system. In these cases it may be necessary to undertake the extension of water mains and pumping stations necessary to connect the developer's property with the then terminus of the Edgewater water system in compliance with the City Water System Master Plan. Nothing in this Article shall be construed to require the City to extend any such off-site facilities to a developer's property or to enter into a refunding agreement or reimbursement agreement should a developer or others elect to undertake any such extension.

b. When a developer seeks water service for property for which the City does not have in place the off-site water infrastructure facilities necessary to connect such property to the City water system, the City may require, in addition to the contribution provisions set forth herein, that the developer pay (without any credits against the applicable water capital charges) the entire cost of any extension of off-site facilities necessary to connect the developer's property with the then terminus of the Edgewater water system in compliance with the City Water System Master Plan.

c. As an alternative to the developer's payment of the entire cost of extension of such off-site water facilities, the developer may request that the City and other property owners potentially benefited by such extension enter into a funding or reimbursement agreement to equitably allocate the cost of any such extension among the benefited properties, which agreement shall be in addition to the contribution provisions set forth herein. The City may accept or reject any proposed agreement which may be presented to share the cost of such extensions as aforesaid. If the City elects to accept such an agreement, it shall be on terms and conditions acceptable to the City in its discretion.

d. Refunding agreement.

    1. As another alternative to the developer's payment of the entire cost of extension of such off-site water facilities, the developer may request that the City enter into a refunding agreement whereby the refundable advance is made by the developer to further temporarily defray the cost of any off-site extension of water mains and pumping stations necessary to connect the developer's property with the then terminus of the Edgewater water system in compliance with the City Water System Master Plan. The City may accept or reject any such proposed refunding agreement. If the City elects to accept such a refunding agreement, it shall be on terms and conditions acceptable to the City and shall be consistent with the requirements of this subsection. Any such refunding agreement shall include the following as the minimum provisions thereof:

        (a) The developer shall always be responsible for his hydraulic share of the cost of such facilities, as determined by the City;

        (b) All amounts expended by the developer over and above the developer's hydraulic

share for off-site facilities, as determined by the City, shall be refunded to the developer only if a refund agreement is entered into with the City prior to the connection of the developer's property with the then terminus of the Edgewater water system;

(c) The refund agreement shall provide for a plan of refund based upon the connection of other properties, to the extent of their hydraulic share, which properties shall be served by the off-site facilities installed by the developer;

(d) The City may limit the life of such refund agreement to a term of not more than seven (7) years, after which time any portion of the refund not made to the developer by the terms and conditions of the refund agreement will have lapsed and thereafter such refund agreement will be canceled;

(e) In no event shall a developer recover an amount greater than the difference between the capitalized cost of such off-site improvements and the developer's own hydraulic share of such improvements;

(f) The City shall not include any interest upon the refund of a developer's advance;

(g) If the City advances any of the costs of such off-site facilities, the City shall be reimbursed in full before any payment is made to the developer;

(h) The refunding agreement shall contain a sketch or legal description of the benefited properties; and

(i) The refunding agreement shall be recorded in the public records of Volusia County, Florida

2. If the City enters into a refunding agreement as aforesaid then a developer or property owner who makes use of such off-site facilities provided by another developer under the terms of this Section shall be required to pay the City for a portion of the costs of such off-site facilities based upon his hydraulic share, as determined by the City. In accordance with the terms of the refunding agreement, the City shall pay the appropriate share of such reimbursement to the developer who initially funded the improvements; provided, however, that the payment will be retained by the City in the event that the developer has been fully reimbursed by the City or in the event that the reimbursement obligation of the City has lapsed under the terms of the refund agreement.

21-325.11 - Water Capital Charge Adjustment; Escalation

The basis for the water capital charge schedule set forth by ordinance has been structured by the City with regard to two major but variable factors. First, the present level of construction costs of water distribution and water treatment plant facilities; second, the treatment facilities and treatment levels as prescribed by the State of Florida Department of Environmental Protection or other governmental entities with jurisdiction.

