

ORDINANCE 2024-001

AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, RELATING TO THE INSTALLATION OF WATER AND SEWER LINES WITHIN THE TOWN'S RIGHTS OF WAY; REQUIRING UTILITY PROVIDERS TO SEEK TOWN CONSENT BEFORE WORKING IN THE TOWN'S RIGHT OF WAY; REQUIRING UTILITY PROVIDERS TO ABIDE BY THE TOWN'S CONDITIONS OF APPROVAL PRIOR TO INITIATING ANY WORK; ESTABLISHING BASELINE REQUIREMENTS FOR APPROVAL; REQUIRING A PROPERTY OWNER TO OBTAIN A PERMIT FROM THE TOWN IF THEY ARE BRINGING WATER AND/OR SEWER TO THEIR PROPERTY; REQUIRING A PROPERTY OWNER TO SPECIFICALLY ACKNOWLEDGE AS PART OF THE PERMIT THAT THE PUBLIC UTILITY CANNOT BE ACTIVATED UNLESS THE TOWN'S PERMIT HAS BEEN APPROVED AND FINALED; REQUIRING ANY CONTRACTOR TO CERTIFY THAT THE PUBLIC UTILITY CANNOT BE ACTIVATED UNTIL THE TOWN'S PERMIT HAS BEEN APPROVED AND FINALED; ENABLING PROPERTY OWNERS TO RECUPERATE THEIR INVESTMENT FOR THE EXTENSION OF WATER AND/OR SEWER LINES; PROVIDING FOR PENALTY; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION IN THE TOWN'S CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, as the Town matures, more and more property owners are bringing water and/or sewer to service their properties; and

WHEREAS, on several occasions, the public utility has failed to perform the installation to the Town's standards; and

WHEREAS, on several occasions, the public utility has been installed without the Town issuing a permit relating to such work; and

WHEREAS, on several occasions, the public utility has been activated without notice to the Town and without an approved final inspection obtained of the Town's permit; and

WHEREAS, the Town desires to oversee the installation and activation of utilities within its Right of Way; and

WHEREAS, the Town desires to provide a mechanism for an owner to recuperate their investment for the extension of water and/or sewer lines to their property; and

WHEREAS, to ensure that such installation meets the Town's engineering standards, and to ensure the health, safety, and welfare of the Town's residents, it is necessary to enact regulations to ensure the proper installation of public utilities within the Town's right of way.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA:

SECTION 1: Recitals adopted. That foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and hereby made a specific part of the Ordinance.

SECTION 2: A section of the Town's Code entitled Installation of Public Utilities Within the Town's Right of Way shall be added as follows:

Installation of Public Utilities Within the Town's Right of Way

As it solely relates to this section, a Public Utility shall be defined as an entity that maintains and provides water and/or sewer to residents of the Town of Southwest Ranches.

It shall be a violation of the Town's Code for a Public Utility to install water and/or sewer service within the Town's Right of Way without the explicit written consent of the Town, which consent may be unreasonably denied. The Town may require conditions or approval for such work, and such work shall only be permitted to commence if the Public Utility agrees to the Town's conditions for the performance of such work. The Town may establish baseline requirements for such work. The Town may establish the location of the lines and shall require that the lines must be designed to provide connection points for all properties that the lines pass. The Town's Right of Way shall be restored as specifically required by the Town. In addition, the Public Utility shall install hydrants and other equipment as may be required by the Town. No permit shall be issued by a Public Utility unless and until such permit has been specifically reviewed and approved by the Town. The Public Utility shall not close its permit, or activate such service, unless specifically approved by the Town.

Any Public Utility providing water and/or sewer service in the Town shall obtain Town Council approval before such service may be extended throughout the Town.

Any property owner seeking service from a Public Utility that will require work to be performed in the Town's Right of Way shall obtain a permit from the Town prior to the initiation of such work. The property owner shall initial a section of the permit application

that will specifically state that "The Public Utility shall not be activated until the Town's permit has been approved and final inspection obtained."

Any contractor obtaining a permit for the installation of a Public Utility within the Town's Right of Way, shall initial a section of the permit application that will specifically state that "The Public Utility shall not be activated until the Town's permit has been approved and final inspection obtained."

Penalty

A violation of this section shall be deemed to cause irreparable or irreversible harm. Any contractor who violates this section shall be reported by the Town to the State's Department of Business and Professional Regulation.

Extension of Public Utilities

Prior to the extension of a Public Utility, a property owner shall send notice to all property owners within two hundred and fifty (250) feet of such extension to advise of the work to be performed. The property owner may request Town approval to seek future proportionate reimbursement for the extension of the Public Utility. In determining whether such future proportionate reimbursement is appropriate, the Town shall consider the cost and the scope of the service area. In the event that the Town determines, in its sole opinion, that seeking future proportionate reimbursement is appropriate, following the completion of the job the property owner shall provide the Town with a complete breakdown of cost including certified invoices and certified payment records and other related documents. The Town, in its sole discretion, shall determine if the cost is reasonable and within industry guidelines. If the Town does not find the cost to be reasonable and within industry guidelines, the Town shall apply an industry accepted cost estimate, in accordance with the standards of the Florida Building Code, as may be amended from time to time. Upon the Town's acceptance of same, or the application of an industry accepted cost estimate, the Town shall determine which properties could directly benefit by connecting to the Public Utility. The Town will then total the amount paid and shall divide that number by the number of properties that could directly benefit by connection to the Public Utility, including the property owner. Once that number is established, prior to the issuance of a permit to a new user, provided that the property owner or their heir still resides at the property, the Town shall collect an amount equal to that number and shall remit such payment to the initial property owner within thirty (30) days from the receipt of same. In the event that the property or their heir no longer resides at the property, no reimbursement shall be made. Once payment is made by a connecting property, no further payment shall be required from that connecting property, even if that connecting property is legally subdivided at a later date. In no event may a property owner be reimbursed more than the cost determined by the Town, less the property owner's proportional share.

SECTION 3. Conflicts. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

SECTION 4. Severability. If any word, phrase, clause, sentence or section of this Ordinance is, for any reason, held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

SECTION 5. Codification. The Town Clerk shall cause this Ordinance to be codified as a part of the Town's ULDC during the next codification update cycle.

SECTION 6. Effective Date. This Ordinance shall take effect immediately upon passage and adoption.

PASSED ON FIRST READING this 12th day of October, 2023 on a motion made by Council Member Kuczenski and seconded by Council Member Jablonski.

PASSED ON SECOND READING this 26th day of October, 2023 on a motion made by Council Member Hartmann and seconded by Vice Mayor Allbritton.

Breitkreuz	<u>Yes</u>	Ayes	<u>5</u>
Allbritton	<u>Yes</u>	Nays	<u>0</u>
Hartmann	<u>Yes</u>	Absent	<u>0</u>
Jablonski	<u>Yes</u>	Abstaining	<u>0</u>
Kuczenski	<u>Yes</u>		



Steve Breitkreuz, Mayor

Attest: 

Russell Muñiz, Assistant Town Administrator/Town Clerk

Approved as to Form and Correctness:



Keith Poliakoff, Town Attorney
1001.198.01