



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.1.

8/30/2022

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### **Subject:**

Approval of Ordinance amending Brevard County Code of Ordinances Chapter 110, Division 3, Subdivision I, Amending Section 11-141. Refund of fees; providing for conflicting provisions and severability.

### **Fiscal Impact:**

Annual increase to Department's sewer fund per year is estimated \$126,000.

### **Dept/Office:**

Utility Services Department

### **Requested Action:**

It is requested that the Board of County Commissioners approves an amendment to the Brevard County Code of Ordinances, modifying Section 110-141 to no longer provide refunds for sewer capacity reservation fees.

### **Summary Explanation and Background:**

The Utility Services Department requires that any development seeking to reserve capacity at any of its six wastewater treatment plants must pay a sewer capacity reservation fee. This fee is paid at the time when development engineering plans are submitted to the Florida Department of Environmental Protection (FDEP) or at the time of approval of a building permit, if no FDEP review was required. The capacity reservation fee is typically paid by the developer (\$160 per single family unit and indexed each year per Rate Resolution 22-01, 22-008 and 22-009). When the contractor applies for the Certificate of Occupancy, it is then the connection fees are paid. However, per County Ordinance 110-141(b) the developer is entitled to a credit in the amount of the capacity reservation fee pro-rated for the year. This credit is applied to the wastewater connection fee. The Countywide connection fee is \$2,257 and Barefoot Bay connection fee is \$1,400.

As stated above, the sewer capacity reservation fee is indexed annually. However, connection fees were not indexed in the Utility Services rate resolution updates. As a result, the margin of connection fee to capacity reservation fee has gotten smaller each year. This causes the connection fund reserve, used for increasing the capacity of treatment plants and pipes, to decrease over time.

It is the request from this Department to amend County Ordinance 110-141 to no longer provide refunds for sewer capacity reservation charges (see attachment for proposed changes to this Ordinance).

As approved by the Board on August 2, 2022 it was granted permission to advertise.

### **Clerk to the Board Instructions:**

E-mail Clerk Memo to [karina.perez@brevardfl.gov](mailto:karina.perez@brevardfl.gov) <<mailto:karina.perez@brevardfl.gov>> and mail original documents to Utility Services Department.



August 31, 2022

**M E M O R A N D U M**

**TO:** Edward Fontanin, Utility Services Director

**RE:** Item H.1., Approval of Ordinance Amending Brevard County Code of Ordinances Chapter 110, Division 3, Subdivision I, Amending Section 11-14, Refund Fees and Providing for Conflicting Provisions and Severability

The Board of County Commissioners in regular session on August 31, 2022, adopted Ordinance No. 22-25, modifying Section 110-141 to no longer provide refunds for sewer capacity reservation fees. Enclosed is a fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

Kimberly Powell, Clerk to the Board

Encl. (1)

cc: Finance  
Budget



## FLORIDA DEPARTMENT of STATE

**RON DESANTIS**  
Governor

**CORD BYRD**  
Secretary of State

September 12, 2022

Honorable Rachel M. Sadoff  
Clerk  
Board of County Commissioners  
Brevard County  
Post Office Box 999  
Titusville, Florida 32781-0999

Attention: Deborah Thomas

Dear Honorable Rachel Sadoff:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2022-25, which was filed in this office on September 9, 2022.

Sincerely,

Anya Owens  
Program Administrator

ACO/wlh

**AN ORDINANCE AMENDING BREVARD COUNTY CODE OF ORDINANCES CHAPTER 110, DIVISION 3, SUBDIVISION I, AMENDING SECTION 110-141. REFUND OF FEES; PROVIDING FOR CONFLICTING PROVISIONS AND SEVERABILITY.**

**WHEREAS**, the Brevard County Utility Services Department provides sewer services throughout Brevard County; and

**WHEREAS**, any development builder seeking to reserve sewer capacity at any of Brevard County's six wastewater treatment plants must pay a sewer capacity reservation charge; and

**WHEREAS**, under the current refund ordinance, the development builder is entitled to a refund credit in the amount of the sewer capacity reservation charge, which is applied toward the balance of the wastewater connection fee; and

**WHEREAS**, the sewer capacity reservation charge is indexed annually, but connection fees are not, causing the refund credit to grow larger in proportion to the connection fee every year; and

**WHEREAS**, the current state of the refund credit is adversely affecting the connection fund reserve, which is used for increasing the capacity of treatment plants and pipes; and

**WHEREAS**, maintaining and expanding Brevard County's wastewater treatment system as the County's population grows is essential to the health, safety, and welfare of the citizens of Brevard County; and

**WHEREAS**, the Board of County Commissioners now desires to eliminate the refund credit so that the connection fund reserve can receive adequate funding.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, as follows:

**SECTION 1. Section 110-141.** entitled **Refund of fees.** is hereby amended to read as follows:

**Sec. 110-141. - Refund of fees.**

(a) For application and connection fees paid in accordance with Ordinance No. 83-10 prior to its amendment by this subdivision, the application and connection fees may, at the written request of the applicant, be refunded if the fee was paid for a development which requires a DER/DEP collection system permit and DER/DEP refuses or fails to issue the permit, and the applicant notifies the director of such refusal or failure within 30 days of its occurrence.

