

ORDINANCE NO. 2021-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA AMENDING SECTION 201.22 (RESPONSIBILITY FOR PAYMENT OF WATER/SEWER FEES; LIEN FOR UNPAID BILLS) OF PART 1 (IN GENERAL) OF CHAPTER 201 (COUNTY WATER AND SEWER SERVICES) OF THE CODE OF INDIAN RIVER COUNTY, TO ESTABLISH PROCEDURES FOR WAIVER OF PENALTIES AND INTEREST UNDER CERTAIN CIRCUMSTANCES AND AUTHORIZE SETTLEMENTS AND FORECLOSURE ACTIONS; AND PROVIDING FOR CODIFICATION; SEVERABILITY; CONFLICT OF ORDINANCES; AND EFFECTIVE DATE OF THE ORDINANCE.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA THAT:

Section 1. Enactment Authority.

Article VIII, section 1 of the Florida Constitution and chapter 125, Florida Statutes vest broad home rule powers in counties to enact ordinances, not inconsistent with general or special law, for the purpose of protecting the public health, safety and welfare of the residents of the county. The Indian River County Board of County Commissioners specifically determines that the enactment of this ordinance is necessary to protect the health, safety and welfare of the residents of Indian River County.

Section 2. Amendment of Section 201.22.

New language indicated by underline, and deleted language indicated by strikethrough.

Section 201.22 (Responsibility for payment of water/sewer fees; lien for unpaid bills) of Part 1 (In General) of Chapter 201 (County Water and Sewer Services) of the Code of Indian River County, Florida is hereby amended to read as follows:

CHAPTER 201. –COUNTY WATER AND SEWER SERVICES

PART I. - IN GENERAL

* * *

Section. 201.22. – Responsibility for payment of water/sewer fees; impact fee loans, special assessments, lien and/or foreclosure for unpaid bills.

* * *

D. At any time that an account established under this Chapter has 24 months of unpaid water and or sewer bills, the Department shall notify the property owner of the County's intention to pursue foreclosure, where applicable. The Department shall give

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the property owner 60 calendar days to bring the account current. The utilities director or his designee shall have the authority to make a final settlement offer in lieu of foreclosure. Such final settlement offer shall never be less than the actual charges for water and sewer services which shall include but not be limited to service availability charges, consumption charges, disconnection or reconnection of service, service charges, and lien fees. It is the intention of this section to allow for forgiveness of some or all of the penalties and interest only, in order to avoid foreclosure. If the attempt to settle the account is not successful then the Department is authorized to seek foreclosure through the county attorney.

E. For any water and sewer accounts that have accumulated 24 or more months of unpaid water and or sewer bills as of March 15, 2021, the Department may allow for the waiver of penalties and interest as described below:

- (1) From March 15, 2021 until close of business, 5:30 pm, on June 14, 2021, the County will waive all penalties and interest on any water and sewer accounts that have accumulated over 24 months of unpaid water and or sewer bills.
- (2) From March 15, 2021 until close of business, 5:30 pm, on May 6, 2022, the County will waive ninety-percent of all penalties and interest on any water and sewer accounts that have accumulated over 24 months of unpaid water and or sewer bills. In order to qualify for waiver under this subsection, the property owner must sign a payment agreement prior to May 6, 2021. If at any time from March 15, 2021 until May 6, 2022, the property owner fails to make payments under the payment agreement, the Department is authorized to seek a final settlement and foreclosure through the county attorney as set forth in subsection D above.

F. For any impact fee loans provided per section 201.09 of this Chapter that are delinquent as of March 15, 2021, the Department may allow for the waiver of penalties and interest as described below:

- (1) From March 15, 2021 until close of business, 5:30 pm, on June 14, 2021, the County will waive all penalties and interest on delinquent impact fee loan accounts if the property owner pays the outstanding principle balance in full.
- (2) From March 15, 2021 until close of business on May 6, 2022, the County will waive ninety-percent of all penalties and interest on delinquent impact fee loan accounts so long as the outstanding principle balance is paid in full. In order to qualify for waiver under this subsection, the property owner must sign a payment agreement prior to May 6, 2021. If at any time from March 15, 2021 until May 6, 2022, the property owner fails to make payments under the payment agreement, the Department is authorized to seek a final

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settlement and foreclosure through the county attorney as set forth in subsection D above.

G. For any special assessments required to be paid per Chapter 206 that are delinquent as of March 15, 2021, the Department may allow the waiver of penalties and interest as described herein:

(1) From March 15, 2021 until close of business, 5:30 pm, on June 14, 2021, the County will waive all penalties and the interest that accrued beyond the original term of the special assessment for any delinquent special assessment account if the property owner pays the outstanding principle balance of the special assessment account in full, plus the initial interest that accumulated during the term of the special assessment.

(2) From March 15, 2021 until close of business, 5:30 pm, on May 6, 2022, the County will waive seventy-five percent of all penalties and the interest that accrued beyond the original term of the assessment so long as the outstanding principle balance and the initial interest that accumulated during the term of the special assessment is paid in full. In order to qualify for waiver under this subsection, the property owner must sign a payment agreement prior to May 6, 2021. If at any time from March 15, 2021 until May 6, 2022, the property owner fails to make payments under the payment agreement, the Department is authorized to seek a final settlement and foreclosure through the county attorney as set forth in subsection D above.

H. For any impact fee or special assessment accounts that are delinquent as of month 48 of the impact fee loan or special assessment period, staff shall notify the property owner that the County will pursue foreclosure if the past due amounts are not brought current within 60 calendar days of the notification date. If property owner fails to bring amounts current within 60 calendar days from notification date, the Department is authorized to seek a final settlement and foreclosure through the county attorney as set forth in subsection D above.

I. A "Notice of Potential Future Utility Charges" shall be recorded in the public records on any properties where the special assessments under Chapter 206 were not paid in full.

Section 3. Codification. It is the intention of the Board of County Commissioners that the provision of this ordinance shall become and be made part of the Indian River County Code, and that the sections of this ordinance may be renumbered or re-lettered and the word ordinance may be changed to section, article or such other appropriate word or phrase in order to accomplish such intention.

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Section 4. Severability. If any part of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall not be affected by such holding and shall remain in full force and effect.

Section 5. Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 6. Effective Date. This ordinance shall become effective upon adoption by the Board of County Commissioners and filing with the Department of State.

This ordinance was advertised in the Indian River Press Journal on the ___ day of February, 2021, for a public hearing to be held on the 9th day of March, 2021, at which time it was moved for adoption by Commissioner _____, seconded by Commissioner _____, and adopted by the following vote:

Chairman Joseph E. Flescher	_____
Vice-Chairman Peter D. O'Bryan	_____
Commissioner Susan Adams	_____
Commissioner Joseph H. Earman	_____
Commissioner Laura Moss	_____

The Chairman thereupon declared the ordinance duly passed and adopted this ___ day of March, 2021.

BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA

By: _____
Joseph E. Flescher, Chairman

ATTEST: Jeffrey R. Smith, Clerk and Comptroller

By: _____
Deputy Clerk

EFFECTIVE DATE: This Ordinance was filed with the Department of State on the ___ day of _____, 2021.