

ORDINANCE NO. 18-2025

AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, REVISING, MODIFYING, AND AMENDING CHAPTER 34 "PROCEDURES" TO INCREASE IMPACT FEES FOR WATER AND SEWER, SPECIFICALLY AMENDING SECTIONS 34-421 "IMPACT FEE INTENT", 34-423 "IMPOSITION OF IMPACT FEES", 34-428 "USE OF FUNDS (IMPACT FEE)", 34-440 "IMPACT FEE INTENT", 34-441 "SEWER IMPACT FEES", 34-442, "WATER CHARGES; METER DEPOSITS; REFUNDS" AND CREATING 34-443 EARMARKING REQUIREMENT, AND CLARIFYING WATER AND SEWER IMPACT FEES AS CONNECTION FEES AND PROVIDING FOR SEVERABILITY; REPEAL OF CONFLICTING ORDINANCES; AN EFFECTIVE DATE; AND INCORPORATION INTO THE CODE

WHEREAS, the City of Titusville, Florida ("City") is a municipal corporation created under the laws of the State of Florida; and,

WHEREAS, the City has the exclusive authority over the management, operations, and control of the provision of water and sewer (also known and referred to as "wastewater") utilities within the boundaries of the City; and,

WHEREAS, the City has the authority and duty to establish and modify water and sewer user rates for the City's water and sewer systems; and,

WHEREAS, the City has also incurred bonded indebtedness to expand and maintain its central water and sewer systems; and,

WHEREAS, demands for potable water, irrigation, reclaimed water, and sewer/wastewater treatment, disposal, and reuse require construction of new expanded central utilities plant and facilities and extensions of the City's utility systems to areas where new customers may connect and use such services; and,

WHEREAS, stringent state and federal water and wastewater production, supply, treatment, and operation standards have been promulgated, and with these increasing costs of constructing central water and sewer/wastewater facilities, the City's ability to provide central water, sewer/wastewater, and reclaimed water utility services within its exclusive utilities service area may be limited; and,

WHEREAS, the financing of central water, sewer, and reclaimed water facilities is complex, requires extensive planning and engineering, and calls for advanced participation by the development community so that adequate public facilities can be provided to meet the impacts of that development; and,

WHEREAS, the use of water and sewer impact fees, also known as "connection fees", became widespread in Florida during the 1970's when Florida was experiencing rapid growth; and,

WHEREAS, the cost of providing the facilities to serve the influx of new residents resulted in dramatic increases in taxes and utility rates. Additionally, during this time, more stringent environmental regulations were also driving utility rates higher; and,

WHEREAS, municipalities, municipal utilities, and other governmental entities imposed water and wastewater connection fees to recover the cost of the new facilities required to serve Florida's rapid growth; and,

WHEREAS, the Florida Supreme Court has mandated that, to be valid, using water and wastewater connection fees to raise capital for expansion cannot exceed a pro rata share of reasonably anticipated costs of expansion, are permissible where expansion is reasonably required so long as use of the money collected is limited to meeting the costs of expansion. See *Contractors and Builders Association of Pinellas County v. Utilities Commission of Dunedin*, 329 So.2d 314 (Fla. 1976); and,

WHEREAS, the Titusville City Council adopted Ordinance 27-1987 establishing impact fees for essential city services; and,

WHEREAS, the City adopted water and sewer impact fees in 2010; and,

WHEREAS, the Titusville City Council adopted Ordinance 9-2019 increasing impact fees for essential city services to include water and sewer impact fees; and,

WHEREAS, these connection fees were adopted prior to the implementation of §163.31801, Florida Statutes, which codified certain requirements for establishing a valid impact fee in Florida; and,

WHEREAS, on June 28, 2019, the Florida Legislature exempt water and sewer connection fees from the provisions of §163.31801, Florida Statutes, by virtue of the adoption of § 5, Chapter 2019-165, Laws of Florida; and,

