ORDINANCE NO. 713

AN ORDINANCE OF THE CITY OF CALLAWAY ENACTING AN IMPACT FEE FOR WATER AND SEWER UTILITIES SERVICE; PROVIDING DEFINITIONS; PROHIBITING CONNECTIONS WITHOUT FIRST HAVING PAID APPLICABLE FEES; ESTABLISHING "EQUIVALENT RESIDENTIAL/COMMERCIAL CONNECTIONS" FOR WATER AND SEWER UTILITIES; PROVIDING FOR COMPUTATION OF FEES BASED ON THE NUMBER OF EQUIVALENT RESIDENTIAL/COMMERCIAL CONNECTIONS AND PAYMENT OF SAME; PROVIDING FOR REFUNDS ADOPTING A FIXTURE VALUE POINT SYSTEM TO BE USED IN COMPUTING EQUIVALENT RESIDENTIAL/COMMERCIAL CONNECTIONS; PROVIDING FOR CONNECTION AND/OR TAP-ON FEES EXCLUSIVE AND IN ADDITION TO IMPACT FEES; MAKING FINDINGS OF FACT AND PROVIDING EXCEPTIONS; ESTABLISHING SEPARATE IMPACT FEE ACCOUNTS AND RESTRICTING THE USE OF SAID FUNDS; PROVIDING PENALTIES AND REMEDIES FOR VIOLATIONS; PROVIDING A SEVERABILITY CLAUSE, AMENDING SECTIONS 18-10 AND 18-20 OF THE CODE OF ORDINANCES OF THE CITY OF CALLAWAY; REPEALING CONFLICTING ORDINANCES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Callaway, Florida owns and/or operates the water distribution and sewer collection portions of the utility systems within the City and in certain adjacent and contiguous areas in Bay County, Florida, and

WHEREAS, based upon current capacity availability to serve existing and future water and wastewater customers, the City finds that it can reasonably serve approximately 7,533 equivalent residential water connections and 9,414 equivalent residential wastewater connections for residential and commercial application, and

WHEREAS, the City Commission desires to fund capital improvements to serve future connection in the most equitable manner, and

WHEREAS, the City Commission has determined that it is equitable that the new construction creating the increased demand and burden contribute to the funding of these capital improvements rather than placing such burden on the present City residents, and

WHEREAS, the City Commission desires to minimize the potential for the increase of any tax or charge levied upon the residents of Callaway, and

WHEREAS, the City has studied its current water and sewer systems and has identified that future capital outlay required within that planning period appropriate for such projects, in order to expand, extend, and upgrade the water and sewer utility systems to provide services for this imminent growth, and

WHEREAS, the City finds the reasonably anticipated portion of the costs of the projected water projects reasonably allocable to future water customers to be $7,673,114 based upon the nature of the projects and facilities involved, and

WHEREAS, the City finds the reasonably anticipated portion of the costs of the projected sewer projects reasonably allocable to future sewer customers to be $16,313,050 based upon the nature of the projects and the facilities involved, and

WHEREAS, the City finds that using the American Waterworks Association Manual of Fixture Values is a fair and equitable method of measuring the capacity impact of each new connection, and

WHEREAS, the City finds that an average equivalent residential connection will have fixtures with a total value of sixty (60) points for water and thirty-six (36) points for sewer, and

WHEREAS, as contemplated by Section 180.191, Florida Statutes (2004), the City finds that the capital costs of expanding and furnishing new water and sewer to customers outside the City is generally greater than the cost of furnishing those same services to customers within the City as greater distances are involved, and

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF CALLAWAY, BAY COUNTY, FLORIDA:

Section 1:

1. "Connection or tap-on fee" means a fee paid for costs reasonably attributable to making a physical connection or tap into the water or sewer utility system, including labor, materials, supplies, overhead and administrative expenses.

2. "Impact fee" means a fee paid for costs reasonably attributable to future expansion of water and sewer systems, but shall not include any tax.

