

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA, AT CHAPTER 90 (UTILITIES), ARTICLE II (WATER), DIVISION 1 (GENERALLY), TO AMEND AND RESTATE SECTION 90-32 (WATER METERS) AND SECTION 90-34 (VIOLATIONS) TO REQUIRE CLEAR ACCESS TO WATER METERS AND ESTABLISH PROVISIONS FOR VIOLATIONS; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City Commission of the City of West Palm Beach is vested with the authority to adopt ordinances to protect the health, safety and welfare of the City's inhabitants and visitors; and

WHEREAS, the City Commission has previously enacted ordinances and regulations regarding the City's drinking water system and the requirements for water meters; and

WHEREAS, City Public Utilities Department personnel require clear and safe access to water meters for their own safety and to provide customers with accurate water bills; and

WHEREAS, obstacles and impeded access to water meters is an increasing problem for Public Utilities Department personnel; and

WHEREAS, the City Commission finds that it is in the best interest of safety to ensure safe access to the City's water meters; and

WHEREAS, the City Commission finds that clear access to water meters benefits the customer by ensuring accurate water meter readings; and

WHEREAS, the City Commission desires to amend the City's Code of Ordinances to provide for clear and safe access to the City's water meters.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, that:

SECTION 1: The City Commission hereby makes the following findings:

1. It is in the best interest of safety to ensure safe access to the City's utility equipment and facilities for City personnel.
2. Access to water meters benefits the customer by ensuring accurate water meter readings.

SECTION 2: Chapter 90 (Utilities), Article II (Water), Division 1 (Generally), Section 90-32 (Water Meters) of the Code of Ordinances is hereby amended to add subheadings and subsection (d) regarding access to meters, and is re-stated in its entirety, and shall now read as follows:

Sec. 90-32. - Water meters.

- (a) Meter required. All premises using the city water supply must be equipped with an adequate water meter furnished by the city but paid for by the consumer. Before any premises are occupied, a water meter shall be installed at such premises as required in this article or application made for such water service at the flat rate of charge until the meter can be installed, or no water shall be furnished such premises.
- (b) Location. Meters shall be installed in a location that will be easy to access.
- (c) Testing. Any municipal water meter shall be taken out and tested upon complaint of the consumer, upon payment of a meter test fee established by resolution of the city commission. If upon testing the meter is not within three percent of being accurate, it shall be repaired or replaced and the meter test fee returned to the consumer.
- (d) Access to meter.
 - (1) Authorized city personnel shall have access at all reasonable hours to all premises equipped with a city water meter for the purpose of installing, reading, maintaining, repairing, inspection and removal of meters.
 - (2) The property owner shall provide clear access to the meter and shall maintain the area in and around the meter, and a path to the meter, that is free and clear of debris, bushes, overgrown landscape materials and other obstacles to provide clear physical access to the meter. Animals must be secured inside the house or building or inside a fenced area away from the meter.
 - (3) If physical access to the meter or other city utility equipment or facility is not free and clear, the city shall have the right and authority to take any reasonable physical action to secure access and remove obstacles, pursuant to sec. 90-14 of this chapter.
 - (4) If the city is unable to access the meter to take a reading, the customer may receive an estimated bill based on past usage.

SECTION 3: Chapter 90 (Utilities), Article I (In General), Section 90-14 (Access) of the Code of Ordinances is hereby created and shall read as follows:

Sec. 90-14. - Access.

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- (a) As a condition of receiving city utility service, every property owner and utility customer shall grant the city the right to enter the premises for the purpose of providing city utility service and installing, reading, maintaining, repairing, inspecting and removing city utility equipment and facilities. A recorded utility easement shall not be required. Entrance on the premises for these purposes shall not be considered trespass.
- (b) If physical access to the meter or other city utility equipment or facility is not free and clear, the city shall have the right and authority to take any reasonable physical action to secure access and remove obstacles, including but not limited to, breaking any lock, removing any gate, removing a portion of any fence, and restraining any dog or animal that prevents, interferes with or otherwise impedes access to a meter. The city shall not be liable for damage to property as long as the city makes a reasonable effort to minimize damage.
- (c) Before the city takes physical action to remove obstacles, the city shall provide the property owner, and the customer (if different), with a minimum of 10 days written notice, by regular mail, sent to the address listed on the water account, to provide access and remove all obstacles. However, in the event of an emergency and when necessary to protect the health, safety and welfare of the public or the customer, the city may immediately take all necessary physical action to remove obstacles to the meter or city utility equipment and facilities in order to make repairs or take necessary actions without providing notice or the opportunity to clear access.
- (d) Any reasonable expense incurred by the city in securing access to its water meter, equipment or facilities shall be the responsibility of the property owner, and if not paid within 30 days of written demand, may become a lien against the property until paid, in accordance with sec. 90-5.

SECTION 4: Chapter 90 (Utilities), Article II (Water), Division 1 (Generally), Section 90-34 (Violations) of the Code of Ordinances is hereby amended to add subsection (b) regarding access to utility equipment, and shall now read as follows:

Sec. 90-34. - Violations.

- (a) *Disconnection.* Any violation of, or failure to comply with, this division or any of the rules and/or regulations set forth in the current Manual for Cross-Connection Control, as adopted in section 90-33, shall be grounds for disconnection of water service to the premises by the public utilities director.
- (b) *Access to meter or facilities.* In addition to any other provision of this code, any property owner or customer who fail to provide clear access to the property water meter, city utility equipment or facility, after notice provided pursuant to sec. 90-14 or 90-32, will be subject to an administrative access fee, per occurrence, as established by resolution of the city commission, and may be subject to a code enforcement citation and hearing before a

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special magistrate as provided in chapter 26 of this code. Such fees and fines shall be in addition to any expenses charged to the property owner pursuant to sec. 90-14.

SECTION 5: Authority is hereby granted to codify the text amendments set forth in Sections 2, 3 and 4 of this Ordinance.

SECTION 6: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7: Should any section or provision of this Ordinance or any portion, 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 8: This Ordinance shall take effect in accordance with law.

[SIGNATURES ON FOLLOWING PAGE]

FIRST READING THIS 29TH DAY OF JANUARY 2018.

SECOND READING AND PASSAGE THIS 12TH DAY OF FEBRUARY 2018.



ATTEST:

X

Hazeline F. Carson

CITY CLERK

Signed by: Hazeline F Carson

**CITY OF WEST PALM BEACH BY
ITS CITY COMMISSION:**

X

Geraldine Muoio

PRESIDING OFFICER

Signed by: Geraldine Muoio

**APPROVED AS TO FORM AND
LEGALITY:**

2/10/2018

X

Nancy Urcheck

CITY ATTORNEY

Signed by: Nancy DeSimone Urcheck