



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.3.

8/2/2022

Subject:

Legislative intent and permission to advertise an amendment to the Brevard County Code of Ordinances modifying Section 110-141, pertaining to refunds and fees.

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 authorize legislative intent and permission to advertise 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).

Clerk to the Board Instructions:

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



August 3, 2022

MEMORANDUM

TO: Edward Fontanin, Utility Services Director Attn: Karina Perez

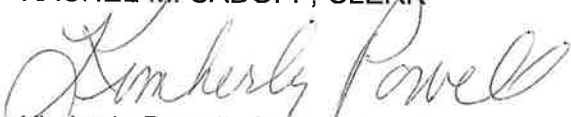
RE: Item F.3., Legislative Intent and Permission to Advertise Amendment to the Brevard County Code of Ordinances Modifying Section 110-141, Pertaining to Refunds and Fees

The Board of County Commissioners, in regular session on August 2, 2022, approved legislative intent and granted permission to advertise an amendment to the Brevard County Code of Ordinances, modifying Section 110-141 to no longer provide refunds for sewer capacity reservation fees.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK


Kimberly Powell, Clerk to the Board

/tr

cc: Finance
Budget

**AN ORDINANCE AMENDING BREVARD COUNTY CODE OF
ORDINANCES CHAPTER 110, DIVISION 3, SUBDIVISION 1,
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 ~~only upon the occurrence of one or more of the following:~~ if (1) ~~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.

~~(2) The applicant has otherwise failed to obtain a building permit or to commence construction. In making refunds, pursuant to this subsection (2), the board of county commissioners shall retain an amount equal to 15 percent of the connection fee for each year or portion thereof after application was made.~~

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. Upon payment of the connection fee, unused sewer capacity reservation charges shall be refunded based upon the number of full months remaining until the end of the one year period for which the sewer capacity reservation charge was paid. If an applicant is unable to obtain approval from DER/DEP, the sewer capacity reservation charges shall be refunded based upon the number of full months remaining until the end of the one year period for which the sewer reservation charge was paid. Otherwise, all sewer capacity reservation charges shall be retained by the board of county commissioners.~~

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 ____ day of _____, 2022.

Attest:

BOARD OF COUNTY COMMISSIONERS

OF BREVARD COUNTY, FLORIDA

Rachel M. Sadoff, Clerk

Kristine Zonka, Chair

(As approved by the Board on _____, 2022)