WHEREAS, the City has previously commissioned studies to determine the appropriate level of rates, fees, charges, and related policies and rules for its water and wastewater systems in accordance with standards laid down in § 180.13(2), Florida Statutes, pertaining to municipal public works and § 184.09(1) (b), Florida Statutes, governing municipal water and sewer financing, requiring cities to fix rates that are just and reasonable for utility services. See *Cooksey v. Utilities Commission*, 261 So.2d 129 (Fla. 1972); and,

WHEREAS, in adopting water and wastewater capital connection fees, the City is availing itself of the exemption from § 163.31801, Florida Statutes, as provided in § 163.31801(12), Florida Statutes; and,

WHEREAS, the City hereby finds, declares, ratifies, and confirms the validity of all past water and sewer or wastewater impact, connection, and capacity fees and that all such funds collected have been appropriately earmarked and limited solely for meeting the costs of expansion; and,

WHEREAS, the City has received a report from Raftelis Financial Consultants, Inc. entitled "Water and Wastewater Impact Fee Study" dated February 25, 2025 (the "2025 Study") that constitutes a connection fee study, and that recommends changes to the City's capital charge structure consistent with current state law; and,

WHEREAS, the City Council considered and approved the 2025 Study on March 11, 2025, and it has been determined (1) that the water and sewer connection fees are necessary to offset the costs associated with meeting future demands for the City's water and wastewater facilities

pursuant to the projections set forth in the Study; (2) that these fees bear a reasonable relationship to the burden imposed upon the City to provide water and wastewater facilities to new utility customers served by the City; (3) that the fee revenues will provide a direct benefit to such new City customers reasonably related to the fees assessed; (4) that an essential nexus exists between projected new development and the need for additional water and wastewater facilities to be funded with these fees and the benefits that accrue to new development paying the fees; and (5) that the amount of the water and wastewater impact fees are roughly proportional to the pro rata share of the additional water and wastewater facilities needed to serve new development; and,

WHEREAS, for these and other reasons, and based upon the data and analysis contained in the 2025 Study, it is necessary for the City to adopt the changes and modifications proposed within this Ordinance; and,

WHEREAS, the City Council's decisions as set forth herein are reasonable and prudent steps pertaining to sound growth management which have been taken for the benefit of the citizens of the City, both present and future; and,

WHEREAS, the City is projected to increase in population and further economically develop in the future; and,

WHEREAS, this Ordinance contains an administrative framework to ensure that the benefit of water and wastewater facilities funded with water and sewer connection fees will accrue proportionately to new development paying the fees; and,

WHEREAS, requiring future growth to contribute its fair share of the costs necessary to fund required capital improvements and additions is an integral and vital part of the regulatory plan of growth management in the City and is a practice consistent with sound and generally accepted growth management, fiscal and public administration practices, and principles; and,

WHEREAS, to generate funds for future alternative water needs, administration, operation, and long-range projects, it is necessary to increase water user rates to begin funding mandated alternative water supplies; and,

WHEREAS, the City has notified each customer of the utility system through the regular utility billing process of this Ordinance in accordance with Section 180.136, Florida Statutes; and,

WHEREAS, the City Council finds that the regulations, charges, rates and fees adopted by this Ordinance are in the best interest of and for the health, safety and welfare of the citizens of the City of Titusville and users of the City utility system; and,

WHEREAS, the City has scheduled, advertised, and held the appropriate hearings required by Chapters 166 and 180, Florida Statutes, and has received and considered all City staff, City consultant, and public written and oral comments and other competent, substantial evidence; and,

WHEREAS, these fees have been established by the City and the City desires to ratify and incorporate these fees into the Code of Ordinances for better transparency; and,

WHEREAS, the impact fees assessed pursuant to this Ordinance are necessary to ensure the public health, safety and welfare of residents of the City of Titusville.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF TITUSVILLE, FLORIDA as follows:

SECTION 1. FINDINGS. The City Council hereby adopts and incorporates the above stated Recitals as legislative findings that support and form the basis for the adoption of this ordinance.

