

**ORDINANCE NO. 2019 -**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, AMENDING SECTION 201.08 (RATES AND CHARGES) AND SECTION 201.09 (IMPACT FEES) OF PART I (IN GENERAL) OF CHAPTER 201 (COUNTY WATER AND SEWER SERVICES) OF THE CODE OF INDIAN RIVER COUNTY, FLORIDA IN ORDER TO ALLOW FOR RECLAIMING AND RELINQUISHMENT OF WATER AND SEWER IMPACT FEES UNDER CERTAIN CIRCUMSTANCES; AND PROVIDING FOR CODIFICATION, SEVERABILITY, REPEAL OF CONFLICTING PROVISIONS, AND AN EFFECTIVE DATE.**

**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 201.08 (Rates and charges) and Section 201.09 (Impact Fees) of Part I (In General) of Chapter 201 (County Water and Sewer Services).**

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

Section 201.08 (Rates and charges) and Section 201.09 (Impact Fees) of Part I (In General) of Chapter 209 (County Water and Sewer Services) of the Code of Indian River County, Florida are hereby amended to read as follows:

**CHAPTER 201. COUNTY WATER AND SEWER SERVICES.**

**PART I. IN GENERAL**

\* \* \*

**Section 201.08. Rates and charges.**

N. Release of Service availability charges for ERUs reserved for future use in a development and delinquency charges. The utilities director may release service availability charges for ERUs reserved for future use and associated delinquency charges if the customer pays 10% of the amount owed, including all charges, penalties and interest.

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and executes the Agreement for Release of ERUs in substantially the same form as approved by the Board.

**Section 201.09. Impact fees.**

\* \* \*

- E. Reduction, refund, reclamation and relinquishment of impact fees. Any commercial customer whose maximum monthly water use or sewage flow remains below the amount corresponding to the number of ERUs assigned to such customer for a period of twenty-four (24) months and for which impact fees have been paid, may make application to the department to reduce the number of ERUs assigned and seek corresponding reimbursement of impact fees paid, ~~as they are resold by the county.~~ The county may refund impact fees actually paid, without interest, based on the impact fee schedule in effect at the time of original payment ~~or at the prevailing rate, whichever is less, provided the department has resold such ERUs since the impact fee refund application was made.~~ Subsequent water use or sewage flow in excess of flows corresponding to customer's number of assigned ERUs will be subject to the provisions of this chapter.

Any customer who purchased ERUs, and the account for such ERUs is current, and the customer has not connected to the system may make application to the department for a refund provided application is made within twenty-four (24) months of the payment of impact fees. Reimbursement will be based on the impact fee schedule in effect at the time of original payment.

Any customer who has a reserve account affiliated with an assessment paid in lieu of impact fees affiliated with certain voluntary assessments that were adopted by resolution between 1984 and 1989 and the reserve account is current, may make application to the department for a refund of the amount of the assessment paid, so long as the property is either undeveloped or located 200 or more feet from an existing water and/or sewer line, whichever is applicable. Refunds will be equated to a per ERU basis and refunded at the amount actually paid.

The County may reclaim any ERUs reserved for future use, if a cumulative of twenty-four (24) months of related service availability fees become delinquent. Any impact fees paid will be applied to the account balance and any excess of such fees will be refunded.

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Any customer may relinquish any excessive ERUs or ERUs that cannot be used if such ERUs are for capacity reserved for future use and the account for such ERUs is current. The customer will not receive any refund.

\* \* \*

**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.

**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 December, 2018, for a public hearing to be held on the \_\_\_ day of \_\_\_\_\_, 201\_, at which time it was moved for adoption by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and adopted by the following vote:

Chairman Bob Solari	_____
Vice-Chairman Susan Adams	_____
Commissioner Joseph E. Flescher	_____
Commissioner Tim Zorc	_____
Commissioner Peter D. O'Bryan	_____

The Chairman thereupon declared the ordinance duly passed and adopted this \_\_\_ day of \_\_\_\_\_, 2019.

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**BOARD OF COUNTY COMMISSIONERS OF  
INDIAN RIVER COUNTY, FLORIDA**

By: \_\_\_\_\_  
Bob Solari, 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 \_\_\_\_\_, 201\_.