

LEE COUNTY ORDINANCE NO. 17-03

AN ORDINANCE RELATING TO THE LEE COUNTY UTILITIES RECLAIMED WATER SYSTEM; PROVIDING FOR SHORT TITLE, PURPOSE AND TERRITORIAL SCOPE; PROVIDING FOR DEFINITIONS; PROVIDING FOR RESPONSIBILITIES OF LEE COUNTY UTILITIES; PROVIDING FOR RESPONSIBILITIES OF RECLAIM CUSTOMERS; PERTAINING TO MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; PROVIDING FOR CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Board of County Commissioners of Lee County, Florida is the governing body in and for Lee County, Florida; and

WHEREAS, the Board of County Commissioners of Lee County, Florida is authorized pursuant to Chapter 125, Florida Statutes, to enact Ordinances necessary in the exercise of its powers; and

WHEREAS, the County operates Publicly Owned Treatment Works (POTW) which produce reclaimed water for beneficial use by entities within unincorporated Lee County; and

WHEREAS, reclaimed water offers an environmentally sustainable method for managing treated wastewater disposal, conserving potable water sources and providing alternative water supplies for beneficial uses; and

WHEREAS, Section 403.064, F.S. encourages the use of reclaimed water, considers its use as being in the public interest and a critical component of meeting the states existing and future water supply needs while sustaining natural systems; and

WHEREAS, as part of a Florida Department of Environmental Protection permit application, Florida Administrative Code 62-610.491 requires that Lee County submit documentation of controls on individual Customers of reclaimed water through detailed agreements, permits, or by local ordinance; and

WHEREAS, application of reclaimed water on public access facilities shall be controlled by permit in accordance with Florida Administrative Code 62-610. 491.

NOW AND THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

SECTION ONE: SHORT TITLE, PURPOSE AND APPLICABILITY

- A. This Ordinance will be known and cited as the “Lee County Reclaimed Water Ordinance”.
- B. The purpose of this Ordinance is to establish uniform requirements and a program of inspections and permitting for customers of all of Lee County’s Reclaimed Water Systems and enable the County to comply with all applicable Federal and State laws, including the Clean Water Act (33 USC 1251 et seq.), and Chapters 62-600, 62-601, and 62-610 Florida Administrative Code. As part of the program, Lee County Utilities (LCU) shall implement the following objectives:
 - 1. To distribute reclaimed water, generated at a POTW owned and maintained by LCU for beneficial use;
 - 2. To prevent any discharges of reclaimed water resulting in a violation of Federal or State laws governing the use of reclaimed water;
 - 3. To protect the life, health, and safety of the general public and to provide for the equitable distribution of costs, including administration, implementation, and enforcement of the reclaimed water program established herein;
 - 4. To enable LCU’s POTWs to comply with all permits, and all Federal and State laws to which they are subject; and
 - 5. To promote and improve opportunities for the beneficial use of reclaimed wastewater.
- C. The Ordinance is applicable to existing and proposed LCU regional reuse service areas.

SECTION TWO: DEFINITIONS

For the purpose of this article, the following words and phrases are defined and shall have the meaning assigned except in those instances where the context clearly indicates a different meaning. The words "Shall" and "Will" are mandatory and not discretionary. The word "May" is permissive.

- A. Allocation shall mean the amount of reclaimed water provided to a Customer through an issued permit for the delivery and use of reclaimed water. The allocation will initially be based on the availability of reclaimed water and the application rate, as expressed in million gallons per day (MGD) and delivered over a twenty-four (24) hour period. The allocation may change over time at the discretion of LCU.
- B. Applicant shall mean any property owner, person or entity that is requesting for their use reclaimed water service from LCU by applying for a reclaimed water use Permit.

