



Village of Palm Springs

Executive Brief

AGENDA DATE: March 14, 2019

DEPARTMENT: Public Service

ITEM #32: Ordinance No. 2019-03 - Village Code Amendment - Chapter 78 - Utility Refunds and Connections to Utility System (First Reading)

SUMMARY: The Public Service Department is requesting an amendment to the Village Code - Chapter 78 - Article II "Water and Wastewater System utilities regulations to clarify and modify the ability of Village staff to issue refunds and provide supplemental regulations for the abandonment of septic tanks after connection to the Village wastewater collection system.

The purpose of the proposed utilities regulations amendments are to 1) clarify the threshold of approval for refunds to water and sewer accounts, aligning the threshold limits to those in the purchasing ordinance and 2) clarify potentially ambiguous language and to require the proper abandonment of onsite septic tanks, cesspools, and similar private sewage disposal facilities after connection to the Village wastewater collection system in accordance with Florida Administrative Code Section 64E-6.011. This includes obtaining all applicable permits from the Florida Department of Health in Palm Beach County and other appropriate agencies and pumping the septic tank dry, opening or rupturing the bottom so as to prevent the retainage of water, and filling the tank to the rim with clean sand or other suitable fill material or excavating and disposing of the tank and properly backfilling.

The proposed changes will provide clarity on the issuance of refunds as they relate to water and sewer accounts as well as help to ensure compliance with state and local regulations and the removal of the nutrient sources that are potentially harmful local waterways.

The proposed ordinance was prepared by the Village Attorney and reviewed by the Public Service Director/Engineer.

If approved on 1st reading, the proposed ordinance will be considered for 2nd and final reading by the Village Council at the April 11, 2019, Regular Council Meeting.

FISCAL IMPACT:

The proposed ordinance does not have a direct fiscal impact to the Village.

ATTACHMENTS:

1. Proposed Ordinance No. 2019-03 - Amendment to Utilities Regulations

ORDINANCE NO. 2019-03

AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING ITS CODE OF ORDINANCES BY AMENDING CHAPTER 78 “UTILITIES”, ARTICLE II “WATER AND WASTEWATER SYSTEM”, DIVISION 1 “GENERALLY”, SECTION 78-45 “UTILITY BILLING ADJUSTMENTS” TO CLARIFY AND MODIFY THE ABILITY OF VILLAGE STAFF TO ISSUE REFUNDS AS IT RELATES TO THE VILLAGE’S WATER AND WASTEWATER SYSTEM; AMENDING DIVISION 2 “CONNECTIONS”, SECTION 78-69 “CONNECTION REQUIRED” TO CLARIFY WASTEWATER CONNECTION REQUIREMENTS AND TO CLARIFY THAT ABANDONMENT OF SEPTIC SYSTEMS ARE REQUIRED WHEN CONNECTION HAS BEEN MADE TO THE VILLAGE’S WASTEWATER SYSTEM; PROVIDING FOR CODIFICATION, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Village desires to amend the existing regulations to clarify and provide for the ability of Village staff to issue refunds regarding the Village’s water and wastewater system; and

WHEREAS, the Village desires to amend the existing regulations to clarify wastewater connection requirements and to clarify the requirements that septic systems must be abandoned upon connection to the Village’s wastewater system; and

WHEREAS, the Planning & Zoning Board has found this ordinance to be consistent with the Village’s Comprehensive Plan and recommended approval; and

WHEREAS, the Village Council has reviewed the recommended ordinance and has determined that it is in the best interests and general welfare of the Village to adopt this Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA:

Section 1. The foregoing recitals are incorporated herein as true and correct findings of fact of the Village Council, and serve as a basis for adoption of this Ordinance.

Section 2. Chapter 78 “Utilities”, Article II “Water and Wastewater System”, Division 1 “Generally” Section 78-45 “Utility billing adjustments” is hereby amended as follows:

Sec. 78-45. - Utility billing adjustments.

