



Agenda Item # R - 1

**Village of Royal Palm Beach
Village Council
Agenda Item Summary**

Agenda Item:

PUBLIC HEARING FOR SECOND READING AND ADOPTION OF ORDINANCE NO. 1009, AMENDING CHAPTER 24. UTILITIES. AT SECTION 24-27. AUTHORITY FOR SERVICE CHARGES. IN ORDER TO ADD LANGUAGE ALLOWING EXEMPTION FROM THE IMPOSITION OF THE STORMWATER UTILITY FEE; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUB-SECTION OF CHAPTER 24. UTILITIES. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. BY VILLAGE MANAGER RAY LIGGINS.

Issue:

The Village of Royal Palm Beach has historically imposed and collected a stormwater utility fee from the Palm Beach County School Board pursuant to Section 24-27 of the Village Code and Chapter 403, *Florida Statutes*. However, recent litigation upheld by Florida's Fourth District Court of Appeals created the legal precedent that the School Board is entitled to sovereign immunity from the payment of stormwater fees (City of West Palm Beach v. Sch. Bd. of Palm Beach County, 264 So. 3d 195 (Fla. 4th DCA 2019)).

Ordinance No. 1009 amends Chapter 24. Utilities. of the Village's Code of Ordinances in order to conform with this new law.

Recommended Action:

Upon Council review, staff recommends a motion to approve Ordinance No. 1009 on second reading.

Initiator:	Village Manager	Agenda Date	Village Council
Village Manager	Approval	12-17-2020	Action

ORDINANCE NO. 1009

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, FLORIDA, AMENDING CHAPTER 24. UTILITIES. OF THE CODE OF ORDINANCES OF THE VILLAGE OF ROYAL PALM BEACH AT ARTICLE III. STORMWATER MANAGEMENT UTILITY., SECTION 24-27. AUTHORITY FOR SERVICE CHARGES. IN ORDER TO ADD LANGUAGE ALLOWING EXEMPTION FROM THE IMPOSITION OF THE STORMWATER UTILITY FEE; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUB-SECTION OF CHAPTER 24. UTILITIES. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Village of Royal Palm Beach (“Village”) has historically imposed and collected a stormwater utility fee from the Palm Beach County School Board (“School Board”) pursuant to Section 24-27 of the Village Code and Chapter 403, Florida Statutes; and

WHEREAS, recent litigation upheld by Florida’s Fourth District Court of Appeals created the legal precedent that the School Board is entitled to sovereign immunity from the payment of stormwater fees (City of West Palm Beach v. Sch. Bd. of Palm Beach County, 264 So. 3d 195 (Fla. 4th DCA 2019)); and

WHEREAS, the Village Council desires to amend Chapter 24. Utilities. of the Village’s Code of Ordinances in order to conform with this new law; and

WHEREAS, the Village of Royal Palm Beach has held all required public hearings and has provided public notice in accordance with applicable State statutes and Village ordinances; and

WHEREAS, the Village Council of the Village of Royal Palm Beach has determined that the proposed revisions to Chapter 24. Utilities. of the Village Code of Ordinances are in the best interests of the general welfare of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, FLORIDA, THAT:

Section 1: Chapter 24. Utilities. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article III. Stormwater Management Utility., Section 24-27. Authority for service charges. in order to add language allowing exemption from the imposition of the stormwater utility fee; providing that Section 24-27. Authority for service charges. shall hereafter read as follows:

Sec. 24-27. – Authority for service charges.

- (a) *Authorization.* The stormwater management utility is empowered by this article to establish charges for the use and discharge to the village's stormwater management system. Such charges shall be based on the cost of providing stormwater management services to all developed property within the village and may be different for properties receiving different classes of service.
- (b) *Rates for stormwater management service.* There is charged to all owners or occupants of real property in the village, unless otherwise exempt by law, with improvements or uses thereon which contribute stormwater runoff to the village's stormwater management system, a monthly fee as established by resolution of the village council in accordance with the following definitions:
- (1) *Residential customer.* Each single-family property and each multifamily or condominium dwelling unit shall be considered one ERU for billing purposes.
- (2) *Nonresidential/commercial customer.* Nonresidential/commercial property service charge shall be:
- Number of ERU's = Impervious area divided by ERU impervious area*
- A minimum value of 1.0 ERU shall be assigned to each nonresidential/commercial customer. The ERU calculation shall be rounded to the nearest 0.1 ERU.
- (3) Monthly service charge = (No. of ERU's) x rate/ERU.
- (4) *Application to all developed properties.* Service charges shall apply to all developed property within the village using the village's stormwater management system, unless otherwise exempt by law.
- (5) *Undeveloped property.* Stormwater management service charges shall not be charged to undeveloped property.
- (c) *Billing.* The fees imposed by this article shall be billed on a monthly basis and shall be billed in conjunction with the customer's monthly water bill issued by Palm Beach County Water Utilities unless otherwise provided for herein.

Section 2: Each and every other Section and Sub-section of Chapter 24. Utilities. shall remain in full force and effect as previously enacted.

Section 3: All Ordinances or parts of Ordinances in conflict be and the same are hereby repealed.

Section 4: Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 5: Specific authority is hereby granted to codify this Ordinance.

FIRST READING this 19th day of November, 2020.

SECOND AND FINAL READING this 17th day of December, 2020.

VILLAGE OF ROYAL PALM BEACH

MAYOR FRED PINTO

(Seal)

ATTEST:

DIANE DISANTO, VILLAGE CLERK