

**ORDINANCE NO. 2010-26**

**AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING CHAPTER 78, UTILITIES, ARTICLE II, WATER AND WASTEWATER SYSTEM, DIVISION 1, GENERALLY, AND DIVISION 4, BACKFLOW PREVENTION DEVICES; PROVIDING DEFINITIONS; PROVIDING SPECIAL ASSESSMENT LIENS FOR DELINQUENT CHARGES AND FEES; CREATING A NEW CROSS CONNECTION CONTROL PROGRAM; PROVIDING FOR A PURPOSE; PROVIDING FOR A CROSS CONNECTION CONTROL MANUAL; PROVIDING FOR INSTALLATION LOCATIONS, EXPENSE, INSPECTION AND ENTRY; PROHIBITING CROSS CONNECTIONS; PROVIDING FOR VIOLATIONS AND PENALTIES; PROVIDING AN INTERPRETATION; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; AND, PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Pursuant to Chapter 166 and Chapter 180, Florida Statutes, the Village of Palm Springs has the power to establish regulations for its water and wastewater system within the municipal boundaries and service area of its water and wastewater system; and,

**WHEREAS**, the Village desires to create a Cross Connection Control program to address cross connection and backflow issues for its system and make some minor amendments to the system's regulations; and,

**WHEREAS**, the Village finds that the establishment of a Cross Connection Control program and the amendments set forth herein are of extreme public importance for both the health and welfare of the citizens, as well as the protection of the environment; and,

**WHEREAS**, the Village finds that the creation of the Cross Connection Control program and the amendments set forth herein to the regulations for the Village water and wastewater system serve a valid public purpose.

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

**Section 1.** The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance upon adoption thereof.

**Section 2.** Chapter 78, Utilities, Article II, Water and Wastewater System, Division 1, Generally, of the Code of Ordinances of the Village of Palm Springs, Florida, is hereby amended to add the following definitions to Section 78-31:

Customer Class: For purposes of this chapter, the term means a classification given to a particular customer for calculation of applicable charges and fees and which shall be one of the following:

(1) Residential: Shall be a customer with four (4) or less residential units.

(2) Multi-Family: Shall be a customer with five (5) or more residential units.

(3) Commercial: Shall be any customer that is not residential or multi-family as defined herein and shall be any customer that has both commercial and residential uses behind a common meter.

**Section 3.** Chapter 78, Utilities, Article II, Water and Wastewater System, Division 1, Generally, of the Code of Ordinances of the Village of Palm Springs, Florida, is hereby amended to add the following as subsection (e) of Section 78-41 (underlined language is added and strike-through language is deleted):

Sec. 78-41. Violations; notice; ~~and~~ termination of service; and delinquent charges and fees as special assessment liens.

(e) Except as provided in Section 180.135, Fla. Stat., all charges and fees assessed under this article which are not paid when due shall constitute, and are hereby imposed as, special assessment liens against the real property receiving water and/or wastewater service and, until fully paid and discharged, shall remain liens equal in rank and dignity with the lien of state or county taxes and superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property involved. Such liens may be foreclosed or enforced as provided in Chapter 170 or Chapter 173, Fla. Stat. Interest shall accrue on said liens at an amount not to exceed eight percent (8%) per year.

**Section 4.** Chapter 78, Utilities, Article II, Water and Wastewater System, Division 4, Backflow Prevention Devices, of the Code of Ordinances of the Village of Palm Springs, Florida, is hereby amended as follows (underlined language is added and strike-through language is deleted):

~~Backflow Prevention Devices~~ Cross Connection Control Program

Sec. 78-131. Purpose. Required.

