

# ORDINANCE NUMBER 2006-02

**AN ORDINANCE OF THE TOWN OF GREENWOOD, FLORIDA ESTABLISHING A COMPREHENSIVE WATER SERVICE ORDINANCE, PROVIDING FOR CONNECTIONS TO THE WATER SYSTEM, PROVIDING FOR THE IMPOSITION, COLLECTION AND ENFORCEMENT OF CHARGES AND FEES FOR CONNECTION THERETO AND SERVICES THEREFROM, AND PROVIDING FOR OTHER MATTERS RELATIVE TO THE WATER SYSTEM AND THE USE AND OPERATION THEREOF, REPEALING INCONSISTENT PRIOR ORDINANCE PROVISIONS, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS;** the Town of Greenwood has provided water service to its residents for a number of years; and

**WHEREAS;** the Town Council of the Town of Greenwood has noted the rapid development of land within and adjacent to the Town limits and has noted the consequential growing demands on Town services; and

**WHEREAS;** the financial security of the Town of Greenwood depends upon a profitable operation of its water service; and

**WHEREAS;** profitable operation of the water service depends upon a comprehensive water service ordinance; and

**WHEREAS;** the residents of the Town of Greenwood are best served by a comprehensive water service ordinance providing for uniform regulations of the water system within the Town of Greenwood.

**NOW THEREFORE,** be it ordained and enacted:

## **I. GENERAL PROVISIONS**

**Sec. 1.1 TITLE.** This ordinance shall be known as, and may be cited as, the Town of Greenwood Water System Ordinance.

### **Sec. 1.2 DEFINITIONS.**

1. In construing this Ordinance, the terms and words hereinafter defined, unless the context clearly indicates otherwise, shall be given the meanings hereinafter set forth.
2. The term "Town" or "City" or "Greenwood" shall be defined to mean the Florida municipality known as Greenwood, Florida.
3. The term "County" shall be defined to mean the County of Jackson, State of Florida.
4. The term "System" shall be defined to mean all wells, water mains, water supply facilities, metering facilities, and their appurtenances which the Town has already or shall hereafter acquire, whether owned by the Town itself or by other entities for the benefit of the Town, and all extensions, enlargements and improvements thereto, together with all works, plants, instrumentalities, and properties used or useful in connection therewith in obtaining a water supply or in the treatment or distribution of water.

## **II. CONNECTIONS**

**Sec. 2.1 IN GENERAL.** Connection to the system, directly or indirectly, and the use of water therefrom for all purposes shall only be in compliance with this Ordinance, as amended, and in compliance with all standards and regulations of the Town and County and State applicable thereto, as amended, and in compliance with all terms of obligations of any contracts to which the Town is a party.

**Sec. 2.2 APPLICATION TO CONNECT.** Written application shall be made by the person, firm, or entity desiring to connect to the water system on a form approved by the Town Clerk.

**Sec. 2.3 CONNECTION MANDATORY.** Ordinance No 2005-03, entitled AN ORDINANCE OF THE TOWN OF GREENWOOD, FLORIDA ESTABLISHING A REQUIREMENT THAT ALL PERSONS WITHIN THE CITY LIMITS CONNECT THEIR RESIDENCE OR COMMERCIAL BUILDINGS TO CITY WATER, PROVIDING CERTAIN LIMITED EXCEPTIONS, AND PROVIDING AN EFFECTIVE DATE, enacted by the Town of Greenwood on November 8, 2005, and all subsequent amendments or revisions thereto, including future amendments or revisions, are incorporated herein and reenacted herewith.

**Sec. 2.4 ENFORCEMENT OF MANDATORY CONNECTION.** If any owner of any lot or parcel of land within the city shall fail and refuse to connect with and use the facilities of the water system of the city after notification by the Town clerk, then the Town shall be authorized to make such connections, entering on or upon any such lot or parcel of land for the purpose of making such connection. The Town shall thereupon be entitled to recover the cost of making such connection, together with reasonable penalties and interest and attorney's fees, by suit in any court of competent jurisdiction. In addition and as an alternative means of collecting such costs of making such connections, the Town shall have a lien on such lot or parcel of land for such cost, which lien shall be of equal dignity with the lien of state and county and municipal taxes. Such lien may be foreclosed by the Town in the same manner provided by the laws of the state for the foreclosure of mortgages upon real estate. In the alternative, the Town shall be authorized to seek an injunction in a court of competent jurisdiction against the owner or resident of any lot or parcel from use of any other water supply including, without limitation, a private well located on or near the premises. The Town shall be entitled to recover the cost of seeking such injunction, together with reasonable costs and attorneys fees, and shall have a lien on the property for same. Such lien may be foreclosed by the Town in the same manner provided by the laws of the state for the foreclosure of mortgages upon real estate.