3. "Person" means any individual, firm, corporation or unincorporated association.

Section 2:

It shall be unlawful for any person to connect or permit any other person to connect any additional plumbing fixture to the water or sanitary sewer system of the City or to any private water or sanitary sewer system which is already connected to the water or sanitary sewer system of the City, without first paying the impact fee determined as hereinafter stated.

Section 3:

Any impact fee shall be determined by first calculating the fixture value for each plumbing fixture to be connected, according to the table set forth in Section 6 and then

by dividing the sum of all such fixture values by a constant of sixty (60) for water and a constant of thirty-six (36) for sewer to determine the number of equivalent residential connections (ERCs). The resulting quotient shall then be multiplied by the impact fee hereinafter fixed for one equivalent residential water or sewer connection to determine the amount of the impact fee due.

Section 4:

1. The total impact fee for one equivalent residential water connection shall be $1,020.00, of which $291.00 is to recover costs associated with construction of the proposed 5.0 million gallon water storage tank as identified in the City's capital improvement program. The water impact fee for both the total fee and the water storage tank portion of the fee would be calculated as follows:

Total Water Fee	Water Storage Tank Fee Only
$\frac{\text{No. of Fixture Units}}{60} \times \$1{,}020.00$	$\frac{\text{No. of Fixture Units}}{60} \times \$291.00$

The total impact fee for one equivalent residential sewer connection shall be $1,735.00, of which $963.00 is attributable to the recovery of cost associated with the City's allocable share of the Military Point Wastewater Treatment Plant (MPWWTP). The sewer impact fee for the total fee and the MPWWTP portion of the fee would be calculated as follows:

Total Sewer Fee	MPWWTP Fee Portion Only
$\frac{\text{No. of Fixture Units}}{36} \times \$1{,}735.00$	$\frac{\text{No. of Fixture Units}}{36} \times \$963.00$

In addition thereto, a surcharge of 25 percent shall be charged for each connection outside the boundaries of the City. This surcharge shall be imposed on the total impact fee determined to be due.

2. Impact fees shall be payable at such time as a building permit with water or sewer connection permit is obtained. No building permit with water or sewer connection permit shall be issued until such fees are paid in full. In the event a building is located outside the boundaries of the City, such fee shall be due at the time water tap and sewer connection fees are paid. No service shall be provided until such fees are paid.

Section 5:

Refunds of such fees shall be permitted upon application therefor upon showing by the applicant that no construction has occurred and the permit issued for such construction has expired or otherwise been cancelled. No refund shall be made unless application is made therefor in writing, within 90 days of the expiration or cancellation of the building permit.

Section 6:

In determining the fixture value for each plumbing fixture to be connected, the following weighted values shall be used:

Fixture Type		Fixture Value
Sewage-related Fixtures		
Bathtub (with or without shower)		8
Bedpan Washers		10
Bidet		3
Combination Sink and Tray		3
Dental Unit		1
Dental Lavatory		2
Dishwasher:	1/2" Connection	4
	3/4" Connection	10
Drinking Fountain:	(Cooler)	1
	(Public)	2
Ice Maker		2
Kitchen Sink:	1/2" Connection	3

Fixture Type		Fixture Value
	3/4" Connection	7
Lavatory:	3/8" Connection	2
	1/2" Connection	4
Laundry Tray:	1/2" Connection	3
	3/4" Connection	7
Recreational Vehicle or Travel Trailer Space		7
Shower Head (Shower Only)		4
Service Sink:	1/2" Connection	3
	3/4" Connection	7
	1" Connection	15
Urinal: Pedestal Flush Valve		35
Wall or Stall		12
Trough (2 ft. Unit)		2
Wash Sink (Each Set of Faucets)		4
Washing Machine:	1/2" Connection	5
	3/4" Connection	12
	1" Connection	25
Water Closet:	Flush Valve	35
	Tank Type	3
Non-sewage-related Fixtures		
Hose connection		
	½" Connection	6
	5/8" Connection	9
	¾" Connection	12
Irrigation (per Head per 100 sq. ft.):		
	Spray Head	0.26
	Rotary	1.04
Recreational Vehicle or Travel Trailer Space (without sewer)		6
Non-portable Swimming Pool, Fill Pipe Size		
	3/4" or less	12
	1"	25
	1-1/4"	50
	1-1/2"	80
	2"	160
	2-1/2"	280