City staff shall review all fees relating to this Section every two (2) years. All adjustments shall

be based on a review of potable water Level of Service (LOS) standards located in the Comprehensive Plan, population projections, anticipated impacts to the utilities system through proposed development and value of utilities related capital improvements.

21-325.12 - Water Capital Charges for Consumers Outside City Limits

The water capital charges established herein, as from time to time adjusted pursuant to Section 21-325.11, shall be applicable only to consumers located within the corporate limits of the City. The water capital charges for consumers outside the corporate limits of the City shall be the water capital charges from time to time established by the City for consumers inside the corporate limits of the City plus a surcharge equal to that surcharge established by ordinance of the City Council.

21-325.13 - Availability of Copies of Policy

Copies of this extension policy shall be maintained at the Edgewater water system's offices and shall be available to all prospective consumers upon request, either in person or by mail, addressed to the City.

SECTION 21-326 - SEWER SYSTEM EXTENSION

21-326.01 - Intent; Purpose; Basis

The City of Edgewater, hereinafter referred to as the "City", as the owner and operator of the sewer system, hereinafter referred to as the "Edgewater sewer system" or the "City sewer system", hereby established this extension policy for the purpose of creating a uniform method of determining the capital charges to be borne by property owners, builders or developers within the service area to defray or partially defray the cost of an on-site sewer system, the allocable share of an off-site sewer system and the allocable shares of treatment plant costs. The City declares that this extension policy has as its goal the establishment of a uniform method of computing or determining such contributions to the end that all such contributions shall be nondiscriminatory among consumers in the area and shall be applied as nearly as possible with uniformity to all consumers and prospective consumers within the present or future service area.

21-326.02 - Availability

The provisions of this extension policy are available to consumers and property owners throughout the service area of the Edgewater sewer system, which shall allow the City to recover operating costs and expenses, required debt service, contributions to renewal and replacement funds and allocations from the general revenue fund for costs reasonably related to the sewer system. The term "service area" as used herein is that area defined in the adopted Comprehensive Plan of the City of Edgewater, as may be amended from time to time.

21-326.03 - Agreements with Other Municipalities

The City may enter into an agreement with Volusia County or another municipality to provide wholesale service so that the County or municipality may provide service to a developer outside the City's service area. Such wholesale agreements shall be subject to sewer capital charges as

provided in this Article.

21-326.04 - On-Site Facilities

a. Each developer, owner or builder, hereinafter referred to as "developer", shall be responsible for the design, installation, inspection and testing of the complete sewer system located in the street or streets adjoining or within the boundaries of the developer's property.

b. The term "complete sewer system" as used herein includes, but is not limited to, all component parts of a sewage collection system, including gravity lines, force mains, pump stations, valves and all appurtenances as shown upon the approved design of such sewer system.

c. In the event the City requires the installation of oversized lines or facilities designed to provide service for other properties then the City shall pay for the cost of such oversizing by means of a direct cash payment by the City to the developer or a credit against water capital charges otherwise to be paid by the developer.

SECTION 21-327 - SEWER CAPITAL CHARGES

21-327.01 - Intent; Purpose; Basis

a. The intent of this Section is to establish charges for the purpose of compensating the City for costs incurred in providing sewage treatment facilities, effluent disposal facilities and pumping stations and extending sewage collection lines to a point of reasonable availability for connection to the City sewer system. The charges shall be computed on the basis of real property use, zoning and size in approximate proportion to the benefits received. The determination of the point of reasonable availability for connection to the City sewer system shall be determined in accordance with policies from time to time established by the City. As set forth in this Section, the developer may incur additional charges and expenses in order to obtain sewer service, which charges and expenses are not defrayed by its payment of sewer capital charges. Nothing contained in this Section shall be construed to obligate the City to extend sewer services to any lands within its sewer system territory.

b. The sewer capital charge shall be established by ordinance of the City Council. Those persons, corporations or entities which have previously prepaid the existing sewer capacity charges shall be exempt from paying this sewer capital charge. The exemption or credit shall equal the amount pre-purchased.

