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ORDINANCE NO. 110541

An ordinance of the City of Gainesville, Florida, amending the Code of Ordinances, relating to utilities, by amending Chapter 27 to provide for the creation and designation of infrastructure improvement areas for water and wastewater gravity collection improvements and to designate the Innovation District Infrastructure Improvement Area; by amending Appendix A, Schedule of Fees, Rates and Charges, to add infrastructure improvement area user fees for water and wastewater gravity collection in the Innovation District Area; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing a retroactive effective date.

WHEREAS, at least ten (10) days notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of the public hearings in the City Hall Auditorium located on the first floor of City Hall in the City of Gainesville; and

WHEREAS, the public hearings were held pursuant to the published notices described above, at which all interested parties had an opportunity to be, and were, in fact, heard; and

WHEREAS, imposing Infrastructure Improvement Area user fees is an exercise of the City's proprietary powers; and

WHEREAS, Infrastructure Improvement Area user fees are being imposed by the City to pay for the design and construction costs of the water and wastewater gravity collection services infrastructure; and

WHEREAS, Infrastructure Improvement Area user fees shall be used to reimburse the City for completed construction and/or to allow the City to fund the future design and construction of water and wastewater gravity collection services infrastructure; and

1 **WHEREAS**, customers developing establishments within the Innovation District
2 Infrastructure Improvement Area have been on notice of and actively participated in the master
3 planning process for the funding, design and construction of capacity improvements in that area;
4 and

5 **WHEREAS**, Infrastructure Improvement Area user fees collected by the City shall be
6 earmarked specifically to reimburse for or fund the capital construction costs for the water and
7 wastewater gravity collection services infrastructure to serve that area; and

8 **WHEREAS**, Infrastructure Improvement Area user fees are governed by the principle
9 that the user fee payer receives a privileged benefit in a manner not shared by other customers
10 and shall be charged in exchange for the government service which benefits such customer
11 paying the user fee; and

12 **WHEREAS**, Infrastructure Improvement Area user fees are reasonable in relation to the
13 resulting value and benefit of the water and wastewater gravity collection services being
14 provided to the customers;

15 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
16 **CITY OF GAINESVILLE, FLORIDA:**

17 **Section 1.** A new Division 4, titled Infrastructure Improvement Areas, is hereby created
18 and added to Chapter 27, Utilities, Article IV. Water and Sewerage of the Code of Ordinances, to
19 read as set forth below. (Note to codifier: Sections 27-183 through 27-200 and Sections 27-206
20 through 27-235 should remain reserved for future use.)

21 **Chapter 27. UTILITIES**

22 **ARTICLE IV. WATER AND SEWERAGE**

23 **DIVISION 4. INFRASTRUCTURE IMPROVEMENT AREAS**

1 **Sec. 27-201. Intent.**

2 It is the intent of this division that the city will designate infrastructure improvement
3 areas for water and wastewater gravity collection improvements, and impose infrastructure
4 improvement area user fees to fund water and wastewater gravity collection improvements which
5 benefit a new structure, in whole or in part, and/or the construction of additional square footage
6 to an existing structure, within the geographic boundaries of the designated infrastructure
7 improvement areas.

8 **Sec. 27-202. Definitions.**

9 The following words, terms, and phrases shall have the meanings ascribed to them in this
10 section unless the context clearly indicates otherwise:

11 *Commercial establishment* shall mean any structure used for or intended for the exchange
12 of commercial goods or services for compensation. Such uses may include, but are not limited
13 to, retail sales, office establishments that are not used for professional services, eating and/or
14 drinking establishments, light assembly, and/or any other similar commercial uses.

15 *Hotel establishment* shall mean any structure used for or intended for use as a public
16 lodging establishment containing sleeping room accommodations for 25 or more guests,
17 providing the services generally provided by a hotel, and/or recognized as a hotel in the
18 community in which it is located or by the industry.

19 *Infrastructure Improvement Area* shall mean the geographic boundaries for each area
20 within the city that is designated by the city and delineated by the map(s) depicted in figure(s)
21 within this division.

1 Infrastructure Improvement Area Fee shall mean the user fee charged pursuant to this
2 division to support the funding of infrastructure improvements to the water and wastewater
3 gravity collection systems within an infrastructure improvement area.

4 Institutional establishment shall mean a structure that is used for the educational or
5 cultural needs of the community, including, but not limited to, learning institutions or places of
6 religious assembly.

7 Laboratory (dry) establishment shall mean a structure that is used for conducting
8 computer simulations or data analysis.

9 Laboratory (wet) establishment shall mean a structure that is used for testing and
10 analyzing chemicals, drugs, and/or any other material or biological matter requiring water, direct
11 ventilation, and/or specialized piped utilities.

12 Motel establishment shall mean any structure used for or intended for use as a public
13 lodging establishment which offers rental units with an exit to the outside of each rental unit,
14 daily or weekly rates, offstreet parking for each unit, a central office on the property with
15 specified hours of operation, a bathroom or connecting bathroom for each rental unit, with at
16 least six rental units, and/or is recognized as a motel in the community in which it is located or
17 by the industry.