SECTION 2. AMENDMENTS TO SECTION 34-421. That Chapter 34 "Procedures", Article IX "Fees", Division 2 "Impact Fees", Section 34-421 "Impact fee intent" of the Code of Ordinances, City of Titusville is hereby amended to read as follows:

Sec. 34-421 Impact fee intent and adoption of impact fee or connection study.

- (a) It is the intent of this section to provide for the assessment and collection of impact fees on all new development occurring within the City of Titusville so as to ensure that such new development pays its fair and proportionate share of the capital costs for road, park, fire, police protection, public works and City Hall improvements required to accommodate such new development.
- (b) This chapter is intended to be consistent with and implement the provisions of the Titusville Comprehensive Plan, particularly those public facilities and services that require a minimum level of service to be concurrent with development, as set forth in the capital improvements element of the Titusville Comprehensive Plan.
- (c) The Council hereby adopts and incorporates by reference the Impact Fee study entitled "City of Titusville Water and Wastewater (sewer) Impact Fee Study" prepared by Raftelis dated February 25, 2025 including the assumptions, conclusions, and findings therein.

SECTION 3. AMENDMENTS TO SECTION 34-423. That Chapter 34 "Procedures", Article IX "Fees", Division 2 "Impact Fees", Section 34-423 "Imposition of impact fees" of the Code of Ordinances, City of Titusville is hereby amended to read as follows:

Sec. 34-423. Imposition of impact and connection fees.

- (a) Any person who, after the effective date of this section, applies to obtain a certificate of occupancy or final inspection approval for any new development shall be required to pay the impact fees in the manner and amount set forth in this chapter.
- (b) Impact fees shall be paid to the City and collected by the Administrator.
- (c) An applicant shall pay the applicable impact and connection fees at the time of issuance of the building permit for the property that is subject to the fee.
- (d) Administrative charges for the collection of impact or connection fees may be collected and limited to the actual costs.

SECTION 4. AMENDMENTS TO SECTION 34-428. That Chapter 34 "Procedures", Article IX "Fees", Division 2 "Impact Fees", Section 34-428 "Use of funds (impact fee)" of the Code of Ordinances, City of Titusville is hereby amended to read as follows:

Section 34-428.- Use of impact fee funds..

- (a) Funds collected from impact fees shall be placed in a special interest-bearing fund:
 - (1) Road fund, for road impact fees;

- (2) Park fund, for park impact fees;
 - (3) Fire fund, for fire protection impact fees;
 - (4) Police fund, for police protection impact fees;
 - (5) City hall fund, for city hall impact fees;
 - (6) Public works fund, for public works impact fees;
- (b) Funds collected from the road impact fees shall be used for the purpose of capital improvements to and expansion of the City, county and state roadway network and transportation facilities within the City. Such improvements shall be of the type as are made necessary by the new growth and new development within the City and are intended to add capacity in order to keep the road system at the adopted level of service. No funds shall be used for periodic or routine maintenance, or for improvement of local streets, accessways, driveways or alleys as set forth in the Future Traffic Circulation Map.
- (c) Funds collected from the park impact fee shall be used for the purpose of land acquisition, capital improvements to and expansion of the park services and facilities within the City. Such improvements are intended to accommodate new growth and new development so that the availability of park and recreation facilities can remain equal on a per unit or per capita basis to that required by the level of service set forth in Capital Improvements Element of the Titusville Comprehensive Plan. No funds shall be used for periodic or routine maintenance.
- (d) Funds collected from the fire and police impact fees shall be used for the purpose of providing capital land, facilities and equipment for the Fire and Police Departments of the City. Such capital improvements are intended to accommodate the demand for new facilities and equipment generated by new growth and new development so that the level of service set forth in the Capital Improvements Element of the Titusville Comprehensive Plan can be maintained. No funds shall be used for salaries, periodic or routine maintenance or general operating expenditures.
- (e) Funds collected from the public works funds shall be used for the purpose of providing capital land, facilities and equipment for the Public Works Department. Such capital improvements are intended to accommodate the demand for new equipment generated by new growth and new development so that the level of service set forth in the Capital Improvements Element of the Titusville Comprehensive Plan can be maintained. No funds shall be used for salaries, periodic or routine maintenance or general operating expenditures.
- (f) Funds collected from the City Hall funds shall be used for the purpose of providing capital land, facilities and equipment for the City Hall expansion. Such capital improvements are intended to accommodate the demand for new facilities and equipment generated by new growth and new development. No funds shall be used for salaries, periodic or routine maintenance or general operating expenditures.
- (g) In cases where jurisdiction overlaps, the City may enter into agreements with Brevard County, the State and the Federal government to ensure that funds expended shall be used as provided herein.