**Sec. 2.5 PERMITTING REQUIRED.** No new connection shall be made to the System without obtaining a permit therefor. Application for such permit shall be made by the premises title holder or land contract purchaser and filed with the Town Clerk or designee. The Clerk shall issue such permit when all prescribed conditions have been met. The permit may be withheld or withdrawn if the property for which service is sought is not in full compliance with all zoning and land use regulations of the Town, County, and State. Such permit shall be issued subject to such regulations as may be established and amended by the Town Council from time to time.

**Sec. 2.6 UNMETERED CONNECTIONS PROHIBITED.** Water usage through unmetered connections is prohibited.

**Sec. 2.7 PENALTY FOR UNAUTHORIZED CONNECTION OR TAMPERING.** No person, firm or entity shall be allowed to connect to the water system without being permitted by the Town Clerk, and then the connection with the system shall only be made by authorized personnel under the direction and supervision of the Town Clerk. Any property owner, plumber or other person who shall make or cause any connection to be made or who shall tamper or cause any tampering with any connection without such permitting and consent of the Town Clerk shall be guilty of a misdemeanor of the 3rd degree and shall be subject to the fines and penalties as set out in the Florida Statutes for like offense. In addition, the penalties of Section 9.2 below shall apply.

**Sec. 2.8 SEPARATE CONNECTIONS REQUIRED, EXCEPTIONS.** Each lot or building site shall be considered a separate unit for the payment of the water fees herein established, and separate connection well be required for each of such units, with each unit being separately metered. Exceptions may be approved by the Town Clerk when developments and rental properties can not reasonably be made to accommodate separate connections and when all fees are assumed by the developer, home owners association, or landlord and adequate security is provided to ensure payment of all fees and costs that may be incurred. In such cases, the lien authorized in sec. 5.3 below shall apply to all property involved in the development or owned by the landlord. In the case of a homeowners association, all homeowners in the development may be required to sign a security agreement before such exception is allowed for a development consisting of multiple homeowners. Exceptions may be revoked by resolution of the City Council at any time in its sole discretion.

**Sec. 2.9 RESERVATION OF RIGHT NOT TO EXTEND SERVICE.** The Town reserves the right not to extend water service to any new installation applicant within or without the City Limits when the cost of extending the service to the premises would be prohibitive or when the system capacity would be unduly effected. For applicants within the City Limits, service will not be denied, unless otherwise provided herein, based upon any factor not directly related to cost or system capacity.

### **III. CONNECTION CHARGES AND FEES**

**Sec. 3.1 RESIDENTIAL CONNECTION CHARGES.** The following charges and fees shall apply to all residential connections to the System:

- 1) **NEW INSTALLATION CHARGE.** All new residential installations shall pay all costs incurred by the Town in extending water service to the premises, including , without limitation, (1) the installation and use of a service line to the property line, (2) the installation and use of a meter, and (3) all costs associated with obtaining necessary easements to extend lines, and (4) all necessary inspections. The connection charge shall be paid in cash prior to connection to the water system. The Town shall be the owner of the service line and the meter. In addition, a “new service charge” in an amount to be set from time to time by Town Council resolution, shall also apply to new residential installations. In addition to these charges, an Impact Fee, as may be set and adjusted by separate ordinance of the Town Council, may be levied by the Town to cover future capital costs reasonably tied to the extension of the water service.
- 2) **EXISTING INSTALLATION CONNECTION CHARGES.** A connection charge, in an amount to be established and adjusted from time to time by Town Council resolution, for a new resident or new account at existing residential premises with an existing connection, shall apply to all new water service accounts.
- 3) **DEPOSIT REQUIRED.** In addition to the other charges in this section, a deposit to secure unpaid charges and to cover damages to the system may be required at the time application is made for the service in an amount to be set and adjusted by the Town Council by resolution.
- 4) **OFF AND ON CHARGE.** If a customer desires that his or her water service be turned off and later turned on, the charge for such turn off and turn on shall be a fee established and adjusted from time to time by Town Council resolution, such fee to be paid prior to the time the water service is once again restored.
- 5) **RECONNECT CHARGE.** If a customer’s service is disconnected due to non-payment or for other valid reason, service shall not be restored until payment of the outstanding balance and a reconnection fee as established and adjusted by Town Council resolution.
- 6) **RESIDENTIAL USAGE CHARGES.** Water usage shall be monitored through the water meters, or in the event of failure of a water meter to function properly, by any reasonable means which fairly and accurately estimates the use of water at the premises for the applicable period. Water rates shall be set by Town Council resolution and shall be uniformly applied within the City Limits.