- C. Approved Cross Connection Control Assembly shall mean a mechanical assembly that has been approved to prevent backflow and back-siphonage to LCU's potable and reclaimed water systems, as per the LCU Design Manual.
- D. Available Reclaimed Water shall mean an amount of reclaimed water, above and beyond the amount required to meet existing Customer's demand during low flow/high demand period as determined by LCU.
- E. Calculated Irrigation Demand shall mean the irrigation demand for a given property based on the irrigated acreage and as calculated by the Blaney-Criddle method, or currently accepted method utilized by the SFWMD for water use permitting.
- F. Cross Connection shall mean any physical arrangement whereby LCU's public water system is connected, directly or indirectly, with any other water supply, sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains or may contain contaminated water, sewage, or other wastes or liquids of unknown or unsafe quality, which may be capable of imparting contamination to the public water system, as a result of backflow. By-pass arrangements, jumper connections, removable sections, swivels or changeable devices, or other temporary or permanent devices, through which or because of which, backflow could occur are considered to be cross-connections.
- G. FDEP shall mean the Florida Department of Environmental Protection.
- H. On-site storage shall mean a storage feature owned, operated, and maintained by the Customer and located on the Customer's property.
- I. Point of Delivery (POD) shall mean the location where LCU's reclaimed water system is physically connected to the Customer's reclaimed water system and represents where LCU's responsibility ends and the Customer's responsibility and liability begins. The POD, unless otherwise specified, will be at the point where the downstream section of the meter assembly goes into the ground on the Customer's side of the meter.
- J. Premises shall mean a parcel of real estate or portion thereof including any improvements thereon which is determined by the Coordinator to be a single Customer for the purposes of receiving, using and paying for reclaimed water services.
- K. Public Utilities Director shall mean the person designated by the County Manager to administrate the activities of the Public Utilities Division, supervise the operation of the POTW, maintain records of such operation, prepare operating budgets and make recommendations to Board of County Commissioners concerning activities within his/her responsibility and authority.
- L. Reclaimed Water shall mean wastewater that has received the treatment established by the Florida Administrative Code (FAC), Rule 62-610.460, currently defined as wastewater that meets, at a minimum, secondary treatment and high level disinfection.

This definition includes reclaimed water that has been augmented with a supplemental water supply such as ground or surface water.

- M. Reclaimed Water Application Rate shall mean the irrigation application rate generally recommended by the SFWMD, currently being calculated utilizing the Blaney Criddle calculation.
- N. Reclaimed Water Coordinator, hereafter known as the Coordinator, shall mean the person designated by the Lee County Public Utilities Director to manage the reclaimed water program, and who is charged with certain duties and responsibilities established by this Ordinance.
- O. Reclaimed Water System shall mean all LCU owned elements that function to convey and distribute reclaimed water including all land and easements, buildings and structures, transmission and distribution pipes, reservoirs, supplemental water supply production and pumping facilities, metering equipment, equipment and machinery, and other appurtenances necessary to provide reclaimed water to Customers.
- P. Reclaimed Water Customer, hereafter known as Customer, shall mean any existing permitted entity receiving reclaimed water such as, but not limited to, golf courses, homeowners associations or other associations with the legal authority to make binding determinations on behalf of the association, its members, its unit owners, or shareholders of such association, corporations, or owner(s) of developed property.
- Q. Reclaimed Water Use Permit, hereafter known as Permit, shall mean a written instrument between the Customer and the County, by which a Customer agrees to abide by all rules and regulations pertaining to reclaimed water. The Permit designates allocation, point of delivery, areas where reclaimed water will be used, and other contractual obligations.
- R. Reclaimed Water Requirements shall mean any substantive or procedural requirement related to reclaimed water, imposed on a reclaimed water customer.
- S. Reclaimed Water Review Committee shall mean a panel made up of the following individuals whose main function is to review Customer appeals relating to permit issues: Public Utilities Director or designee, Wastewater Manager or designee, Engineering Manager or designee, Coordinator or designee, Natural Resources Director or designee, and County Attorney or designee.
- T. SFWMD shall mean the South Florida Water Management District.
- U. Supplemental Water Supply shall mean a non-potable groundwater, stormwater, or surface water utilized to supplement the supply of reclaimed water by either LCU or a Customer.