SECTION 5. AMENDMENTS TO SECTION 34-440. That Chapter 34 "Procedures", Article IX "Fees", Division 2 "Impact Fees", Section 34-440 "Impact fee intent" of the Code of Ordinances, City of Titusville is hereby amended to read as follows:

Section 34-440. Connection fee intent.

- (a) It is the intent of this section to provide for the assessment and collection of impact fees connection fees on all new development occurring within the City of Titusville so as to ensure that such new development pays its fair and proportionate share of the capital costs for water and sewer infrastructure and improvements required to accommodate such new development.
- (b) This chapter is intended to be consistent with and implement the provisions of the Titusville Comprehensive Plan, particularly those public facilities and services that require a minimum level of service to be concurrent with development, as set forth in the capital improvements element of the Titusville Comprehensive Plan.

SECTION 6. AMENDMENTS TO SECTION 34-441. That Chapter 34 "Procedures", Article IX "Fees", Division 2 "Impact Fees", Section 34-441 "Sewer Impact fees." of the Code of Ordinances, City of Titusville is hereby amended to read as follows:

Section 34-441. Sewer Connection fees.

- (a) All connections to the sanitary sewerage system of the City shall be of a permanent character, shall conform with the plans and specifications as promulgated by the City Manager, and shall be under the direction of the City Manager or designated representative.
- (b) Every such owner or agent of improved property making connection with the City sanitary sewer system as required herein shall make such connection at his own expense after securing a permit from the City and paying the following service charge:
 - (1) For every development, the sewer connection fee shall be based on the following schedule based on number of ERCs × 2,320.00 as of October 1, 2025 and then \$2,450.00 as of October 1, 2026.

Meter Inches	Size	ERC	Sewer Connection fees effective 10/01/2025	Sewer Connection fees effective 10/01/2026
5/8—3/4		1	2,320.00	\$2,450.00
1		2 5	5,800.00	\$6,125.00
1.5		5	11,600.00	\$12,250.00
2		8	18,560.00	\$19,600.00
3		15	34,800.00	\$36,750.00
4		25	58,000.00	\$61,250.00
6		50	116,000.00	\$122,500.00
8		80	185,600 00	\$196,000 00

(2) The minimum sewer connection fee shall be two thousand three hundred and twenty dollars (\$2,320.00) as of October 1, 2025 and then two thousand four hundred and fifty dollars (\$2,450.00) as of October 1, 2026. Any meter size not covered by the above schedule shall be determined by the Public Works Director based upon the number of ERCs \times two thousand three hundred and twenty dollars (\$2,320.00) as of October 1, 2025 and then two thousand four hundred and fifty dollars (\$2,450.00) as of October 1, 2026. Any sewer connection fee paid shall not be refundable, except as provided for in Section 34-429, Appeals, review and refunds.

(3) For multifamily connection fees, the fee shall be .85 ERC of the single-family rate for each unit of the multifamily complex.

(c) The aforementioned charges shall be imposed and collected in the case of new construction by the City at the time the utility service account is established.

With regard to existing structures, charges shall be paid to the City at the time of application for the plumbing permit or as otherwise provided for.

(d) No sewer connection fee shall be required:

(1) With respect to property to which there has been a sewer connection fee paid.