c. Sewer Capital Charge formula:

   The following formula shall be used to determine the capital charge per unit of development:

   Capital Charge = Total Capacity Cost * Equivalent Flow/ERU

d. The Total Capacity Cost is based upon a combination of existing available capacity and future capacity costs. The Level of Service (LOS) per ERU is established in the City's Comprehensive Plan. The allocation for the Capital Charge shall be as follows:

1. Sewer
   (a) 60% Treatment Capacity Charge
   (b) 40 % Collection Capacity Charge

21-327.02 - Obligations of City

a. The City shall maintain copies of this extension policy available for the inspection of any property owner, developer, builder or prospective consumer desiring information regarding all elements of the cost of connecting to the sewer facilities of the City. Such copies shall be maintained at the general office of the Edgewater sewer system.

b. The City shall maintain as-built information on its sewer facilities in its office or in the office of its designated representatives for the purpose of providing reasonable information concerning the location of its sewer facilities.

c. In instances where the City undertakes the installation of sewer lines at the cost and expense of the developer in lieu of the developer's installation of such facilities, the City will provide lines for sewer service to a developer's lot line ready for plumber's hookup and the installation of meters.

21-327.03 - Obligations of Developer

It shall be the developer's obligation to furnish to the City accurate information with regard to matters of engineering, construction of buildings and dwellings and proposed densities. Developers who increase their density factors and/or discharge requirements during the course of construction of the project are exposed to an adjustment in their proportionate share for off-site facilities and/or an increase in capital charges applicable to the developer's project. The developer is responsible for errors or changes in engineering information furnished to the City when such error or change results in increased cost to the City for any construction which the City may undertake in connection with installing sewer facilities or which could necessitate a new design or redesign of sewer system plans.

21-327.04 - Developer Agreements Required

An owner, builder or developer may be required to execute a developer's agreement setting forth such reasonable provisions governing a developer's and the City's responsibility pertaining to the installation of service facilities; the interconnection of lines with the facilities of the City; the manner and method of payment of contributions in aid of construction; matters of exclusive service rights by the City; standards of construction or specifications; time commitments to take and use sewer service; engineering errors and omissions; rules, regulations and procedures of the City; prohibitions against improper use of the City's facilities; and other matters normally associated with and contained in developer agreements. Nothing contained in such developer agreement shall be in conflict with this extension policy or the City's ordinances and resolutions governing rates, fees and charges for services and other requirements regarding the rendition of sewer utility service. The developer, in addition to the contribution formulas set forth herein, shall bear the cost of the preparation of developer agreements by independent counsel or persons qualified to draft and prepare such agreements. Said charge shall not exceed that amount normally to be contemplated for such services.

21-327.05 - Easements and Rights-of-Way

As a prerequisite to the construction of any sewer system proposed to be connected to the facilities of the City, the developer shall grant to the City easements or rights-of-way corresponding with the installation of the proposed facilities. All such easements or rights-of-way shall be in a form acceptable to the City. Such grant or conveyance shall be in a form satisfactory to the City Attorney. Such conveyances when located on the property of the developer shall be made without cost to the City.

21-327.06 - System Design; Independent Engineer; City's Engineer

a. The City shall recognize the design of sewer facilities prepared by a registered professional engineer regularly engaged in the field of civil engineering, covering the design of a developer's on-site sewer system and any off-site improvements which may be required by the City; provided, however, that each such design shall be fully subject to the approval of the Director and shall conform in all respects to the criteria of the City governing the installation of utility facilities ultimately to be accepted by the City for ownership, operation and maintenance. In addition to other fees and charges, the City shall charge a review fee commensurate with the cost to the City of reviewing such engineering plans and furnishing to the developer's engineer various information regarding location and criteria. Any such review fee shall be in accordance with resolutions approved by the City Council. All designs of sewer facilities are at all times subject to the approval of other agencies having jurisdiction over such design.

b. The City maintains a relationship with its consulting engineer to provide utility design services to developers for the purpose of facilitating the design of developer's on-site sewer system and any off-site improvements which may be required by the City. Designs prepared by the City's consulting engineer are acceptable to the City but are at all times subject to the approval of any other governmental agencies having jurisdiction over the subject matter of such design. The cost of plans prepared by the City's consulting engineer shall be borne by the developer. However, in such cases the developer will not required to pay the charge to review of such plans as provided for in subsection (a).