18 Multi-family residential establishment shall mean a structure that is used for two or more
19 dwelling units, including apartments, duplexes, triplexes, quadraplexes and/or townhomes.

20 Parking garage establishment shall mean a structure that is either above ground or
21 underground where vehicles can be parked.

1 Professional office establishment shall mean a structure used for professional business
2 services, which may include, but is not limited to, professional consultancy, medical or legal
3 profession practices.

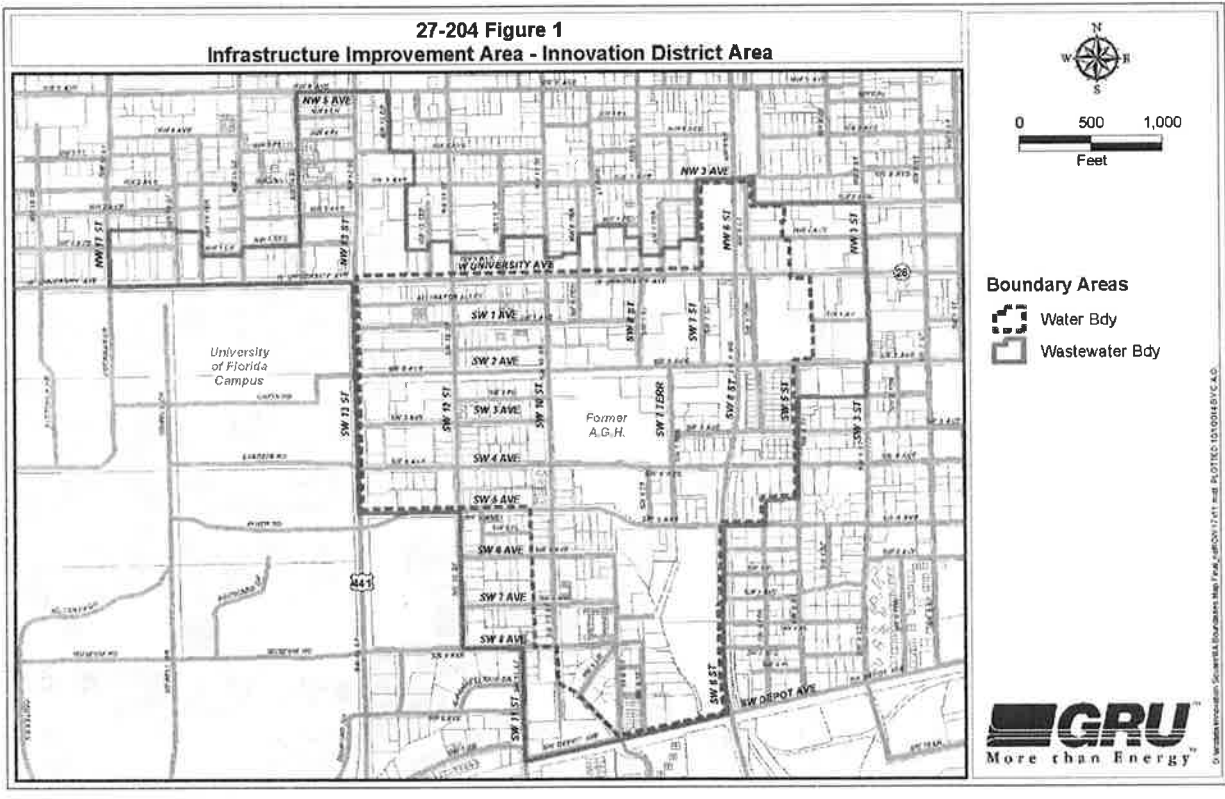
4 **Sec. 27-203. Areas.**

5 The city may, subject to the availability of city funds and resources, designate
6 infrastructure improvement areas for water and wastewater gravity collection systems in areas
7 the city determines feasible and beneficial for economic development. Some of the factors that
8 may be considered in determining feasibility include, but are not limited to: instances where
9 multiple developers are preparing for high-density/high-intensity redevelopment of an existing
10 urban area, instances where large infrastructure improvements are needed to serve multiple high-
11 density/high-intensity redevelopment projects, instances where the city has the ability to master
12 plan multiple high-density/high-intensity utility improvements, and/or instances where the
13 required improvements can be cost-effectively implemented. Within the geographic boundaries
14 of each designated infrastructure improvement area, the city will design and construct capacity
15 improvements to its water and wastewater gravity collection systems, as the city deems
16 necessary or advisable to meet the demands of the infrastructure improvement area.

17 **Sec. 27-204. Designated Infrastructure Improvement Areas.**

18 The following areas are designated as infrastructure improvement areas:

- 19 (1) The Innovation District Infrastructure Improvement Area. This area is depicted in
20 Figure 1.



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Sec. 27-205. User fees.