**Sec. 3.2 COMMERCIAL CONNECTION CHARGES.** The following charges and fees shall apply to all commercial connections to the System:

- 1) **NEW INSTALLATION CHARGE.** . All new commercial installations shall pay all costs incurred by the Town in extending water service to the premises, including, without limitation, (1) the installation and use of a service line to the property line, (2) the installation and use of a meter, and (3) all costs associated with obtaining necessary easements to extend lines, and (4)all necessary inspections. The connection charge shall be paid in cash prior to connection to the water system. The Town shall be the owner of the service line and the meter. In addition, a “new service charge” in an amount to be set from time to time by Town Council resolution, shall also apply to new commercial installations. In addition to these charges, an Impact Fee, as determined by the Town Council, may be levied by the Town to cover future capital costs reasonably tied to the extension of the water service. For commercial customers, said Impact Fee shall be determined on a case by case basis in accordance with the criteria set forth by separate ordinance of the Town Council.

- 2) **EXISTING INSTALLATION CONNECTION CHARGES.** A connection charge, in an amount to be established and adjusted from time to time by Town Council resolution, for a new commercial water system customer, or new account at an existing commercial location with an existing connection, shall apply to all new water service accounts.
- 3) **OFF AND ON AND RECONNECT CHARGES.** Off and On and Reconnect charges shall apply to commercial accounts in the same manner as set out for residential accounts in Sec. 3.1 (3) and (4) above.
- 4) **COMMERCIAL USAGE CHARGES.** Water usage shall be monitored through the water meters, or in the event of failure of a water meter to function properly, by any reasonable means which fairly and accurately estimates the use of water at the premises for the applicable period. Water rates for commercial usage shall be set and adjusted by Town Council resolution.

**Sec. 3.3 WATER SERVICE FEES COMBINED WITH OTHER UTILITIES AND WASTE FEES ALLOWED.** The Town may combine its billing for water service fees with other fees rendered by the Town, including without limitation, garbage and solid waste fees, and water service may be disconnected as provided in Sec. 5 below for non-payment of any portion of combined fees.

**Sec. 3.4 COSTS AND FEES FOR SERVICE BEYOND CITY LIMITS.** Costs and fees for service beyond the city limits of the Town shall be as set in Section 7.4 below.

**Sec. 3.5 COSTS AND FEES FOR SALES UNCONNECTED WITH SPECIFIC PREMISES.** Costs and fees for sales unconnected with specific premises shall be as set in Section 8.2 below.

#### **IV. BILLING AND ENFORCEMENT**

**Sec. 4.1 BILLING PERIOD.** Bills for both residential and commercial water service shall be on a monthly period. Bill shall be mailed by the last day of the month for which the bills are rendered and shall be due and payable in full on the 10th day of the next month.

**Sec. 4.2 DELINQUENT BILLS.** Bills not paid on or before the 29<sup>th</sup> day of the next month shall be subject to a penalty equal to ten percent (10%) of the bill. Customers whose bills are not paid by the time the next month's bills are mailed, will have a notice that service is subject to disconnection included on the subsequent bill. When a bill includes a past due amount, the bill must be paid in full by the 9<sup>th</sup> day of that month or the customer's water service shall be turned off immediately without further notice. All unpaid charges, including penalties and reconnection fee shall be paid before the service is turned on again.

**Sec. 4.3 LIEN ON PROPERTY.** Unpaid charges for water, including all penalties and connections fees, and further including any collection fees, court costs, and attorneys fees, incurred by the Town in attempting to collect the account, shall constitute a lien on the property served. The Lien shall be perfected by the Town of Greenwood filing of a Notice of Lien in the Official Records of Jackson County, Florida. Such lien may be foreclosed by the Town in the same manner provided by the laws of the state for the foreclosure of mortgages upon real estate.