Where the foregoing fixture values shall cause an undue hardship or where no fixture value for a particular fixture or facility is listed, the City Engineer shall set a fixture value based upon the flow capacity of the fixture at issue in relation to the average values set forth above. Any person aggrieved by the decision of the City Engineer and who is responsible for payment of the impact fee shall be entitled to appeal that decision

to the City Commission by serving notice in writing upon the City Clerk within twenty (20) days after receipt of the Engineer's decision.

Section 7:

The impact fee imposed by this ordinance shall be exclusive of, and in addition to any connection or tap-on fee imposed by any other ordinance and does not include the actual cost of the physical connection, meter pipe, harness, or the like, and all such items installed shall be dedicated to the City and remain the property of the City from the connection to the City main, up to and including the meter.

Section 8:

All monies received from sewer impact fees imposed hereunder shall be deposited and held together with interest thereon in a separate sanitary sewer reserve fund hereby created, and shall be expended from that fund only for the purpose of extending or oversizing, separating or constructing additions to the treatment plant or collection and interceptor systems.

Section 9:

All monies received from water impact fees imposed hereunder shall be deposited and held together with interest thereon in a separate water reserve fund hereby created and shall be expended from that fund only for the purpose of extending or oversizing, separating or constructing additions to the production or holding facilities, treatment plant, or distribution system.

Section 10:

Neither the water nor sewer impact fees collected hereunder, nor any interest earned thereon shall be used for general operating expenses of the respective systems.

Section 11:

Any connection charge or tap-on fee for connections made available as a part of and contemporaneously with construction of a new or additional water distribution or sewer collection project shall be as established by appropriate ordinance of the City or pursuant to those ordinances now existing and/or as may be amended from time to time.

Section 12:

1. A violation of this ordinance shall be punishable by a fine not exceeding $500 or sixty (60) days in jail or both.

2. Any person who physically makes a connection for which the charge imposed hereunder is not paid in full, and the employer of such person where the employment relates to the making of such connection, and the owner of the premises for which such connection is made, shall be jointly and severally liable for those charges due. Further, after notice and opportunity to pay the charge due or remove the plumbing fixture for which the charge has not been paid, the City shall terminate water service to the entire premises.

Section 13:

In addition to those criminal sanctions provided in Section 12 above, the City shall be entitled to seek those civil remedies available to them to enforce and insure compliance with the provisions of this ordinance, such remedies to include but not to be limited to injunctive relief, appropriate writs or damages based on statutory or common law causes of actions. In any action initiated pursuant to this Section, the City shall also be entitled to recover a reasonable attorney's fee and all costs of investigation and prosecution.

Section 14:

If any section, subsection, paragraph, or other provision of this ordinance shall be adjudged invalid or unconstitutional by a court of law, the same shall not affect the validity of those portions of this ordinance not so invalidated.

Section 15:

From the effective date hereof, Sections 18.10 and 18.20 of the Code of Ordinances of the City of Callaway are amended to require mandatory sewer connection of each residential, commercial or industrial user applying for a building permit to construct, expand or modify any improvement to real property located within the City.

Section 16:

All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

Section 17:

This ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Commission of the City of Callaway, Bay County, Florida, on the 14th day of December, 2004.

CITY OF CALLAWAY

By: _____
Kenneth L. Meer, Mayor

ATTEST:

_____
Genette R. Bernal, City Clerk