~~Sec. 78-131. Required.~~

~~(a) *New users.* The following new users of the village's water system shall install and maintain appropriate backflow prevention devices:-~~

- ~~(1) All commercial or industrial users.~~
- ~~(2) All users located in a building that is two or more stories in height.~~
- ~~(3) All users having a fire line connected to the village's water system, with the backflow prevention device to be installed in the fire line.~~

~~(b) *High-risk users.* It is recognized that certain existing users of the village's water system may pose a high risk to the system. Accordingly, all existing commercial and/or industrial users shall, within six months of receipt of notice from the village, install and maintain appropriate backflow prevention devices, the type and size of which is to be determined by the village. High-risk users shall include all commercial and/or industrial users, such as, but not limited to, the following:-~~

- ~~(1) Nursing homes;~~
- ~~(2) Hospitals;~~
- ~~(3) Medical offices;~~
- ~~(4) Dental offices;~~
- ~~(5) Mortuaries;~~
- ~~(6) Funeral parlors;~~
- ~~(7) Restaurants;~~
- ~~(8) Sewage lift stations;~~
- ~~(9) Automobile paint shops;~~
- ~~(10) Automobile body shops;~~
- ~~(11) Radiator repair shops;~~
- ~~(12) Waterfront facilities;~~
- ~~(13) Veterinary establishments;~~
- ~~(14) Manufacturing and processing plants;~~
- ~~(15) Car washes;~~
- ~~(16) Chemical plants;~~
- ~~(17) Film laboratories;~~
- ~~(18) Laundries;~~
- ~~(19) Dry cleaning establishments;~~
- ~~(20) Pest exterminating companies;~~
- ~~(21) Automobile filling and service stations;~~
- ~~(22) Schools with laboratories;~~

~~(23) Any commercial and industrial user handling, on a continuing or frequently recurring basis, corrosive, toxic, infectious, radioactive or other substances that would be a health hazard if such substances entered the drinking water supply;~~

~~(24) Any user located in a building that is two or more stories in height; and~~

~~(25) Any user having a fire line connected to the village's water system, with the backflow prevention device to be installed in the fire line.~~

~~(c) Exemptions. Single family and multifamily residential structures are exempt from the requirements of subsections (a) and (b) of this section unless the village determines that a special health hazard exists.~~

~~(d) Type and size. The type and size of each required backflow prevention device will be determined by the village.~~

~~(e) Grounds for termination of water service. The failure of a user of the village's water system to install or maintain backflow prevention devices as provided in this division will be grounds for termination of water service. In the case of an immediate hazard to the public health, water service may be terminated without notice, but upon request, the user will be entitled to a prompt hearing to determine the propriety of the termination.~~

~~(Code 1994, § 66-121)~~

The purpose of the Cross Connection Control program is to protect the health, safety, and welfare of those persons consuming potable water from the Village's water system through preventing water borne diseases and contaminants from entering the public water system. The program is intended to prevent water from private plumbing systems, which could contain water borne diseases and contaminants, from entering the public water system through backflow or cross connection.

Sec. 78-132. Cross Connection Control Manual adopted. ~~Testing.~~

~~(a) All required backflow prevention devices shall be tested upon installation and thereafter at least once per year by an individual employed by a licensed plumbing contractor and certified to test and repair backflow prevention devices.~~

~~(b) If a user of the village's water system fails to have a required backflow prevention device tested within 30 days of receipt of notice from the village, the village may have the device tested and charge the user a reasonable fee for such testing. In the alternative, the village may issue a second notice to have the device tested. The failure to do so within 30 days of receipt of such notice will be grounds for termination of water service.~~

~~(c) If a backflow prevention device fails a test required by this section, the user of the village's water system shall, within 14 days of receipt of notice of such failure, have the device repaired and submit certification of proper operation to the village. The failure to do so will be grounds for termination of water service.~~

In compliance with the rules of the Florida Department of Environmental Protection, Section 62-555.360, F.A.C., the recommended practices set forth therein and other applicable rules and regulations, the Village hereby adopts a Cross Connection Control manual ("Manual") which is incorporated herein by reference and made a part hereof as if fully set forth herein. The Manual may be amended from time to time by the Public Services Director as technology, law or the Village Council mandates and shall set forth procedures and policies to implement and enforce the provisions of this division. The

Manual sets forth potential cross connections between a consumer's water system and certain types of equipment, specialized installations, and water uses which afford opportunity for backflow into the public water system. All such facilities and systems as set forth in the Manual shall have backflow prevention devices unless it is demonstrated to the satisfaction of the Public Services Director that no opportunity exists for backflow of water from the consumer's system into the public water supply. This requirement applies to new construction and existing structures, as well. In addition, backflow prevention devices shall be installed at the service connection on the consumer's side of the meter upon any premises where the nature and extent of the activities on the premises, or the materials used in connection with the activities or materials stored on the premises present an immediate and dangerous hazard to health should a cross-connection occur, even though such cross connection does not exist at the time the backflow prevention device is to be installed. Decisions regarding replacement of backflow prevention devices shall be made by the Public Services Director in accordance with the guidelines set forth in the Manual.