SECTION THREE:

RECLAIMED WATER AVAILABILITY

- A. Requests for reclaimed water service shall be submitted, in writing to the Coordinator. Requests shall include the following:
 - 1. General information including name, address, telephone number of the applicant, owner, and any agent or consultant. Physical address and STRAP number of the property to be served.
 - 2. Site specific data required to calculate the initial reclaimed water allocation. This will include irrigated acreage, anticipated demand, and any other desired uses of the reclaimed water, such as cooling towers or dust control.
- B. LCU will determine the availability based on the location and capacity of existing reclaimed water distribution system, flow to the POTW, and current committed reclaimed water capacity.
- C. LCU shall not allocate more reclaimed water than can reasonably be made available during the low flow/high demand period as determined by LCU. The amount of reclaimed water available for allocation to Customers will be determined as follows: The lowest three month running average daily flow of wastewater influent available for treatment; Plus: the daily reliable flow from supplemental water supplies; Minus: the total of all Customer's Permit allocations for the reclaimed water system.
- D. LCU will not add any additional Customers to the reclaimed water system unless a sufficient supply of available reclaimed water exists during the low flow/high demand period.
- E. LCU will not add any additional Customers if the addition will reduce LCU's delivery of reclaimed water to existing Customers.
- F. Upon determination of whether reclaimed water is available, the applicant will be notified. At that time, an applicant wishing to obtain reclaimed water must complete an Application as described below.
- G. If LCU determines that reclaimed water is not available at the time of the Applicant's request the Applicant request will remain on file. The Applicant will be placed on a waiting list for reclaimed water.

SECTION FOUR:

RECLAIMED WATER USE PERMIT APPLICATIONS

- A. Time Line For Reclaimed Water Use Permit Applications. Existing and potential new Customers desiring to obtain a permit shall apply as follows:
 - 1. Potential new Customers shall apply for and obtain a permit at least ninety (90) days prior to connecting to the Reclaimed Water System.

2. Existing Customers wishing to apply for an increased allocation shall apply to the Reclaimed Water Coordinator at least ninety (90) days before the new allocation is to be effective.
- B. Reclaimed Water Use Permit Application. Applicants desiring to obtain a permit shall submit, to the Coordinator, a completed application. The application shall include all information necessary to calculate customer allocation. Information required includes the following:
1. General information including name, address, telephone number of the applicant, owner, and any agent or consultant. Physical address and STRAP number of the property to be served.
 2. Site specific information required to calculate the initial reclaimed water Allocation. This will include irrigated acreage, anticipated demand, and any other desired uses of the reclaimed water, such as cooling towers or dust control.
 3. Site specific information shall be required including but not limited to:
 - a. A location map showing the general location of the site.
 - b. A site map showing property boundaries, area of property to be irrigated, and the existing or proposed point(s) of delivery.
 - c. A legal description of the property that is currently served or is proposed to be served with reclaimed water.
 - d. Identify any supplemental source(s) in use or proposed. If a supplemental source(s) is in use or proposed, provide the SFWMD Water Use Permit Number for this source(s).
 - e. Identify any on-site existing or proposed reclaimed water storage structures, including their volume.
 - f. If the applicant's property is located in an area with limited fresh water resources, please provide documentation demonstrating that fresh water resources are limited in the area of the property.
 - g. Submit plans and specifications of the connection to LCU's reclaimed water system as required by the LCU Design Manual.
 4. Any other information determined by the Coordinator to be necessary to evaluate the Permit application.
 5. Certification Statement signed by the property owner.

