

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: July 22, 2014 Consent [] Regular [X]
Department: Water Utilities Department Public Hearing []

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve on preliminary reading and to advertise for Public Hearing on August 19, 2014 at 9:30 a.m.: an Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending Palm Beach County Code Chapter 27, Article X, Water Utilities Tampering; amending Section 27-206, Penalties for Service Account Holders; providing for repeal of laws in conflict; providing for severability; providing for inclusion in the code of laws and ordinances; and providing for an effective date.


Summary: On May 18, 2010, The Board of County Commissioners (Board) approved the Tampering Ordinance (2010-014) allowing the Water Utilities Department (Department) to assess fines for tampering with or making unauthorized connections to the Department's utility system. The Tampering Ordinance (2010-014) as it exists requires for the first offense and all subsequent offenses be subject to \$400 fines and any administrative, testing, inspection, and court costs. However, the Department's experience since the enactment of the Tampering Ordinance (2010-014) has been that many of the first offenses have not been either deliberate or egregious. The proposed amendment will reduce the fine for a first offense for service account holders for tampering and unauthorized connections, and also allow the Department to impose costs for damages to the utility system or assets on the service account holder. These penalties are more conducive to the level of tampering and unauthorized connections for service account holders. The following fines shall be imposed on a service account holder: \$50 for a first occurrence and \$400 for any subsequent occurrences. The failure to pay any fees in accordance with this section may be subject to all delinquent account procedures of the utility, including the filing of a lien against any property for which a service account exists. Countywide (MJ)

Background and Policy Issues: The Board approved the Tampering Ordinance (2010-014) on May 18, 2010, allowing the Department to assess fines for tampering with or making unauthorized connections to the Department's utility system. However, even with the current fines in place, tampering and unauthorized connections are still occurring. The Department feels that the changes to the Tampering Ordinance allow for fines more conducive for the level of tampering and unauthorized connections for service account holders and that progressive fines will serve as the same level of deterrent as the existing fine.

Attachments:

- 1. Amended Ordinance - Blackline Version
- 2. Amended Ordinance - Clean Version

Recommended By:  6/18/14
Department Director Date

Approved By:  6/25/14
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2014	2015	2016	2017	2018
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Operating Expenses	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match County	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Budget Account No.: Fund ___ Dept ___ Unit ___ Rsrc ___

Is Item Included in Current Budget? Yes No X

Reporting Category N/A

B. Recommended Sources of Funds/Summary of Fiscal Impact:

Fiscal Impact is undeterminable at this time.

C. Department Fiscal Review: Delora M. West

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

[Signature]
OFMB
6/25/14

[Signature]
Contract Development and Control
6/23/14

B. Legal sufficiency:

[Signature] 6/25/14
Assistant County Attorney

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

ORDINANCE NO. 2014-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING PALM BEACH COUNTY CODE CHAPTER 27, ARTICLE X, WATER UTILITIES TAMPERING; AMENDING SECTION 27-206, PENALTIES FOR SERVICE ACCOUNT HOLDERS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on May 18, 2010, the Board of County Commissioners adopted the Palm Beach County Water Utilities Tampering Ordinance ("Tampering Ordinance") as a deterrent to tampering with and unauthorized connections to the Palm Beach County Water Utilities Department's potable water, wastewater, and reclaimed water systems; and

WHEREAS, the Board of County Commissioners wishes to make certain changes to the penalties set forth in the Tampering Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Section 1. Chapter 27, Article X, Section 27-206, is hereby amended as follows:

Sec. 27-206. Penalties for service account holders.

In those instances where a violation of this article results in the unauthorized provision of utility service to any dwelling unit, place of business, or other building with a service account with the utility, or (b) otherwise is related to a utility asset connected with a service account, the following fines ~~set forth in Section 8.5-26, Schedule A,~~ may shall be imposed on said service account: \$50 for a first occurrence; \$400 for any subsequent occurrences. In addition, said service account may be subject to discontinuance until such violation is discontinued, full payment is made for the fine, full payment is paid for such unpaid utility service calculated on proper classification and rate schedules, and reimbursement in full is made to the utility for any extra expenses incurred by the utility as the result of such unauthorized use, including but not limited to, damages to the utility system or any utility asset, administrative costs, testing, inspections, court costs, and attorneys fees. The failure to pay any fees in accordance with this section shall be subject to all delinquent account procedures of the utility, including the filing of a lien against any property for which a service account exists.

Section 2. REPEAL OF LAWS IN CONFLICT:

All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

1 **Section 3. SEVERABILITY:**

2 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason
3 held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall
4 not affect the remainder of this Ordinance.

5 **Section 4. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

6 The provisions of this Ordinance shall become and be made a part of the Palm Beach County
7 Code. The sections of this Ordinance may be renumbered or relettered to accomplish such, and the
8 word "ordinance" may be changed to "section", "article", or other appropriate word.

9 **Section 5. EFFECTIVE DATE:**

10 The provisions of this Ordinance shall become effective upon filing with the Department of
11 State.

1 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida,
2
3 on this the ____ day of _____, 2014.

4
5 SHARON R. BOCK, CLERK
6 AND COMPTROLLER

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

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9
10 By: _____
11 Deputy Clerk

By: _____
Priscilla A. Taylor, Mayor

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15 APPROVED AS TO FORM AND
16 LEGAL SUFFICIENCY

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20 By: _____
21 County Attorney

22
23 EFFECTIVE DATE: Filed with the Department of State on the ____ day of _____,
24 2014.

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