

Appendix F – Proposed Alachua County Franchise Fee Ordinance, 1989.

ORDINANCE NO. 89-01
AN ORDINANCE RELATING TO FRANCHISE FEES FOR UTILITY COMPANIES USING ALACHUA COUNTY-OWNED RIGHTS-OF-WAY; PROVIDING FOR THE (FOR DEFINITION) PROVIDING FOR TRANS-CHISE AGREEMENTS FOR USE OF ALACHUA COUNTY-OWNED RIGHTS-OF-WAY; PROVIDING STANDARDS FOR NEGOTIATION OF FRANCHISE AGREEMENTS BY THE COUNTY MANAGER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Alachua County has rights-of-way within the unincorporated area of Alachua County, which are presently being used by various utilities, including, but not limited to, electric, telephone, cable television, and other communication services; and

WHEREAS, the Board of County Commissioners believes and finds that continued use and occupancy of Alachua County's rights-of-way should be pursuant to franchise agreements offered to each utility under the terms of which the utility will pay a rental charge of up to ten per cent (10%) of the utility's revenues collected from the sale of the particular utility's service to the residents of unincorporated Alachua County; and

WHEREAS, a franchise agreement with cable television is in effect and subject to federal law, and

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Alachua County
Board of County Commissioners

ORDINANCE 89-

AN ORDINANCE RELATING TO FRANCHISE FEES FOR UTILITY COMPANIES USING ALACHUA COUNTY-OWNED RIGHTS-OF-WAY; PROVIDING FOR DEFINITIONS; PROVIDING FOR FRANCHISE AGREEMENTS FOR USE OF ALACHUA COUNTY-OWNED RIGHTS-OF-WAY; PROVIDING STANDARDS FOR NEGOTIATION OF FRANCHISE AGREEMENTS BY THE COUNTY MANAGER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Alachua County has rights-of-way within the unincorporated area of Alachua County which are presently being used by various utilities, including, but not limited to, electric, gas, water and sewer, telephone company or telecommunications provider, and cable television; and,

WHEREAS, the Board of County Commissioners believes and finds that continued use and occupancy of Alachua County's rights-of-way should be pursuant to franchise agreements offered to each utility under the terms of which the utility will pay a rental charge of up to ten per cent (10%) of the utility's revenues collected from the sale of the particular utility's service to the residents of unincorporated Alachua County; and,

WHEREAS, a franchise agreement with cable television is in effect and subject to federal law; and,

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WHEREAS, the franchise agreement to be offered to all utilities shall be of a non-exclusive type with a term not to exceed twenty (20) years; and,

WHEREAS, pursuant to Article VIII, §1(g), Florida Constitution, and Chapter 125, Florida Statutes, the Board of County Commissioners has the power to require such franchise agreements, including the payment of a rental charge for the use and occupancy of such rights-of-way.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA:

Section 1. Definitions. For the purpose of this ordinance, the following terms and words shall have the meaning given herein:

- a. "Grantor" shall mean the party granting a franchise, in this case, Alachua County, Florida.
- b. "Grantee" shall mean the utility, whether electric, gas, water and/or sewer, and telecommunications service provider or telephone company presently using rights-of-way owned by Alachua County, Florida, which rights-of-way are located in the unincorporated portion of Alachua County.
- c. "Franchise fee" shall mean the rental charge to be paid by utilities presently occupying or proposing to occupy

right-of-way owned by Alachua County and shall include the successor or assign of any such utilities.

d. "Franchise Agreement" shall mean the instrument through which the utility is permitted to occupy and use the rights-of-way owned by Alachua County, placing therein and thereon poles, wires, pipes, or conduit, or any combination thereof.

Section 2. Occupation of the rights-of-way owned by Alachua County and located in the unincorporated portion of Alachua County, Florida, for the purpose of constructing or maintaining or erecting or installing poles, wires, transmission lines, pipelines, water lines, sewer lines, or continuing to use or occupy such rights-of-way for such purposes shall be pursuant to franchise agreements which shall be negotiated by the County Manager pursuant to this chapter.

Section 3. In negotiating a franchise agreement with a utility that is occupying or proposing to occupy rights-of-way owned by Alachua County, the County Manager shall utilize the following standards:

a. The franchise agreement shall be one that is non-exclusive in character, and shall provide the use that may be made of rights-of-way, the service that is to be provided, and any restrictions, or exemptions of interruptible customers.

b. The term of any such franchise agreement shall not run for a period of time in excess of twenty (20) years.

c. The franchise agreement shall set forth the areas or rights-of-way to be utilized by each utility.

d. Each franchise agreement shall contain a provision that the Grantee, as consideration for the grant of the franchise, is to pay as rent a franchise fee equal to an amount not to exceed up to ten per cent (10%) of a Grantee's gross revenues collected from the sale or provision of electricity, gas, water and/or sewer service in the unincorporated portion of Alachua County, Florida, to residential, commercial, institutional, and industrial customers. Payment of the franchise fee shall commence no later than sixty (60) days following the execution of each franchise agreement. In the case of a telecommunication service provider, the fee shall be determined in accordance with the provisions of Section 337.401(4), Florida Statutes. In the case where the agreement will involve a telephone company, the fee shall be as set forth in Section 337.401(3), Florida Statutes.