6. An application will be deemed incomplete until all the required information has been provided to the Coordinator.
- C. Incomplete Applications. The Coordinator will act only on complete applications. Persons submitting incomplete applications shall be notified within thirty (30) days that the application is deficient, the nature of such deficiency and shall be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within the thirty (30) days the Coordinator may deny the Permit or deem the application withdrawn and notify the applicant in writing of such action.
- D. Evaluation of Applications. Upon receipt of a complete application, the Coordinator shall review and evaluate all data furnished by the Applicant and shall deny or issue the Permit with reasonable conditions and requirements.
- E. Reclaimed water will be allocated by the Coordinator using the following criteria:
1. the Applicant's commitment to provide system infrastructure;
 2. the Applicant's position on the reclaimed water waiting list;
 3. whether the Applicant has limited freshwater resources available;
 4. the Applicant's commitment to provide water storage that provides a benefit to the reclaimed water system;
 5. the Applicant's commitment to provide on-site water storage for their use;
 6. the Applicant's SFWMD Permit allocation; and
 7. the Applicant's commitment to supplement the supply of reclaimed water with stormwater.

SECTION FIVE: **PERMIT REQUIREMENTS**

- A. Limitations on Allocation – The initial limitations placed on allocations will be determined at time of issuance of the Permit. If reclaimed water is proposed to be used for landscape irrigation, a Customer's Permit allocation shall not exceed the Customer's calculated irrigation demand for the development. Allocations for uses other than irrigation of landscape shall be determined and limited based on the water demand for the specific use. The applicant shall provide an analysis, such as an Engineer's report or other documentation requested by LCU, to demonstrate the demand for water for that specific use.

B. Reclaimed Water Storage

1. All applicants with a demand for reclaimed water exceeding 50,000 gallons per day shall provide on-site storage.
2. Reclaimed water storage can take several forms, including but not limited to, the following; a lake or pond isolated from the storm-water treatment system, a lake or pond that is part of a storm-water treatment system with sufficient capacity to serve its function as both storm-water treatment and reclaimed water storage, a Class 5 Underground Injection Control permitted Aquifer Storage and Recovery (ASR) well, or a storage tank. On-site storage facilities shall be designed and operated in accordance with Federal, State and Local regulations pertaining to the storage of reclaimed water.
3. The capacity of on-site storage shall, at a minimum, be equal to the annual average daily demand for the customer being served. An Applicant is encouraged to and may develop storage capacity exceeding the minimum criteria.
4. Storage capacity will be expressed in days. The capacity of reclaimed water storage developed on the customer's site for their use will be calculated based on the aerial extent and operating range of the storage feature. For example, a one acre storage pond that is designed to start filling at an elevation of 10.0 feet and stop filling at 12.0 feet (2 foot operating range) would have a storage volume of 651,658 gallons (43,560 sq.ft. X 2 ft. X 7.48 gal./cu.ft.). If the customer's allocation is 325,829 gallons per day this would represent two days of storage (325,829 X 2 = 651,658).
5. If storage is being provided for use by LCU, the number of days of storage will be calculated based on the current annual average daily flow of reclaimed water being produced by the wastewater treatment facility that will be providing service to the Applicant. For example; if the Applicant proposed providing nine million gallons of storage capacity for LCU's use and the current annual average daily flow to the wastewater treatment plant is three million gallons per day, the Applicant is offering three days of storage. The volume of reclaimed water storage will be calculated as described in Section 5, B, 4 above.

C. Water Meter Requirements

1. Any reclaimed water meter that is less than or equal to three inches in size shall be an in-ground meter.
2. In-ground meters may be located in County owned or maintained right of way or a dedicated easement.
3. Any reclaimed water meters that are greater than 3 inches in size must be an above ground meter that is located on the property owner's site.

4. Property owners that locate meters outside of a County owned or maintained right of way must provide an access easement to Lee County for installation, maintenance, and replacement of each meter or meter station.
5. Based on site specific conditions an easement granted to LCU may be required to accommodate infrastructure that is located on the customer's site.

