

City of Palm Coast, Florida Agenda Item

Agenda Date: February 17, 2026

Department CITY ADMINISTRATION Division	Amount Account #
Subject: ORDINANCE 2026-XX GOVERNING THE SALE OF CITY-OWNED UTILITY	
Presenter: Marcus Duffy, City Attorney	
Attachments: 1. Ordinance	
Background: During the November 18, 2025, City Council Business Meeting, the Council provided unanimous consent to consider an Ordinance governing the sale of a City-owned utility. The proposed Ordinance is attached for review and consideration.	
Recommended Action: ADOPT ORDINANCE 2026-XX GOVERNING THE SALE OF CITY-OWNED UTILITY	

ORDINANCE 2026-__
GOVERNING THE SALE OF CITY-OWNED UTILITY

AN ORDINANCE OF THE CITY OF PALM COAST, FLORIDA, AMENDING CHAPTER 49 UTILITIES, ARTICLE II, REGULATION OF WATER AND SEWER UTILITIES, SECTIONS 49-31(B) & 49-32 OF THE CODE OF ORDINANCES, AUTHORITY PERTAINING TO WATER AND SEWER (WASTEWATER) SYSTEMS; ADDING ADDITIONAL PROCEDURAL SAFEGUARDS GOVERNING ANY SALE, TRANSFER, OR LONG TERM LEASE OF A CITY-OWNED UTILITY; REQUIRING BOTH A SUPERMAJORITY VOTE OF THE CITY COUNCIL AND APPROVAL BY CITYWIDE REFERENDUM PRIOR TO ANY SUCH ACTION; PROVIDING FOR DEFINITIONS, APPLICABILITY, PROCEDURES, EXEMPTIONS, CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City of Palm Coast owns and operates essential public utility systems that are vital to the health, safety, and welfare of its residents; and

WHEREAS, changes in ownership or control of public utilities may significantly impact service reliability, customer rates, long-term planning, and environmental compliance; and

WHEREAS, the City Council recognizes that public utilities represent long-term community investments that should not be transferred, sold, or leased without substantial public oversight; and

WHEREAS, the residents of Palm Coast benefit from transparency, accountability, and public participation in any major decision affecting core public infrastructure; and

WHEREAS, the City Council finds it in the best interest of the community to require both a supermajority vote of the Council and a citywide referendum before approving the sale, transfer, or long-term lease of any City-owned utility; and

WHEREAS, the City Council seeks to establish clear procedural safeguards ensuring that any such action is thoroughly vetted, publicly disclosed, and democratically approved;

WHEREAS, words with double underlined type shall constitute additions to the original text and ~~strike through~~ shall constitute deletions to the original text, and asterisks (* * *) indicate that text shall remain unchanged from the language existing prior to adoption of this Ordinance.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY OF PALM COAST, FLORIDA:

SECTION 1. LEGISLATIVE AND ADMINISTRATIVE FINDINGS. The above recitals (whereas clauses) are hereby adopted as the legislative and administrative findings of the City Council.

SECTION 2. AMENDMENT TO CHAPTER 49, UTILITIES, ARTICLE II REGULATION OF WATER AND SEWER UTILITIES, SECTIONS 49-31 (B) & 49-32 OF THE CODE OF ORDINANCES. That Chapter 49 Utilities, Article II Regulation of Water and Sewer Utilities, Section 49-31 (b) & Section 49-32 Definitions of the Code of Ordinances of the City of Palm Coast are hereby amended to read as follow:

Sec. 49-31. – Legislative findings.

(b) *Authority pertaining to water and sewer (wastewater) systems.*—~~The provisions of section 2 of Ordinance 2002-01 are amended to read as follows:~~

1. The City of Palm Coast reserves its unconditional statutory and constitutional right to acquire or purchase, or permit the City's designee to acquire or purchase, any utility, as defined by Section 367.021(12), Florida Statutes, located within the City Limits of the City of Palm Coast, and up to five (5) miles outside of its City Limits without seeking consent of any regulatory agency. The City of Palm Coast also reserves its unconditional statutory and constitutional right to approve the sale of any utility, as defined in Section 367.021(12), Florida Statutes, located within the City Limits of the City of Palm Coast and up to five (5) miles outside of its City Limits without seeking additional consent of any regulatory agency. No such utility may transfer the utility's ownership, franchise certificate, or facilities located within the City of Palm Coast, in whole or part, to any person or entity without obtaining the written approval of the City Council of the City of Palm Coast for such transfer which shall not be unreasonably withheld. The City of Palm Coast shall avail itself of all powers vested in the City under State law with regard to potable water services, wastewater services and sewage services, reclaimed and alternative water supply services, and all other services relating to the above.

2. No sale or transfer or long-term lease of a City-owned Utility shall be authorized unless the City Council approves such action by a supermajority vote and the action is approved by a majority of electors

voting in a Citywide referendum. The City Council's vote shall occur before the referendum is called. This subsection does not apply to routine sale of surplus property, disposal of obsolete assets, short-term contracts less than ten years, interlocal agreements not conveying ownership or control, or minor easements

3. Procedures. At least two public hearings in accordance with Florida Statute § 180.301 shall occur with notice published ten days in advance. Prior to the first hearing, the City Manager shall publish: (1) an independent valuation; (2) Fiscal impact analysis; (3) Service and regulatory analysis; (4) Summary of proposed agreement. A competitive process for the sale/transfer/long-term lease is required unless prohibited by law. The sell/transfer/long-term lease must comply with all bond and grant covenants.

4. Mandatory Debt Satisfaction. Any Sale or Transfer or long-terms Lease of a City-owned Utility shall required, as a condition precedent to closing, the full satisfaction, retirement, or defeasance of all outstanding debt, including but not limited to revenue bonds, master lease agreements, and interfund loans, attributable to the utility system being sold, transferred, or leased. All costs associated with the early retirements of such debts, including call premiums or prepayments penalties, shall be the responsibility of the purchaser or lessee and shall not be a liability of the City's general fund.

Sec. 49-32 – Definitions.

City – Owned Utility shall mean any utility system, enterprise, or function owned in whole or in part by the City, including without limitation potable water, wastewater, reclaimed water, stormwater utility systems, and any associated treatment, transmission, distribution, collection, storage, and real or personal property used primarily for utility purposes.

* * *

SECTION 3. SEVERABILITY. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 4. CODIFICATION. It is the intention of the City Council of the City of Palm Coast, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made a

part of the Code of Ordinances of the City of Palm Coast, Florida; that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; that the word, "Ordinance" may be changed to "Section," "Article," or other appropriate word.

SECTION 5. CONFLICTS. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 6. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its passage and adoption.

APPROVED on first reading this 17th day of February 2026.

ADOPTED on second reading after due public notice and hearing this 3rd day of March 2026.

ATTEST:

CITY OF PALM COAST

KALEY COOK, CITY CLERK

MICHAEL NORRIS, MAYOR

APPROVED AS TO FORM AND LEGALITY

MARCUS DUFFY, CITY ATTORNEY