- (a) *Adjustment for billing errors.* Customers shall be given credit if services were billed to the customer but not provided. Such credits will be limited to the current customer and shall not go back more than 12 months. When it is found that services have been provided to a customer but not billed, the customer shall be back billed, but for no more than twelve months; except for unauthorized connection, unauthorized use, or unauthorized tampering by the customer. In such instances back billing shall be from the date services were first provided but not billed to the current customer.
- (b) *Adjustment for leaks at the meter.* Excess water use due to a leak on the customer's side of the meter is the responsibility of the customer. The village will review each case and may apply a credit against the wastewater portion of the bill if the customer is able to present third party verification, such as a bill or letter from a state licensed plumber, that the leak existed and that the leak has been repaired. Credit shall be limited to the actual wastewater charge less the customer's average wastewater charge. The customer shall not be responsible for leaks at or within three feet of the meter box if the meter has been changed out or repaired by the village within the preceding three months and the cause of the leak cannot reasonably be attributed to actions by the customer.
- (c) *Filling residential swimming pools.* Customers may request an adjustment to their sewer bill by notifying the village prior to draining and refilling a residential swimming pool. Following notification the village will adjust wastewater charges based on the customer's average usage. No adjustment shall be provided for water usage. This adjustment may be requested only one time in a rolling 12-month period.
- (d) *Adjustment for damage due to acts of nature.* The village will grant customers an excessive use credit as described below if the customer can provide documentation, such as a copy of the insurance claim for water damage caused by a broken line, pictures of an uprooted tree, etc., resulting from acts of nature. This does not include broken lines resulting from root intrusion. An adjustment under this section may only be requested once in a rolling 12-month period.
- (e) *Excessive use credit.* An excessive use credit will be provided by the village at the customer's request for customers meeting the following criteria:
 - (1) The actual meter reading for one monthly billing cycle is three or more times the average monthly usage for the prior calendar year for the customer at that service location (or in the event the service location has less than twelve months' history, the average use for the months available for the same customer); and
 - (2) The abnormally high use is not the result of an apparent or deliberate act of the customer such as pool filling, frequent use of sprinklers, or hoses left running; and
 - (3) The excessive use credit is limited to one time within a three-year period on a specific account; and
 - (4) The billing in question has occurred within the past six months.

The excessive use credit will be applied to all water commodity charges in excess of the customer's average usage. The customer is responsible for paying the full cost of his/her average usage plus the minimum rate per 1,000 gallons for all water used in excess of their average usage.

(f) Refunds. Notwithstanding anything else provided in this Section, the Village Manager, or designee, shall be allowed to issue refunds to water and wastewater customers of the Village in the event there was an error on the part of the Village resulting in an overcharge to the customer.

The authority of Village staff to correct billing errors, make billing adjustments or issue refunds is as follows:

Refunds between \$0.00 to \$1000.00 must have the approval of the Utility Billing Manager
Refunds greater than \$1000.00 and up \$5000.00 must have the approval of the Public Services Director

Refunds greater than \$5000.00 must be approved by the Public Services Director, Finance Director and Village Manager

Section 3. Chapter 78 "Utilities", Article II "Water and Wastewater System", Division 2 "Connections" Section 78-69 "Connection required" is hereby amended as follows:

Sec. 78-69. - Connection required.

- (a) Every person who owns or occupies real property within ~~or outside the village and who is located within~~ the village's utility service area shall, within 90 days after being notified in writing by the village, connect to the village's water and/or wastewater system when such system is available within 100 feet of the real property.
- (b) ~~Every person who owns or occupies real property within and outside the village and who is located within the village's utility service area and is currently receiving water service shall, within 90 days after being notified in writing by the village, connect to the village's wastewater system if such connection is available within 100 feet of the real property.~~
- (eb) Any owner or occupant refusing, failing or neglecting to make such connections in accordance with the provisions of this section shall be in violation of this section. Violations of this section shall be enforced in accordance with chapter 2, code enforcement procedures, by the issuance of a code enforcement citation or notice of violation to the owner of the real property. If a citation is issued, the fine shall be \$200.00 for the first violation and \$500.00 for any repeat violation unless otherwise set by resolution or the special magistrate. Each day of violation shall be considered a separate offense. Further, any violation of the provisions of this section may be prosecuted by the village in county court as a misdemeanor of the second degree

and punished by a fine of not more than \$500.00 and/or imprisonment in the county jail for not more than 60 days. The village shall also be entitled to take any other appropriate legal action, including, but not limited to, cease and desist orders, other administrative action and requests for temporary and permanent injunctions to enforce the provisions of this section. It is the purpose of this subsection to provide additional cumulative remedies to the village to enforce this section.

(dc) Any owner or occupant refusing, failing or neglecting to make such connections in accordance with the provisions of this section shall, nevertheless, be charged with the applicable minimum water and wastewater charges established and set forth in this article.

(ed) For property owners desiring to connect to the village's water and wastewater system or for property owners required to connect to the village's water and wastewater system, the property owner may make application for an installment plan subject to the public services director's or designee's approval. The installment plan shall include those connection charges as authorized by the public services director or designee. The property owner shall agree to all terms and conditions in the installment plan agreement. When the installment plan agreement is approved by the public services director or designee, the agreement shall be recorded in the official records for Palm Beach County and shall become a lien upon the property superior to all liens, titles and claims except federal and state taxes and shall remain in full force and effect until the installment plan is paid in full. During the term of the installment plan, the property owner must maintain all utility accounts for the subject property in his or her name. A new account for the property shall not be opened until the installment plan is paid in full. Failure to pay any amount due under the installment plan shall result in a late fee and may result in discontinuance of all utility service to the property.

