



## City of North Port

### ORDINANCE NO. 2017-XX

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING THE CODE OF THE CITY OF NORTH PORT, CHAPTER 38 – NATURAL RESOURCES TO ADD NEW ARTICLE III. EFFICIENT USE OF RECLAIMED WATER, SECTIONS 38-27 – 38-30; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the City Commission of the City of North Port recognizes all water resources should be utilized in an efficient manner; and

**WHEREAS**, the City Commission of the City of North Port finds through proper design and use, reclaimed water can be relied on to be a safe, sustainable alternative water supply to meet future and existing needs by offsetting demands for ground water and surface water for irrigation, landscapes, golf courses, etc.; and

**WHEREAS**, the City Commission of the City of North Port finds that this ordinance promotes the general health, welfare, and safety of the citizens.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA, AS FOLLOWS:

#### **SECTION 1 – FINDINGS:**

The City Commission hereby makes the following findings:

1.01 The recitals outlined above are incorporated by reference as findings of fact as if expressly set forth herein.

1.02. The Commission has reviewed the proposed amendments provided herein and has found that the amendments are consistent with the City of North Port Comprehensive Plan.

**SECTION 2 – ADOPTION:**

2.01 The City Commission of the City of North Port hereby approves and adopts the following amendments to the Code of the City of North Port:

**“Article III. EFFICIENT USE OF RECLAIMED WATER**

**Sec. 38-27 –Intent.**

- (a) The city commission hereby declares its intent and purpose in adopting this article to assist the Southwest Florida Water Management District in the enforcement of all rules, regulations and orders promulgated by said district pursuant to provisions of F.S. ch. 373, as such rules, regulations and/or orders relate to the conservation or restricted use of all water resources including voluntarily conserving reclaimed water to promote the efficient use of reclaimed water.
- (b) The city commission gives full recognition to the promotion of efficient use of reclaimed water as being necessary for the protection of this natural resource, the health, safety and general welfare of the citizens of this municipality and of the citizens within the Southwest Florida Water Management District.
- (c) The city commission may adopt by resolution more restrictive irrigation hours for lawn and landscaping than those listed in the F.A.C. 40D-21 and F.A.C. 40D-22.

**Sec. 38-28 – Definitions and word usage.**

For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein:

*District.* The Southwest Florida Water Management District.

*Person.* Any individual, firm, partnership, association, corporation, company or organization of any kind.

*Reasonable-beneficial use.* *The use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest.*

*Reclaimed Water.* *Water that has received advanced waste treatment with high level disinfection pursuant to Chapter 17-610, F.A.C.*

*Water resource.* Any and all water on or beneath the surface of the ground, including natural or artificial watercourses, lakes, ponds or diffused surface water, and water percolating, standing or flowing beneath the surface of the ground. However, it does not refer to saltwater.

**Sec. 38-29 – Applicability.**

The provisions of this article shall apply to all persons using reclaimed water.

**Sec. 38-30 – Reclaimed water use restrictions.**

To conserve the reclaimed water resource through eliminating practices which do not result in at least a 50% beneficial offset of potable or groundwater supplies, no irrigation by use of reclaimed water is allowed between the hours of 10:00 a.m. and 4:00 p.m. on each day of the week. When applied, reclaimed water should be used only to the extent necessary for irrigation needs of lawns, gardens and individual plants.