21-327.07 - Inspection Fees

a. The City reserves the right to inspect the installation of all sewer facilities installed by a developer or developer's contractors, which facilities are proposed to be transferred to the City for ownership, operation and control. Such inspection is designed to assure the City that sewer lines are installed in accordance with approved designs and are further consistent with the criteria and specifications governing the kind and quality of such installation. The City further reserves the right to be present at tests of component parts of the sewer system for the purpose of determining that the system, as constructed, conforms to the City criteria. Such tests will be performed by the developer or developer's contractor but only under the direct supervision of the City's engineer or authorized inspector.

b. The City shall charge an inspection fee based on inspection time of the subject sewer facility as installed by the developer. The City maintains full-time inspection availability and the

cost for inspection services as set forth herein is and shall continue to be designed to defray the actual cost of conducting such inspections and testing.

21-327.08 - Transfer of Contributed Property; Bills of Sale

a. Each developer who has constructed portions of the sewer system on the developer's own property or other property with respect to any required off-site facilities shall, prior to interconnection with the City's existing facilities, convey such component parts of the sewer system to the City free of patent and latent defects by bill of sale in a form satisfactory to the City Attorney, together with such evidence as may be required by the City that the sewer system proposed to be transferred to the City is free of all liens and encumbrances.

b. Any facilities in the category of consumer's lines located on the consumer's side of the point of service shall not be transferred to the City and shall remain the property of the developer, a subsequent owner-occupant or their successors and assigns. Such consumer lines shall remain the maintenance responsibility of the developer or subsequent consumers.

c. The City shall not be required to accept title to any component part of the sewer system as constructed by the developer until the City has approved the construction of said lines, accepted the tests to determine that such construction is in accordance with the criteria established by the City and accepted for use by the FDEP and thereby has evidenced acceptance of such lines for the City's ownership, operation and maintenance.

d. The developer shall maintain accurate cost records establishing the construction costs of all utility facilities constructed by the developer and proposed to be transferred to the City. Such cost information shall be furnished to the City concurrently with the bill of sale and such cost information shall be a prerequisite for the acceptance by the City of the portion of the water distribution system constructed by the developer.

e. The City reserves the right to refuse connection and to deny the commencement of service to any consumer seeking to be connected to portions of the sewer system installed by a developer until such time as the provisions of this Section have been fully met by the developer or the developer's successors or assigns.

21-327.09 - Off-Site Facilities; Refundable Advances

a. There are properties within the City's sewer service area where the City does not have in place the off-site sewer infrastructure lines and facilities necessary to connect a developer's property to the City sewer system. In these cases it may be necessary to undertake the extension of sewage lines and facilities necessary to connect the developer's property with the City sewer system and the primary interceptor force main in compliance with the City Sewer Master Plan. Nothing in this Article shall be construed to require the City to extend any such off-site lines and facilities to a developer's property or to enter into a refunding agreement or reimbursement agreement should a developer or others elect to undertake any such extension of lines and facilities; provided, however, that whenever a developer or others undertake any such extension of off-site lines and facilities the City may require the installation of oversized lines or facilities to provide service for other properties, in which case the City shall be responsible for the cost of any such oversized lines or facilities to the

extent and in the manner provided for in Section 21-326.04 hereof.

b. When a developer seeks sewer service for property for which the City does not have in place the off-site sewer infrastructure lines and facilities necessary to connect such property to the City sewer system, the City may require, in addition to the contribution provisions set forth herein, that the developer pay (without any credits against the applicable sewer capital charges) the entire cost of any extension of off-site sewage lines and facilities necessary to connect the developer's property with the City sewer system and its primary interceptor force main in compliance with the City Sewer System Master Plan, subject to the provisions of Section 21-326.04 and 21-326.09 regarding oversized lines and facilities.