SECTION SIX: **PERMIT RESTRICTIONS**

A. General

1. Customers shall abide by the Permit and all Federal, State and Local regulations.
2. Customers shall not discharge reclaimed water directly into the Waters of the State without notification to LCU documenting written authorization from SFWMD and FDEP.
3. Reclaimed water service will be discontinued if a Customer does not comply with the requirements of this Ordinance and all applicable rules, laws, and regulations for the application of reclaimed water, including, but not limited to, all applicable regulations included in Florida Administrative Code (F.A.C.) Chapter 62-610.
4. Every permit issued is subject to and limited by the terms of this Ordinance.

B. Cross Connections

1. Cross-connection of reclaimed water systems with any other water supply source or system is specifically prohibited.
2. An approved cross connection control assembly, per the LCU Design Manual, shall be installed on any potable water line serving property also served by reclaimed water.

C. Setback Requirements

1. Plans for subdivisions and commercial sites that include provisions for reclaimed water service shall include a survey of all surrounding property for the purpose of identifying the existence of potable water wells within 200 feet of the boundary of any proposed reclaimed water application area. Reclaimed water application systems will not be considered or permitted within 75 feet of an existing or proposed FDEP or FDOH permitted potable water supply well.
2. Minimum horizontal and vertical pipe separations shall be maintained between reclaimed water mains and existing potable water or sewage mains in accordance with the F.A.C. Chapter 62-610.

3. Reclaimed water irrigation systems located within 100 feet of public eating, drinking, or bathing facilities shall utilize low trajectory spray heads, or methods approved by LCU to reduce aerosol drift.
4. Reclaimed water irrigation systems shall be constructed and operated so as to minimize over-spray onto impervious surfaces, such as sidewalks, roadways, etc. or ponding.

D. Signage and Identification

1. All sites utilizing reclaimed water shall be required to provide County approved public notice signs at all entrances identifying the area as a reclaimed water use area. Non-irrigation Customers of reclaimed water shall provide similar notification signage at the point of reclaimed water use. All signage shall comply with F.A.C. Chapter 62-610.
2. All reclaimed water transmission lines shall be color-coded and/or labeled to specifically identify the piping as reclaimed water lines.
3. All new subdivisions and site plans shall specify the use of pantone purple colored pipe as the standard material for reclaimed water service lines or other materials approved by the LCU Design Manual. All reclaimed water service lines shall include a locking curb stop and tag/label identifying the use of reclaimed water.

E. Prohibited Uses

1. Reclaimed water shall not enter any residential dwelling for any purpose.
2. Reclaimed water shall not be designated as a fire protection source.
3. There shall not be any above ground hose bib connections to the reclaimed water system. All hose bib connections must be located in below grade, locked vaults, and clearly labeled as being non-potable.
4. Reclaimed water shall not be used to fill swimming pools, hot tubs, wading pools, spas, or similar facilities. Tanker trucks used for transporting products intended for human consumption are prohibited from transporting reclaimed water.
5. Use of reclaimed water for any purpose other than those allowed by the F.A.C. Chapter 62-610.
6. Reclaimed water for a purpose other than urban landscape irrigation without authorization by LCU.

- F. Maintenance. The Customer shall take full responsibility for the design, construction, permitting, financing, compliance, operations, maintenance, and repair of the reclaimed water system downstream of the POD. This shall include any customer's instrumentation that is required to interface with LCU's reclaimed water meter station. Should the customer not maintain the equipment as required, LCU reserves the right to provide required maintenance and place a charge for time and materials on the Customer's water and sewer bill. Failure to timely pay the charge may result in termination of service to the property.
- G. Reclaimed Water Use Permit Requirements and Restrictions. Issuance of a Permit shall not relieve the customer from complying with all other applicable State, Federal and local laws and regulations. The customer shall be responsible for all costs associated with satisfying Permit conditions, requirements, and restrictions. The customer will be inspected by the Coordinator at least once per year.
- H. Reclaimed Water Use Permit Modifications. The terms, conditions or requirements of any Permit are subject to modification and change by the Coordinator during the term of the permit for good cause, including, but not limited to the following reasons:
1. To incorporate any new or revised Federal, State, or local standards or requirements;
 2. A change in the POTW that requires either a temporary or permanent reduction of the Customer's allocation;
 3. Violation of any terms or conditions of the Permit;
 4. Failure of the Customer to accept the provided allocation;
 5. Misrepresentation or failure to disclose all relevant facts in the Permit Application or in any required reporting; or
 6. To correct typographical or other errors in the Permit.
- I. Transition of Existing Customers to Permit. Upon enactment of this Ordinance existing Lee County Utilities reclaimed water customers will be transitioned from existing agreements to permits. This transition will be completed over a three year period.
- J. Civil Penalties. Each Permit shall contain a section describing potential civil penalties associated with noncompliance. **Applicant's Right To Object.** Upon denial or receipt of the Permit, the applicant shall have thirty (30) days to file in writing objections to the denial or any term or condition of the Permit. If the applicant files no objections within this time, the Permit is deemed to be accepted. If the applicant files no objections to a Permit denial within this time, the failure to file shall constitute a waiver of the right to file objection to the Permit denial.

