

ORDINANCE NO. 2007-XX

AN ORDINANCE OF THE CITY OF PALM COAST, FLORIDA AMENDING SUBSECTION 49-53(E) OF THE CODE OF ORDINANCES OF THE CITY OF PALM COAST; PROVIDING FOR AN EXCEPTION TO THE ANNEXATION POLICY OF THE CITY; PROVIDING FOR A MAP WHICH IS ADOPTED AS CODE; PROVIDING FOR EXEMPTIONS AND AN EXEMPTION POLICY AS SET FORTH IN RESOLUTION NUMBER 2005-10 WHICH IS ADOPTED AS CODE; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS AND SAVINGS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Palm Coast has previously determined, in accordance with the controlling provisions of State law, that the owners of properties desiring to be served with utility service must take appropriate actions to annex the served properties into the City Limits of the City of Palm Coast; and

WHEREAS, in a refinement of that policy the City Council developed a potential exemption process from the policy by means of the adoption of Resolution Number 2005-10; and

WHEREAS, in a recent agreement involving utility service areas the City Council developed precise areas of exemption the policy which areas are described and depicted in the map that is attached to and incorporated into the text of this Ordinance; and

WHEREAS, the City Council desires to specifically memorialize and implement the exemptions from the policy by means of the enactment of this Ordinance; and

WHEREAS, pursuant to Chapter 163, *Florida Statutes*; Chapter 1666 (and, in general Section 166.021), *Florida Statutes*; Chapter 171, *Florida Statutes*; Chapter 180, *Florida Statutes*; Article VIII, Section 2(b), *Constitution of the State of Florida*; and other applicable law the City of Palm Coast through its home rule powers may exercise any power for municipal purposes

except those expressly prohibited by law and the City Council is acting in accordance with its substantive powers and in accordance with the required processes and procedures of State law.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA:

SECTION 1. LEGISLATIVE FINDINGS/INTENT. The above recitals (whereas clauses) are hereby adopted as the legislative findings and intent of the City Council of the City of Palm Coast.

SECTION 2. ANNEXATION POLICY RELATING TO UTILITY SERVICES/MAP. Subsection 49-53(e) of the *Code of Ordinances of the City of Palm Coast* is hereby amended to read as follows:

Sec. 49-53. Water, reclaimed water and wastewater service fiscal/finance procedures/annexation policies.

(e) It is the policy of the City to require annexation in accordance with the provisions of Chapter 171, *Florida Statutes*, or, if the property is not appropriate for immediate annexation, to require the filing and recording of a binding and irrevocable annexation petition as a condition of the property being provided utility service except in the following circumstances:

(1) when the property is located in the areas of exception from the annexation policy, as described and depicted in the map which is attached hereto and incorporated herein as if set forth herein verbatim; and

(2) when the property is subject to an approved exemption in accordance with the policy adopted by the City Council in Resolution Number 2005-10 which is attached hereto and incorporated herein as if set forth herein verbatim .

SECTION 3. SEVERABILITY. If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

SECTION 4. CODIFICATION.

(a). It is the intention of the City Council of the City of Palm Coast, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the *Code of Ordinances of the City of Palm Coast*; that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; that the word, “Ordinance” may be changed to Section,” “Article,” or other appropriate word; provided, however, that Sections 3, 4, 5, and 6 shall not be codified.

(b). The Code codifier is hereby directed to codify the incorporated provisions of Resolution Number 2005-10 into the provisions of Subsection 49-53(e) of the *Code of Ordinances of the City of Palm Coast*.

SECTION 5. CONFLICTS/SAVINGS.

(a). All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

(b). The City Council hereby ratifies and affirms the actions taken relating to the provisions of Subsection 49-53(e) of the *Code of Ordinances of the City of Palm Coast* and Resolution Number 2005-10.

SECTION 6. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its passage and adoption.

Approved on the **FIRST READING** this — day of _____ 2007.

Adopted on the **SECOND READING AFTER DUE PUBLIC NOTICE AND HEARING** this ____ day of _____ 2007.

CITY OF PALM COAST, FLORIDA

ATTEST:

JAMES V. CANFIELD, Mayor

CLARE M. HOENI, City Clerk