c. As an alternative to the developer's payment of the entire cost of extension of such off-site sewer lines and facilities, the developer may request that the City and other property owners potentially benefited by such extension enter into a funding or reimbursement agreement to equitably allocate the cost of any such extension among the benefited properties, which agreement shall be in addition to the contribution provisions set forth herein. The City may accept or reject any proposed agreement which may be presented to share the cost of such extensions as aforesaid. If the City elects to accept such an agreement, it shall be on terms and conditions acceptable to the City in its discretion.

d. Refunding agreement.

1. As another alternative to the developer's payment of the entire cost of extension of such off-site sewer lines and facilities, the developer may request that the City enter into a refunding agreement whereby the refundable advance is made by the developer to further temporarily defray the cost of any off-site extension of sewage lines and facilities necessary to connect the developer's property to the City sewer system and the primary interceptor force main in compliance with the City Sewer System Master Plan. The City may accept or reject any such proposed refunding agreement. If the City elects to accept such a refunding agreement, it shall be on terms and conditions acceptable to the City and shall be consistent with the requirements of this subsection. Any such refunding agreement shall include the following as the minimum provisions thereof:

(a) The developer shall always be responsible for his proportionate share of the cost of such lines and facilities, as determined by the City; and
(b) All amounts expended by the developer over and above the developer's proportionate share for facilities, as determined by the City, shall be refunded to the developer only if a refund agreement is entered into with the City prior to the connection of the developer's property with the primary interceptor force main; and
(c) The refund agreement shall provide for a plan of refund based upon the connection of other properties to the extent of their proportionate share, which properties will be served by the facilities installed by the developer; and
(d) The City may limit the life of such refund agreement to a term of not more than seven (7) years, after which time any portion of the refund not made to the developer by the terms and conditions of the refund agreement will have lapsed and thereafter such refund agreement will be canceled; and
(e) In no event shall a developer recover an amount greater than the difference between

the capitalized cost of such improvements and the developer's own proportionate share of such improvements; and

(f) The City shall not include any interest upon the refund of a developer's advance; and

(g) If the City advances any of the costs of such lines and facilities, the City shall be reimbursed in full before any payment is made to the developer; and

(h) The refunding agreement shall contain a sketch or legal description of the benefited properties; and

(i) The refunding agreement shall be recorded in the public records of Volusia County, Florida.

2. If the City enters into a refunding agreement as aforesaid, then a developer or property owner who makes use of lines and facilities provided by another developer under the terms of this Section shall be required to pay the City for his proportionate share of the costs of such facilities, as determined by the City. In accordance with the terms of the refunding agreement, the City shall pay the appropriate share of such reimbursement to the developer who initially funded the improvements; provided, however, that the payment will be retained by the City in the event that the developer has been fully reimbursed by the City or in the event that the reimbursement obligations of the City has lapsed under the terms of the refund agreement.

21-327.10 - Sewer Capital Charge; Adjustment; Escalation

The basis for sewer capital charge schedule set forth herein has been structured by the City with regard to two (2) major but variable factors. First, the present level of construction costs of sewer collection and treatment plant facilities; second, the treatment level as prescribed by the State of Florida Department of Environmental Protection or other governmental entities with jurisdiction.

City staff shall review all fees relating to this Section every two (2) years. All adjustments shall be based on a review of sanitary sewer Level of Service (LOS) standards located in the Comprehensive Plan, population projections, anticipated impacts to the utilities system through proposed development and value of utilities related capital improvements.

21-327.11 - Sewer Capital Charges for Consumers Outside City Limits

The sewer capital charges established herein, as from time to time adjusted pursuant to Section 21-327.10, shall be applicable only to consumers located within the corporate limits of the City. The sewer capital charges for consumers outside the corporate limits of the City shall be the sewer capital charges from time to time established by the City for consumers inside the corporate limits of the City plus a surcharge equal to that surcharge established by ordinance of the City Council.