- K. Appeal. Should an applicant decide to file a written objection, an appeal will proceed as follows:

Written Objections: The Public Utilities Director shall submit to the Reclaimed Water Review Committee the proposed Permit conditions and the applicant's written objection thereto at a meeting of the committee. The Reclaimed Water Review Committee shall schedule a hearing within ninety (90) days following the submission by the Public Utilities Director of the proposed Permit and written objections, unless such time be extended for just cause or agreed to by the Parties. The Public Utilities Director shall notify the applicant of the date, time, place and purpose of the hearing scheduled before the Committee. The Committee shall determine whether the proposed conditions are reasonable or whether the basis for denial is founded on competent substantial evidence. The Committee may establish or revise the relevant Permit conditions as it deems advisable to ensure compliance by the applicant with this Ordinance, applicable law or regulation and a Permit will be issued to the applicant accordingly.

- L. Revocation of Reclaimed Water Use Permit: Any Permit issued under the provisions of this Ordinance is subject to be modified, suspended or revoked in whole or in part for cause shown including, but not limited to any one of the following:

1. Violation of any terms or conditions of the Permit or other applicable law or regulation.
2. Obtaining a Permit by misrepresentation or failure to disclose, fully, all relevant facts.

- M. No person shall maliciously, willfully, or deliberately break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment, which is part of the reclaimed water system.

SECTION SEVEN: PERIODIC EVALUATION OF PERMITTED CUSTOMERS

- A. LCU will evaluate the usage of reclaimed water by existing customers periodically to assess whether a permitted Customer is utilizing their full allocation. Since reclaimed water is a valuable and finite resource, LCU wishes to allocate it to Customers who will capitalize on the resource. In the event that a Customer is found to have used less than 75% of their allocation over the course of the past year, LCU will contact the Customer to discuss potential causes for the disproportion. LCU will work with the Customer to resolve any issues that may be causing the disproportional use. If, after a reasonable amount of time, the Customer is unable or unwilling to rectify the disparity between the Permit allocation and the actual use, LCU reserves the right to decrease the Permit allocation.

- B. In addition, Customers will periodically be evaluated according to the following criteria:
1. any actions or lack of actions that have compromised LCU's regulatory compliance;
 2. the Customer's compliance with their existing reclaimed water permit;
 3. whether the Customer has limited fresh water resources available;
 4. the Customer's historical use of reclaimed water as it relates to their permitted allocation;
 5. the volume of reclaimed water storage provided by the Customer that provides a benefit to the reclaimed water system;
 6. the volume of reclaimed water storage provided for their use;
 7. the Customer's SFWMD water use permit allocation and their compliance with that permit, if any.

These criteria will be utilized for decisions regarding delivery of reclaimed water at the discretion of LCU.