(2) With respect to structures connected to the system and permit fee paid. Existing structures connecting to the sanitary sewer system may elect at the time of application for permit to connect to the sanitary sewer system to pay the sanitary sewer connection fee in cash or in monthly installments (not to exceed twenty-four (24) months) In the event the property owner elects to pay the sanitary sewer connection fee in monthly installments, the monthly installments shall be included as part of the regular monthly utility bill. By electing to pay the sanitary sewer connection fee in monthly installments, the owner by such election authorizes the City to impose a lien and charge upon the property, which lien shall be a first and prior lien against the property, subject only to taxes due to the County of Brevard or the State of Florida, and of the same character as a lien of the City for municipal taxes. By electing the monthly installment plan, the owner agrees to pay any and all costs, charges and expenses for recording said lien, said amount to be added to the sewer connection fee . Upon failure of said property owner to pay the lien, it will be foreclosed in the same manner as tax liens in favor of the City are foreclosed, or foreclosed in the same manner as mortgages in the State of Florida. The suit for foreclosure may be brought at any time after the expiration of sixty (60) days after the owner is delinquent on monthly installments. In addition to the costs and expenses which constitute the lien, the City shall be entitled to collect its cost in prosecuting the foreclosure, including court costs, reasonable attorney's fees, abstract costs, publication costs, and other such costs as are assessable in foreclosure actions.

(3) As to property annexed to City and a structure is connected to an existing sewer system, either City-owned or subsequently acquired by the City, those structures are exempt.

(e) If the use of any property served by the City sewer system changes after the effective date of this section so as to change its classification for the purpose of computation of the ERC charge, then an additional charge resulting from the change in property use shall be due and payable at the time of the change in property use, regardless of whether any charge was ever imposed or paid at the time of initial connection to the system. The increased charge imposed

by this subsection shall be included on and payable as part of the property owner's next utility service bill.

SECTION 7. AMENDMENTS TO SECTION 34-442. That Chapter 34 "Procedures", Article IX "Fees", Division 2 "Impact Fees", Section 34-442 "Water charges; meter deposits; refunds" of the Code of Ordinances, City of Titusville is hereby amended to read as follows:

Section 34-442. Water charges; meter deposits; refunds.

- (a) Each and every owner of property requesting water service shall pay the cost of extending the water line to his property or the proportionate share of the cost of extending said system with adjacent property owners benefited by said extension paying their proportionate share. If a major user is connected to an existing system, causing the need for enlargement of the existing line, the new user shall pay the cost of said enlargement. Council shall have the right to vary the aforementioned policy upon unusual circumstances. All extensions made shall be done in accordance with plans and specifications as promulgated by the City Manager or his designated representative.
- (b) In addition to the aforementioned fee for the cost of meter installation, the City shall charge and each owner shall pay a charge as follows:
 - (1) For any development, the water connection fee shall be based on the following schedule based on number of ERCs × \$2,035.00 as of October 1, 2025 and then \$2,100.00 as of October 1, 2026.

Meter Size Inches	ERC	Water Connection fees 10/01/2025	Water Connection fees effective 10/01/2026
5/8—3/4	1	\$2,035.00	\$2,100.00
1	2.5	\$5,087.50	\$5,250.00
1.5	5	\$10,175.00	\$10,500.00
2	8	\$16,280.00	\$16,800.00
3	15	\$30,525.00	\$31,500.00
4	25	\$50,875.00	\$52,500.00
6	50	\$101,750.00	\$105,000.00
8	80	\$162,800.00	\$168,000.00

- (2) The minimum water connection fee shall be two thousand and thirty-five dollars (\$2,035.00) as of October 1, 2025 and two thousand one hundred dollars (\$2,100.00) as of October 1, 2026. Any meter size not covered by the above schedule shall be determined by the Public Works Director based upon the number of ERCs times two thousand and thirty-five dollars (\$2,035.00) as of October 1, 2025 and two thousand one hundred dollars (\$2,100.00) as of October 1, 2026.
- (3) For multifamily connection fees, the fee shall be .85 ERC of the single-family rate for each unit of the multifamily complex.
- (4) All water connection fees shall not be refundable, except as provided for in Section 34-429, Appeals, review and refunds.
- (c) The aforementioned charges shall be imposed and collected in the case of new construction by the City at the time the utility service account is established.