**Sec. 4.4 ADDITIONAL ENFORCEMENT.** In addition to the enforcement means established in this section, the Mayor is authorized to bring suit on behalf of the Town in a Court of competent jurisdiction to collect any unpaid water service fees or charges including all penalties and connections fees, and further including any collection fees, court costs, and attorneys fees, incurred by the Town in attempting to collect the account.

#### **V. CUSTOMER RESPONSIBILITIES.**

**Sec. 5.1 EASEMENT.** Customer will provide at no cost to the Town a suitable place for water meter when located on customer's property and will give an easement for installation, maintenance and service when any part of the Town's property is located on customer's land. By applying for usage of water the applicant is granting easement rights for the placing of material and other property of the Town used in connection with delivery of water service.

**Sec 5.2 RIGHT OF ENTRY.** Customer will provide consent for the Town and its officials and employees to enter upon customer premises at reasonable times and with reasonable notice for the purpose of reading meters and inspection and maintenance of the water system and related equipment. The reasonableness of time and notice prior to entry shall be a factor of the exigency of the circumstances. By applying for usage of water the applicant is granting said permission for entry and inspection.

**Sec. 5.3 PROTECTION AND CARE OF PROPERTY.** Person, persons, or entities responsible for damage to Town property or disruption of the water service shall be held liable for all cost to the Town resulting from said damage or disruption.

## **VI. CROSS CONNECTIONS PROHIBITED.**

### **Sec. 6.1 CROSS CONNECTION CONTROL ORDINANCE INCORPORATED.**

Ordinance No. 19, of the Town of Greenwood, enacted November 19, 1990, and all subsequent amendments or revisions thereto, including future amendments or revisions, are incorporated herein and reenacted herewith.

## **VII. WATER SERVICE BEYOND CITY LIMITS.**

**Sec. 7.1 APPLICATIONS ACCEPTED** Applications may be accepted for water service to residential or commercial premises located beyond the city limits of the Town of Greenwood. Acceptance or rejection of applications for water service beyond the city limits shall be approved or rejected in the sole discretion of the Town Council.

**Sec. 7.2 APPLICATION FEES.** The Town shall charge an application fee to be set and adjusted by the Town Council for applications for water service beyond the city limits of the Town. The fee shall not be refundable if the application is rejected.

**Sec. 7.2 FACTORS CONSIDERED.** The Town Council, in considering applications for water service beyond the city limits shall be guided by the following factors: 1) The capacity of the Water System to serve the present and future needs of its residents and the needs of the applicant; 2) the effect on the Town's continuing ability to provide continued adequate water service to its residents; 3) the willingness and ability of the property owners to pay all costs and fees connected with installation and service, the rate the applicant is willing and able to pay, and the ability of the applicant to provide adequate security therefor; 4) the availability and cost of easements necessary to extend the water lines to the premises; 5) the economic impact of the residential or commercial development on the Town, specifically including creation of desirable jobs for the residents of the Town; 6) the impact on natural resources; 7) the impact on the Town's infrastructure, including its effects on roads and traffic; 8) the impact on the natural environment; and 9) the aesthetic impact of the particular development on the community.

**Sec. 7.3 IMPERMISSIBLE FACTORS.** The Town Council, in considering applications for water service beyond the city limits shall not consider nor be influenced by the race, religion, national origin, sex, or handicap of the applicant or occupants; nor by any other factors made impermissible by the Constitution of the State of Florida or the Constitution of the United States, or by other State or Federal laws prohibiting discrimination based upon impermissible factors.

**Sec. 7.4 COST AND FEES FOR SERVICE BEYOND CITY LIMITS.** Costs and Fees for water service to premises beyond the city limits of the Town shall be set by the Town Council on a case by case basis based upon the impact of the development and the market conditions at the time of application. Except in unique situations of the development bringing highly positive impacts to the community, fees for water service beyond the city limits shall be greater than fees charged to residents and businesses within the city limits. Fees for water service beyond the city limits need not be uniform in application, provided they are not used to effect unlawful discrimination based upon impermissible factors. Fees may be increased or decreased from time to time in the discretion of the Town Council based upon changing circumstances.