OFFICIALLY FILED WITH THE SECRETARY OF STATE ON SEPTEMBER 9, 2022.

All other application fees, permit fees and connection fees shall be nonrefundable. Any person who has received a refund pursuant to this section shall lose all priority for sewer service and shall be required to file a new application, which application shall be assigned a priority based upon the date it is submitted to the director.

(b) There shall be no refunds of application and connection fees paid under this subdivision.

**SECTION 2. Conflicting provisions.** In the case of direct conflict between any provision of this Ordinance and a portion or provision of any other appropriate federal, state, or county law, rule, code or regulation, the more restrictive shall apply.

**SECTION 3. Severability.** The provisions of this Ordinance are declared to be severable. If any section, paragraph, sentence, clause, or phrase herein, is, for any reason, held to be invalid or unconstitutional, by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, paragraphs, sentences, clauses, or phrases. Such remaining sections, etc. shall remain in effect, it being the intent that this ordinance shall remain in effect notwithstanding the invalidity of any part.

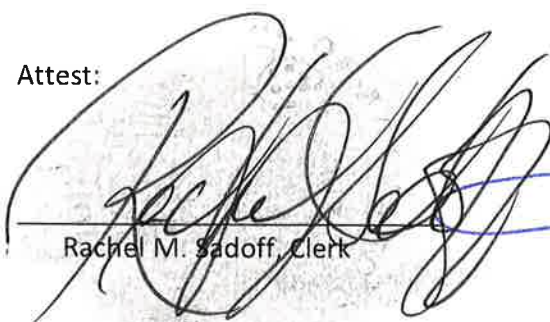
**SECTION 4. Codification.** The provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida and that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention. The word "Ordinance" may be changed to "Section," "Article," or other appropriate word or phrase to incorporate this Ordinance into the Code.

**SECTION 5. Area encompassed.** This Ordinance shall take effect in the unincorporated area of Brevard County, Florida.

**SECTION 6. Effective date.** This Ordinance shall take effect immediately upon its adoption and filing as provided by law. A certified copy of this Ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten (10) days of enactment.

DONE, ORDERED AND ADOPTED in Regular Session, this 30 day of Aug, 2022.

Attest:



Rachel M. Sadoff, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA



Kristine Zonka, Chair

(As approved by the Board on Aug . 30, 2022)



**Classified Ad Receipt  
(For Info Only - NOT A BILL)**

**Customer:** BREVARD COUNTY UTILITY SERVICE  
**Address:** 2725 JUDGE FRAN JAMIESON WAY  
MELBOURNE FL 32940  
USA

**Ad No.:** 0005368999  
**Pymt Method** Invoice  
**Net Amount** 138.42

**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 08/18/22

**Text of Ad:**

Ad#5368999 8/18/2022  
**NOTICE OF PUBLIC HEARING**  
NOTICE IS HEREBY GIVEN that the Board of County Commissioners of Brevard County, Florida, on August 30, 2022, at 9:00 a.m., in the Commission Room at 2725 Judge Fran Jamieson Way, Building C, First Floor, Viera, FL 32940, will hold a public hearing on the following ordinance:

**ORDINANCE NO. 2022-**

**AN ORDINANCE AMENDING BREVARD COUNTY CODE OF ORDINANCES CHAPTER 110, DIVISION 3, SUBDIVISION I, AMENDING SECTION 110-141, REFUND OF FEES; PROVIDING FOR CONFLICTING PROVISIONS AND SEVERABILITY.**

All persons for or against said ordinance can be heard at said time and place. If a person decides to appeal any decision made by the Board with respect to such hearing or meeting, he/she will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

The needs of hearing or visually impaired persons shall be met if the department sponsoring the Public Hearing is contacted at least 48 hours prior to the public meeting hearing by any person wishing assistance. The sponsoring department is the Utility Services Department, 321-633-2091.

A copy of the ordinance may be requested from the Utility Services Department or the County Manager's Office.  
By order of the Board of County Commissioners of Brevard County, Florida.