With regard to existing structures, charges shall be paid to the City at the time of application for the plumbing permit.

- (d) No water connection fee shall be required:
 - (1) With respect to property to which there has been paid a water connection fee.
 - (2) With respect to structures connected to the system and permit fee paid. Existing structures connecting to the water system may elect at the time of application for permit to connect to the water system to pay the water impact fee in cash or in monthly installments (not to exceed twenty-four (24) months). In the event the property owner elects to pay the water connection fee in monthly installments, the monthly installments shall be included as a part of the regular monthly utility bill. By electing to pay the water connection fee in monthly installments, the owner by such election authorizes the City to impose a lien and charge upon the property, which lien shall be a first and prior lien against the property, subject only taxes due to the County of Brevard or the State of Florida, and of the same character as a lien of the City for municipal taxes. By electing the monthly installment plan, the owner agrees to pay any and all costs, charges and expenses for recording said lien, said amount to be added to the water connection fee. Upon failure of said property owner to pay the lien, it will be foreclosed in the same manner as tax liens in favor of the City are foreclosed, or foreclosed in the same manner as mortgages in the State of Florida. The suit for foreclosure may be brought at any time after the expiration of sixty (60) days after the owner is delinquent on any monthly installment. In addition to the costs and expenses which constitute the lien, the City shall be entitled to collect its costs in prosecuting the foreclosure, including court costs, reasonable attorney's fees, abstract costs, publication costs, and other such costs as are assessable in foreclosure actions.
 - (3) As to property annexed to City and a structure is connected to an existing water system, either City-owned or subsequently acquired by the City, those structures are exempt.
- (e) If the use of any property served by the City water system changes after the effective date of this section so as to change its classification for the purpose of computation of the ERC charge, then an additional charge resulting from the change in property use shall be due and payable at the time of the change in property use, regardless of whether any charge was ever imposed or paid at the time of initial connection to the system. The increased

charge imposed by this subsection shall be included on and payable as part of the property owner's next utility service bill.

SECTION 8. CREATION OF SECTION 34-443. That Chapter 34 "Procedures", Article IX "Fees", Division 2 "Impact Fees", Section 34-443 "Capital improvement funds; establishment; expenditure guidelines;" Of the Code of Ordinances, City of Titusville is hereby amended to read as follows:

"Section 34-443. Capital improvement funds; establishment; expenditure guidelines;

- (a) Funds collected from water and sewer connection fees shall be deposited into a separate interest-bearing connection fee fund. The water connection fees so deposited shall be used only for capital expenditure and the payment of the City indebtedness associated with the expansion of the City's water supply, and water treatment systems and all components thereof and additions thereto, in order to provide additional water treatment capacity or water service capacity to those new customers who connect to the City's water system. The sewer connection fees so deposited in the above-mentioned fund shall be used only for capital expenditures and the payment of the City indebtedness associated with the expansion of the City's wastewater treatment systems, wastewater pumping facilities, effluent disposal facilities, and all component thereof and additions thereto, in order to provide additional sewage treatment capacity, effluent disposal capacity, or wastewater service capacity to those new customers who connect to the City's wastewater system.

SECTION 9. SEVERABILITY. If any provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 10. REPEAL OF CONFLICTING ORDINANCES. All ordinances or parts of ordinances, and all resolutions and parts of resolutions, in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 11. EFFECTIVE DATE. This Ordinance shall be become in full force and effect on October 1, 2025, upon adoption by the City Council in accordance with the Charter of the City of Titusville, Florida.


SECTION 12. INCORPORATION INTO THE CODE This ordinance shall be incorporated into the City of Titusville Code of Ordinances and any section or paragraph, number or letter, and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and like errors may be corrected and additions, alterations, and omissions, not affecting the construction or meaning of this ordinance and the Code may be made.

PASSED AND ADOPTED this 27th day of May, 2025.



Andrew Connors, Mayor

ATTEST:



Wanda F. Wells, City Clerk

CC:

Ashleigh Smith
Jolynn Donhoff