## **VIII. SALES UNCONNECTED WITH SPECIFIC PREMISES**

**Sec. 8.1 SALES UNCONNECTED WITH SPECIFIC PREMISES ALLOWED.** The Mayor or the Town Clerk may from time to time make sales of certain quantities of water for commercial or industrial use, which sales are unrelated to specific premises, provided

such sales will not jeopardize the capacity of the system to provide for existing customers.

**Sec. 8.2 FEES FOR SALES UNCONNECTED WITH SPECIFIC PREMISES.** The Mayor or the Town Clerk in their discretion may set fees for sales unconnected with specific premises on a case by case basis based upon the market conditions at the time.

## **IX. MAINTENANCE**

**Sec. 9.1 INTERRUPTION OF SERVICE.** The Town shall have the right to shut off the water supply for the purpose of making such additions and repairs as may be desired to the water system or to do such testing as may be required from time to time and the City shall not be liable to any customer for any damage resulting from the shutoff.

**Sec. 9.2 WATER SYSTEM; UNAUTHORIZED WORK.** (a) No person, unless expressly authorized by the Town Clerk or designee, shall tamper with, work on, or in any way alter or damage any City water facility. Tampering or work shall include, but is not limited to, opening or closing of valves, turning on hydrants, or causing any water to flow from the system. No unauthorized person shall cut into or make any connection with the system. The offending person shall be liable for the cost of all charges attributable to the correction of such tampering, including legal expenses and the cost of estimated water losses which resulted from such tampering. Payment for or correction of such damage shall not relieve the offending person from civil or criminal penalties the City or a court of law may impose for a violation of City ordinance.

(b) The service valve located at the customer's water meter may be operated to discontinue service or complete repairs of the customer's private water plumbing.

(c) Tampering with a water service, whether active, standby or removed is prohibited. Tampering includes but is not limited to unauthorized operation of a service valve except as provided in subsection (b) of this section, damaging or circumventing a service lock, installation of a straight pipe (water theft), meter tampering, and other unauthorized use of water. The City may remove the water service to any premises where such tampering has occurred. Any subsequent reconnection of the premises to the water system shall require payment of a connection fee as provided in Section 3.1.

## **X. WATER CONSERVATION.**

**Sec. 10.1 DECLARATION OF A WATER CONSERVATION EMERGENCY.** Whenever the Mayor or his or her designee determines that the supply or pressure demand for water cannot be accommodated and general welfare is likely to be endangered, or conditions within the water system are likely to endanger the general welfare of the City, the Mayor shall have the authority to declare a water conservation emergency and prohibit all outdoor water use including, but not limited to, irrigation of lawns and landscaping, car washing, and the filling of swimming pools.

**Sec. 10.2 NOTICE OF DECLARATION OF EMERGENCY.** The Mayor or his or her designee shall, within twenty-four (24) hours of declaring a water conservation emergency, post a notice at City Hall and cause a notice to be published in a newspaper of general circulation in the City. Notice of discontinuing the water conservation emergency shall be Posted at City Hall and published in a newspaper of general circulation in the City.

**Sec. 10.3. PENALTY.** Any person or persons who shall violate any provision of this section shall be responsible for a civil infraction as defined by Florida Law and upon a finding of responsibility shall be subject to a civil fine in accordance with the following schedule: 1st Violation \$100.00; 2nd Violation \$250.00; 3rd or Subsequent Violation \$500.00.

## **XI. CONFLICTING ORDINANCES REPEALED.**

**Sec. 11.1** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**XII. SEVERABILITY.**

**Sec. 12.1 . SEVERABILITY.** If any word, phrase, sentence, part, section, subsection, or other portion of this law or any application thereof to any person or circumstance is declared void, unconstitutional or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed Application thereof, shall be severable, and the remaining provisions of this Law, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

**XI. EFFECTIVE DATE.** This Ordinance is effective upon adoption.

Adopted at a duly advertised public hearing at which a quorum was present and a majority voted in favor, this 9<sup>th</sup> day of January, 2007.

ATTEST:

**TOWN COUNCIL OF THE**

TOWN OF GREENWOOD, FLORIDA

Suzanne M. Nesmith, cms  
SUZANNE M. NESMITH, Town Clerk

Charles Sanders  
CHARLES SANDERS, Mayor