e. Payment of the franchise fee shall be made on the thirtieth (30th) of each month following the month in which the franchise fee is collected. The final payment of franchise fees in any fiscal year shall be adjusted to reflect any underpayment or overpayment resulting from estimated monthly installments.

f. The Grantor shall have the right to inspect the books, records, accounting files, and any other records or materials that reflect the utility's gross revenue from services provided in the unincorporated area of Alachua County, of any Grantee for the purpose of verifying what the Grantee's gross revenues were and that the franchise fee has been accurately calculated. Such right of inspection shall include the right to audit such books, records, accounting files, or other materials, or require that Grantee provide an audit by an independent Certified Public Accountant.

g. The franchise agreement issued by the Grantor shall not be subject to being transferred, assigned, mortgaged, hypothecated, or otherwise encumbered without the Grantor's prior approval. The Grantor will not unreasonably withhold its consent to any such transfer.

h. Each franchise agreement shall contain a forfeiture provision, providing for forfeiture of the franchise where the Grantee fails to comply with the terms and conditions of the franchise agreement after having been given thirty (30) days' notice of any default.

i. Each Grantee shall agree to hold the Grantor harmless and indemnify the Grantor from any liability whatsoever occurring by reason of any Grantee's activities pursuant to a franchise agreement.

j. Each franchise agreement shall be terminated in the case of a Grantee becoming insolvent or bankrupt.

k. Each negotiated franchise agreement, together with a resolution approving the same, shall be presented to the Board of County Commissioners for final acceptance before becoming effective.

Section 4. Severability. It is the declared intent of the Board of County Commissioners that, if any section, subsection, sentence, clause, phrase, or provision of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 5. Inclusion in the Code. It is the intention of the Board of County Commissioners of Alachua County, Florida, and it is hereby provided that the provisions of this ordinance shall become and be made a part of the Code of Laws and Ordinances of Alachua County, Florida; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section", "article", or other appropriate designation.

Section 6. Effective Date. A certified copy of this ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners, and shall take effect upon receipt of official acknowledgment from that office that the same has been filed.

DULY ADOPTED in regular session, this _____ day of _____, A.D., 1989.

BOARD OF COUNTY COMMISSIONERS OF
ALACHUA COUNTY, FLORIDA

By: _____
Thomas Coward, Chairman

ATTEST:

A. Curtis Powers, Clerk
(SEAL)

APPROVED AS TO FORM

Alachua County Attorney

Appendix G - Fire Hydrant Support Charges Survey, August 2004

A certified copy of this resolution shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after adoption by the Board of County Commissioners, and shall take effect upon receipt of official acknowledgment from that office that the same has been filed.

RESOLUTION ADOPTED in regular session, this _____ day of _____, A.D., 1999.

BOARD OF COUNTY COMMISSIONERS OF
ALACHUA COUNTY, FLORIDA

By: _____
Thomas Coward, Chairman

ATTEST:

A. CURTIS POWERS, Clerk
(SEAL)

APPROVED AS TO FORM

Alachua County Attorney

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Utility or Municipality	Do you have any charges for fire hydrants?	If yes, how much per month?	Are costs included in connection charges and/or extension policy?	Who pays for hydrant installation inside/outside City limits?
Gainesville (GRU)	YES	\$ 11.96 - \$19.45 (note 1)	partial (note 1)	Developer (Inside & Outside)
Jacksonville (JEA)	no, see note (2)	n/a	no	
Lake City	no	n/a	~YES, absorb costs through impact fees, tapping fees.	
Lakeland	YES	\$7.92	no	
Ocala	no	n/a	n/a	New Constr.: Developer (In & Out) Infill: City pays (In & Out)
Orange County	no	n/a	no	inside N/A Developer pays outside
Orlando (OUC)	no	n/a	no	Developer (Inside & Outside)
Palatka	no	n/a	no	Developer pays (Inside)
Pinellas County	no	n/a	no	Developer pays (Inside & Outside)
Sarasota	no	n/a	no	
Sarasota County	no	n/a	no	inside N/A Developer pays outside
St. Augustine	YES	\$2.50	no	
St. Petersburg	no	n/a	no	Developer pays (Inside) Outside, developer or county pays
Starke	no	n/a	no	New Constr.: Developer (Inside) Infill: City (no outside construction)
Tallahassee	no	n/a	no	Developer/contractor pays (Inside & Outside)
Tampa	YES (note 3)	\$3.75 in city, \$5.00 in county	no	Developer pays (Inside & Outside)

(1) GRU requires all new developments to meet fire code requirements which includes installation of fire hydrants. The monthly fire hydrant charge varies depending on who maintains the hydrant and whether GRU installed the hydrant.

(2) JEA recently discontinued a \$156/year charge for hydrants (equates to \$13/month)

(3) Billed to general fund, fire dept. pays for inside city, county pays for outside city