(e) At the time of connection to the Village's wastewater system, any septic tanks, cesspools, and similar private sewage disposal facilities shall be properly abandoned as required by Florida Administrative Code Section 64E-6.011 and as set forth herein. To abandon a septic tank, cesspool or other disposal facility, the owner is hereby required, at his/her expense, to have obtained all applicable permits from the Palm Beach County Department of Health and other appropriate agencies and to have such septic tank pumped dry, the bottom opened or ruptured so as to prevent retainage of water, filled to the rim with clean sand or other suitable fill material or excavated and disposed of and properly backfilled. Any owner or occupant refusing, failing or neglecting to properly abandon any septic tanks, cesspools, and similar private sewage disposal facilities in accordance with the provisions of this section shall be in violation of this section. Violations of this section shall be enforced as set forth in Subsection (b) above.

(f) The Village may initiate an annexation of private property if said right has been delegated via provisions of a water service agreement or other agreement to that end.

Section 4. Codification. This ordinance shall be codified in the Code of Ordinances of the Village of Palm Springs, Florida.

Section 5. Repeal of Conflicting Ordinances. All ordinances, resolutions or parts of ordinances and resolutions in conflict with this Ordinance are hereby repealed.

Section 6. Severability. If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance.

Section 7. Effective Date. This Ordinance shall become effective immediately upon adoption.

Council Member _____, offered the foregoing Ordinance, and moved its adoption. The motion was seconded by Council Member _____, and upon being put to a vote, the vote was as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
BEV SMITH, MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DOUG GUNTHER, VICE MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JONI BRINKMAN, MAYOR PRO TEM	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PATTI WALLER, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GARY READY, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The Mayor thereupon declared this Ordinance approved and adopted by the Village Council of the Village of Palm Springs, Florida, on second reading, the _____ day of _____, 2019.

VILLAGE OF PALM SPRINGS, FLORIDA

BY: _____
BEV SMITH, MAYOR

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First Reading: _____

Second Reading: _____

ATTEST:

BY: _____
KIMBERLY M. WYNN, VILLAGE CLERK

REVIEWED FOR LEGAL FORM AND SUFFICIENCY

BY: _____
GLEN J. TORCIVIA, VILLAGE ATTORNEY



Village of Palm Springs

Executive Brief

AGENDA DATE: March 14, 2019

DEPARTMENT: Planning, Zoning & Building

ITEM #33: Temporary License Agreement - Two (2) Storage Trailers - 3945 Davis Road (Red Rhino Leak Detection & Bayside Pool)

SUMMARY: Mr. Mark Marino, the property owner as well as President of Red Rhino Leak Detection, Inc. and Operator of Bayside Pool Services, Inc.), is requesting temporary approval to continue utilizing two, 8'x45' storage containers for business-related materials and equipment (i.e., pool pumps, etc.) as outdoor storage storage on their property located on 3945 Davis Road. At this time, the applicant is unable to accommodate the materials within their existing building.

As a result, the Applicant is requesting to be approved for a Temporary License Agreement with the Village and to continue utilizing the on-site storage containers for an additional two (2) year period. Temporary, accessory uses are permissible within the Village's Code for up to five (5) years per Section 34-829 of the Code, renewable at the option of the Village.

Note: The Applicant was previously granted approval, on three (3) separate occasions, a 1-year Temporary License (January 2012) followed by two, 2-year Temporary License Agreements (September 2014 & September 2016) to provide time to prepare and file a site plan application with the Village to expand their building to accommodate their storage needs. The most recent Temporary License Agreement expired on September [REDACTED], 2018. As a result, this property has utilized these on-site containers for this temporary use for more than six (6) years with five-years under an approved Temporary License Agreement.

The Village's Code - Section 34-829 – Temporary licensing of certain uses. provides that notwithstanding any other provision of this subdivision, including section 34-823, the land development director, or as provided in this section, the village council, for good cause shown, may grant a temporary license for an establishment in the CG district, not exceeding five years from the approval date, renewable at the option of the village, for certain uses identified in this subdivision.

Note: Requests for temporary uses are brought to the Village Council for input prior to the administrative action of the Planning, Zoning & Building Director.

Staff maintains a concern with recommending approval for a temporary license for an extended period; however, in an effort to assist this local business, staff would recommend granting the applicant approval for a 1-year Temporary License Agreement (rather than the 2-years that was requested). Further, staff would request a condition that, if approved, this would be the last request