(1) Each new or existing customer who constructs a new commercial establishment, institutional establishment, hotel establishment, laboratory (wet) establishment, laboratory (dry) establishment, professional office establishment, motel establishment, multi-family residential establishment, a parking garage establishment and/or constructs additional square footage to any such existing establishment within an infrastructure improvement area shall pay infrastructure improvement area user fees based on the rates set forth in Appendix A of this code. Infrastructure improvement area user fees for the water system will be assessed based on the gross building square footage or number of hotel rooms, motel rooms or bedrooms of the new structure and/or the addition to an existing structure. Infrastructure improvement area user fees for the wastewater gravity collection system will be assessed based on total heated and cooled

1 building square footage or number of hotel rooms, motel rooms, bedrooms of the new structure,
2 and/or the addition to an existing structure. Infrastructure improvement area user fees shall not
3 apply if a structure is destroyed by fire or other unforeseen casualty and the new structure is
4 reconstructed in substantially the same square footage and with the same use (type of
5 establishment) as the structure that was destroyed. The infrastructure improvement area user
6 fees shall be paid on or before the date a certificate of occupancy or a certificate of completion is
7 issued by the city.

8 (2) The infrastructure improvement area rates set forth in Appendix A are established
9 based on a master plan of future water distribution and wastewater gravity collection system
10 infrastructure capacity improvements for the area, that includes the estimated capital construction
11 costs for such improvements and the estimated square footage of anticipated future
12 establishments in the area that will receive the benefit of the infrastructure improvements. The
13 user fees collected by the city in any designated infrastructure improvement area shall be used by
14 the city to fund the water and wastewater gravity collection services infrastructure in that area
15 and shall not be used for any other purpose.

16 **Section 2.** The Water and Sewerage portions of the Utilities section in Appendix A –
17 Schedule of Fees, Rates and Charges, is amended to add the following new fees. Except as
18 amended herein, the remainder of Appendix A remains in full force and effect.

19 APPENDIX A – SCHEDULE OF FEES, RATES AND CHARGES

20 UTILITIES:

21 (3) *Water:*

- 22
23 n. Infrastructure improvement area user fees (§ 27-205) for water in the Innovation
24 District Area shall be calculated based on the following rates:
25 1. Commercial and institutional establishment \$0.91/ft² gross building area
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2. Hotel and/or Motel establishments	\$363.18 per room*
3. Laboratory (wet) establishment	\$1.09/ft ² gross building area
4. Multi-family residential establishment	\$254.23 per bedroom
5. Office and Laboratory (dry) establishment	\$0.54/ft ² gross building area
6. Parking Garage	\$0.54/ft ² gross building area

(4) *Sewerage:*

n. Infrastructure improvement area user fees (§ 27-205) for wastewater in the Innovation District Area shall be calculated based on the following rates:

1. Commercial and institutional establishment	\$0.83/ft ² heated and cooled area
2. Hotel and/or Motel establishments	\$331.87 per room*
3. Laboratory (wet) establishment	\$1.00/ft ² heated and cooled area
4. Multi-family residential establishment	\$232.31 per bedroom
5. Office and Laboratory (dry) establishment	\$0.50/ft ² heated and cooled area

** The per room fee is applied to the number of hotel or motel rooms and no additional fee is applied for meeting rooms, kitchens, lobby areas and/or other rooms directly associated with the hotel or motel operation. Restaurant facilities or retail establishments within a hotel or motel shall be considered commercial establishments and shall pay all applicable fees.*

Section 3. It is the intention of the City Commission that the provisions of Sections 1 and 2 of this ordinance shall become and be made a part of the Code of Ordinances of the City of Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be renumbered or relettered in order to accomplish such intentions.

Section 4. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provisions or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

Section 5. All ordinances or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed.

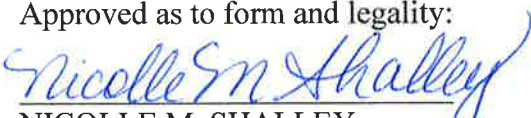
1 **Section 6.** It is the express intent of the City that this ordinance shall take effect
2 retroactively as of December 5, 2013. This ordinance is given retroactive effect in order to
3 confirm actions taken and expenditures made by the City after the City Commission meeting
4 on December 5, 2013, with regard to the design and construction of water and wastewater
5 system capacity improvements within the Innovation District Infrastructure Area. In order to
6 avoid a windfall to those customers that received a certificate of occupancy or certificate of
7 completion for an establishment or addition to an establishment within the Innovation
8 District Infrastructure Area between December 6, 2013 and the date of adoption of this
9 ordinance, those customers shall pay Infrastructure Improvement Area user fees in
10 accordance with this ordinance for their establishment within 30 days of the date of adoption
11 of this ordinance. As it is expressly recognized that those customers were on notice of,
12 participated in and received the benefit of the development of the master plan described in
13 this ordinance and concomitant construction of the capacity improvements within the
14 Innovation District Infrastructure Improvement Area.

15 **PASSED AND ADOPTED** this 7th day of April, 2016.

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EDWARD B. BRADDY
MAYOR

Attest: 
KURT M. LANNON
CLERK OF THE COMMISSION

Approved as to form and legality:

NICOLLE M. SHALLEY
CITY ATTORNEY

This ordinance passed on first reading this 17th day of March, 2016.
This ordinance passed on second reading this 7th day of April, 2016.