**Sec. 38-31 – Enforcement of efficient use of reclaimed water restrictions.**

- (a) For purposes of discharging the duties imposed by this article, including investigation of possible violations and for enforcing its provisions, a code enforcement officer (a/k/a property standards inspector), utilities personnel, or other duly authorized city official are empowered to enter without authority of any court of competent jurisdiction upon any private property except any dwelling house structure or fenced enclosure.
- (b) A code enforcement officer (a/k/a property standards inspector), utilities personnel, or other duly authorized city official shall have all powers, duties, and responsibilities to administer and enforce all provisions of this article and shall be deemed to be an officer for the purpose of enforcing the provisions of this section under authority provided in this article. Any action to be taken by a code enforcement officer (a/k/a property standards inspector), utilities personnel, or other duly authorized city official, pursuant to the enforcement of any section herein, shall be considered cumulative and in addition to penalties and other remedies provided for elsewhere by ordinance or law.
- (c) The city may enforce the provisions of this article by means of the citation process which is set out in sections 2-515—2-517. To the extent that the penalties which are set out in this section differ from the penalties which are set out in section 2-516, the penalties in this section shall control.
- (d) Notice and service of any citation which is issued relative to a violation of this article shall be sufficient if it is:
  - (1) Mailed by first-class mail to the address at which the violation took place and to the address which is listed by the Sarasota County property appraiser, and
  - (2) Posted on the property on which the violation occurred.
- (e) If any citation which is issued as a result of a violation of this chapter is not paid in the amount of time which is allotted, or any contested citation is not paid within the time allowed by the code enforcement board, the city may record in the public records of Sarasota County a special assessment lien relative to the citation. Such lien shall be recorded against the property on which the violation occurred and shall be in the amount of the citation plus an administrative fee of \$100.00. The lien shall attach to the property on which the violation occurred and to any and all other real or personal property of the person who was cited.
- (f) If it becomes necessary for the city to take any action to collect amounts which are owed to it as a result of a violation of this article, or as a result of the recording of a lien pursuant to the previous subsection, the city shall be entitled to recover all such costs and fees, including reasonable attorney's fees which are associated with such collection.

**Sec. 38-32 – Penalties.**

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- (a) A person or entity violating any provisions of this article, including the provisions of any orders, rules or regulations of the district relating to a declared water shortage or water shortage emergency which are incorporated herein by reference, shall be subject to the following penalties:
- (1) The first violation shall constitute a written warning.
  - (2) The second violation shall be subject to a fine of \$100.00.
  - (3) The third violation shall be subject to a fine of \$200.00.
  - (4) The fourth violation shall be subject to a fine of \$300.00.
  - (5) The fifth and all subsequent violations shall be subject to a fine of \$400.00.
  - (6) The maximum fine which may be assessed for any violation shall be \$500.00, and such fine may only be imposed by the code enforcement board after a citation is contested by a property owner.
- (b) To the extent that any regulation, order, declaration, or restriction of the District is adopted by the city, and such regulation, order, declaration, or restriction conflicts with any provision of this article, such regulation, order, declaration, or restriction shall control.

### **Sec. 38-33 – Septic to wastewater fund.**

To the extent permitted by law, all funds collected from penalties paid for violations of this article shall be remitted to the city's finance director and deposited in the utility department's septic to wastewater fund. All monies in the septic to wastewater fund shall be used only for activities that result in the conversion of existing septic tanks to central wastewater."

### **SECTION 3 – CONFLICTS:**

3.01 In the event of any conflict between the provisions of this Ordinance and any other Ordinance or portions thereof, the provisions of this Ordinance shall prevail to the extent of such conflict.

### **SECTION 4 – SEVERABILITY:**

4.01 If any section, subsection, sentence, clause, phase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

### **SECTION 5 – PENALTY:**

5.01 Any person, firm or corporation convicted for violating any of the provisions or terms of this Ordinance shall be subject to the penalties provided for in Section 1-7 of the Code of the City of North Port Code, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

### **SECTION 6 – SAVINGS CLAUSE:**

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6.01 The Code of the City of North Port, as amended shall remain in full force and effect, save and except as amended by this Ordinance.

**SECTION 7 – EFFECTIVE DATE:**

7.01 This Ordinance shall take effect immediately after adoption by the City Commission of the City of North Port. No development order or development permits dependent on this Ordinance may be issued nor may development commence before it has become effective.

READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida in public session this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

PASSED and DULY ADOPTED by the City Commission of the City of North Port, on the second and final reading in public session this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

CITY OF NORTH PORT, FLORIDA

\_\_\_\_\_  
LINDA M. YATES, MAYOR

ATTEST

\_\_\_\_\_  
PATSY C. ADKINS, MMC  
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS:

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MARK MORIARTY  
CITY ATTORNEY