Sec. 78-133. Installation locations, expense, inspection and entry.

(1) *Installation location.* Approved backflow prevention devices, as described in the Manual, shall be installed on the consumer's side of the water meter at the location designated by the Public Services Director or his/her designee. The device shall be located so as to be readily accessible for maintenance and testing, and where no part of the device will be submerged.

(2) *Consumer's expense.* Backflow prevention devices shall be installed by a certified backflow prevention device technician or licensed plumber at the consumer's expense. All installations will be completed in accordance with plans and specifications approved by the Public Services Director or his/her designee.

(3) *Annual inspection required.* Backflow prevention devices shall be inspected annually or more frequently as the degree of hazard mandates, and tested by a certified backflow prevention device technician approved by the Village. An inspection and/or reinspection fee shall be charged by the Village to the consumer; the amount of which fee shall be set by resolution of the Village Council from time to time.

(4) *Access.* As a condition of connection to the Village's system, each user consents to Village staff or Village duly authorized representatives entering any building, structure, or property for the purpose of inspecting the piping system or systems on such property in order to determine compliance with this division. The refusal of such entry shall be deemed a violation of this article and grounds for immediate termination of service."

Sec. 78-134. Cross connections prohibited.

All cross connections are hereby prohibited on existing installations and on new installations unless the cross connection is properly protected with a backflow prevention device approved by the Village.

Sec. 78-135. Violations and penalties.

(1) *Failure to comply.* Failure of the consumer to remove a cross connection or install, maintain, or permit the testing and inspection of backflow prevention devices as required in this article or as set forth in the Manual shall be grounds for termination of the water service to the premises by the Village. The Village shall endeavor to provide

at least thirty (30) days prior written notice to the consumer before terminating the water service to the premises. In the case of an immediate hazard to the public health, the water service may be terminated immediately without notice to the consumer, although a hearing before the Public Services Director may be requested by the consumer to determine whether the water service termination was just and appropriate. Consumer's request to the Public Services Director must be made in writing within three (3) days of termination or notice thereof. Failure to request a hearing within three (3) days shall waive the consumer's right to any further administrative review of the termination of service.

(2) Remedies. In addition to the right to terminate water service, the Village may pursue any and all legal or equitable remedies against the consumer and/or owner of any premises receiving water service from the Village to enforce the provisions of this article including, but not limited to, code enforcement; action for damages; and/or, injunctive relief.

(3) Accidental contamination. In the event of accidental contamination of the public or customer's water supply system due to backflow from the customer's premises, the customer shall immediately take steps to confine further spread of the contamination with the customer's premises and shall immediately notify the Village of the hazardous condition.

Sec. 78-136. Interpretation.

This article shall be liberally construed so as to effectively carry out the purposes hereof in the interest of the public health, safety, and general welfare. This article is not intended nor shall it be construed to supersede or conflict with any statutory provisions, rules or regulations of the state, but shall be construed as implementing and assisting the enforcement thereof.

**Section 5.** All local laws and ordinances in conflict with any provisions of this ordinance are hereby repealed to the extent of such conflict.

**Section 6.** If any section, paragraph, sentence, clause, phrase or word of this ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this ordinance.

**Section 7.** This ordinance shall become effective immediately upon adoption.

Ordinance No. 2010-26

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>
JOHN M. DAVIS, MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BEV SMITH, VICE MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DOUG GUNTHER, MAYOR PRO TEM	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JONI BRINKMAN, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PATTI WALLER, 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 \_\_\_\_\_, 2010.

VILLAGE OF PALM SPRINGS, FLORIDA

BY: \_\_\_\_\_  
JOHN M. "MIKE" DAVIS, MAYOR

First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_

ATTEST:

BY: \_\_\_\_\_  
VIRGINIA M. WALTON, VILLAGE CLERK

REVIEWED FOR LEGAL FORM AND SUFFICIENCY

BY: \_\_\_\_\_  
GLEN J. TORCIVIA, VILLAGE ATTORNEY