

TAB 3



City of Palmetto Agenda Item

Meeting Date

July 2, 2012

Presenter: Mark P. Barnebey/Allen Tusing

Department: City Attorney/Public Works Director

Title: Ordinance 2012-13 – Provision of utility sources for parcels outside of the City limit owned by a Florida not-for-profit entity.

Background:

The City Code does not generally allow the provision of utility services to parcels or lots located outside of the City unless the lot or parcel is annexed into the City. The City Commission has expressed an interest in considering allowing the providing of city utility services to those lots or parcels if they are annexed by a Florida not-for-profit entity.

Discussion:

Ordinance 2012-13 allows the City Commission to permit the connection of lots or parcels outside of the City without annexing into the City. Section 29-07 addresses utility services generally. Section 29-115 addresses reuse facilities. The City Commission will have to approve the connection. Not-for-profit corporations will be required to enter into an agreement to annex if the property is ever owned by something other than a not-for-profit.

Budgeted Amount: \$0.00 **Budget Page No(s):** **Available Amount:** \$0.00 **Expenditure Amount:** \$0.00

Additional Budgetary Information: _____

Funding Source(s): _____ **Sufficient Funds Available:** Yes No **Budget Amendment Required:** Yes No **Source:** _____

City Attorney Reviewed: Yes No N/A **Advisory Board Recommendation:** For Against N/A **Consistent With:** Yes No N/A

Potential Motion/Direction Requested: Adopt Ordinance 2012-13

Staff Contact: _____

Attachments: _____

ORDINANCE 2012-13

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING THE PALMETTO CODE OF ORDINANCES; PROVIDING FOR AMENDMENT OF REGULATIONS RELATING TO THE PROVISION OF CITY UTILITY SERVICES TO LOTS OR PARCELS LOCATED OUTSIDE OF THE CITY LIMITS; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the Florida Constitution provides that municipalities shall have governmental, corporate and proprietary powers to enable municipalities to conduct municipal government, perform municipal functions and render municipal services; and,

WHEREAS, pursuant to the referenced provision of the Florida Constitution, a city may exercise any power for municipal purposes except as otherwise provided by law; and,

WHEREAS, Chapter 166, Florida Statutes, the "Municipal Home Rule Powers Act," implements the applicable provisions of the Florida Constitution and authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by law and to enact ordinances in furtherance thereof; and,

WHEREAS, the City of Palmetto in 2004 amended its Code to generally prohibit a lot or parcel outside the city limits from receiving City services unless the lot or parcel annexes into the City; and

WHEREAS, for certain not-for-profit organizations the City Commission has determined that it may be advisable to allow connection to City services without having to annex the property into the City; and

WHEREAS, consistent with the findings stated above, the City Commission has determined that adoption of this ordinance is in the best interest of the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PALMETTO, FLORIDA, as follows:

Section 1. **Findings of Fact.** The above “WHEREAS” clauses are adopted herein as findings of fact.

Section 2. **Amendment Language and Effect on Other Subsection Language.**

(a) ~~Section 4-2 of the City of Palmetto Code of Ordinances is hereby amended to add a new Subsection (d) which shall read~~Subsection (d) of Section 29-7 of the City of Palmetto Code of Ordinances is hereby amended to read in its entirety -as follows:

(d) In order for a lot or parcel of land to receive any form of utility service from the city, it must be located within the city limits or contiguous to the city limits and consents to being annexed into the city; except that:

(i) those lots or parcels located outside the city limits and receiving utility services from the city on October 1, 2004, that have not so consented at the time of approval of this article shall continue to receive such services from the city; and

(ii) those lots or parcels owned by a Florida not-for-profit corporation located outside of the city limits may be permitted to receive some or all utility services with City Commission approval, if it is in the best interest of the city.

Alternatively, if a lot or parcel is not contiguous to the city limits so as to permit voluntary annexation by the owner, then the owner must execute a valid and binding annexation agreement with the

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city whereby the owner agrees to and authorizes annexation of the property once the lot or parcel is contiguous and subject to voluntary annexation as allowed by state law. If a lot or parcel is owned by a Florida not-for-profit corporation and permitted by the commission to receive city utility services, then the owner must execute a valid and binding annexation agreement with the city whereby the owner agrees to and authorizes annexation of property once the property is transferred to a person or corporation which is not a Florida not-for-profit corporation. Such annexation agreements shall be recorded by the city in the county public records.

(c) Amend Section 29-115 to read in its entirety as follows:

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After the effective date of this article and except as excluded below, the delivery of reclaimed water services to users shall only be available to lots and parcels located within the city's corporate limits. **Annexation** to the city is a condition precedent to the extension of reclaimed water service to any applicant in the unincorporated area of the county. An exception to the foregoing may be granted by the city ~~council~~commission upon recommendation of the mayor and the public works director for parcels owned by a Florida not-for-profit corporation, agricultural operations, spray fields or major volume users located out of the city when it is in the best interest of the city to service those customers or parcels. The city, pursuant to Section 29-105, may adopt rules and regulations to address service requirements. Additionally, the following specific requirements shall apply to any service application:

- (1) No connection to the city reclaimed water system shall be permitted without either a written reuse agreement or a completed application for service with the city as provided for herein. All connections shall utilize a cross-connection or backflow prevention control device as approved by city.
- (2) The application for service shall be on a form provided by the city and shall be filed with the public works department. The application fee shall be established by resolution.
- (3) The city shall inspect each property prior to connection to the reclaimed water system. The inspection shall include at least the following:

- a. A review of the information in the written agreement or application for service;
- b. A review of all applicable construction specifications;
- c. Utilization of and establishment of a cross-connection or backflow prevention control device review; and
- d. Such other matters and the director shall determine to be applicable.

Section 3. Repeal of Inconsistent Ordinances. This Ordinance hereby repeals all ordinances, or parts thereof, in conflict herewith to the extent of such conflict.

Section 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 5. Effective Date. This Ordinance shall take effect as provided for by law and by City Charter, Section 14, upon execution by the Mayor or, if disapproval occurs, upon reconsideration by the City Commission and passing of the Ordinance by at least four (4) votes.

FIRST READING	
PUBLICATION DATE	
SECOND READING	

PASSED AND DULY ADOPTED, BY THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, with a quorum present and voting, in regular session assembled, this 2nd day of July, 2012.

By: _____
Shirley Groover Bryant, Mayor

ATTEST:

By: _____
James R. Freeman, City Clerk