SECTION EIGHT **SUSPENSION OR TERMINATION OF SERVICE**

- A. LCU may interrupt, temporarily suspend or discontinue service to the entire reclaimed water system, or any portion thereof as may be deemed necessary and appropriate by LCU or by any regulatory authority, which may include, but is not limited to: unavailability of source water due to a lack of influent to the wastewater reclamation facilities, process failure, noncompliant reclaimed water, equipment or material failure in the System, emergency system repairs or maintenance.
- B. LCU will not be liable to Customers for failure to deliver reclaimed water for any reason.
- C. If reclaimed water demand exceeds the reclaimed water supply, reclaimed water service will be limited. During these times, every effort will be made by LCU to provide each Customer their pro-rata share of available reclaimed water. The pro-rata share will be calculated in the following manner:

$$\frac{\text{Customer's Permit Allocation}}{\text{Total of All Permit Allocation}} \times \text{Available Amount of Reclaimed Water}$$

- D. LCU has the necessary facilities and capability to augment LCU's reclaimed water system with certain non-potable water resources in order to enhance the application of reclaimed water with supplemental water for irrigation or other approved purposes. All aspects of LCU's use of such supplemental water to enhance the reclaimed water

system, such as timing, volumes, blending, and distribution will be exclusively at LCU's considered discretion.

SECTION NINE: ENTRY AND INSPECTION

- A. Entry: All permitted Customers shall allow the Coordinator and other duly authorized employees of the County bearing proper credential and identifications access at all reasonable times to the premises for the purpose of inspection, observations, records examination, measurement, and testing in accordance with the provisions of this Ordinance. The refusal of any Customer to permit entry to or upon the premises of the Customer for the purposes of inspection shall constitute a violation of a condition of the Permit and the terms of this Ordinance and may result in termination of service.
- B. Inspection: The Coordinator or the Coordinator's designee may inspect the facilities of any Customer, to ascertain compliance with this Ordinance and all other requirements.

SECTION TEN: FEES

- A. Applicable charges or fees shall be set forth to provide for the recovery of costs from Customers of reclaimed water.
- B. Customers shall be responsible for payment of rates fees and charges as adopted by the Lee County BOCC.

SECTION ELEVEN: ENFORCEMENT AND PENALTIES

- A. This Ordinance may be enforced by the Coordinator or Lee County Code Enforcement Officer. Whenever the Coordinator determines or has reasonable cause to believe that a violation of the provisions of this Ordinance or the Permit issued in accordance with this Ordinance has occurred, the Coordinator shall:
 - 1. Provide written Notice of the Violation identifying the nature of the violation, the method for abating the violation, and, if the violation cannot be abated within 10 days, a reasonable time to comply. If the violation is not corrected within the time specified in the Notice of Violation, the Coordinator may terminate the delivery of reclaimed water without further notice. The delivery of reclaimed water will be restarted once the Coordinator finds that the violation has been corrected.
 - 2. If the type of violation will result, or has resulted, in the discharge of reclaimed water into the Waters of the State, or has the potential to result in LCU noncompliance with POTW Operating Permits Issued by DEP, the delivery of reclaimed water will be terminated immediately, without providing time for correcting the violation. Notice of the Violation will be provided in accordance with subsection 1 above. The delivery of reclaimed water will be restarted once the Coordinator finds that the violation has been corrected.

3. Failure of the Coordinator or their designee to provide any of the notices of violation referred to in Section 10, above shall not in any way, relieve the Customer from any consequences of wrongful or illegal operation of their reclaimed water system.
 4. Notice must be provided in accordance with one of the following:
 - a. Certified mail, and at the option of the County return receipt requested, to the address listed in the tax collector's office for tax notices or to the address listed in the county property appraiser's database;
 - b. For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation;
 - c. Hand delivery by the sheriff or other law enforcement officer, code inspector, or other person designated by the local governing body;
 - d. Leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice; or,
 - e. In the case of commercial premises, leaving the notice with the manager or other person in charge.
- B. At the discretion of the Coordinator, the following alternative enforcement methods may be utilized for enforcement of this Ordinance or the terms and conditions of the Permit.
1. Citation: A person may be issued a civil citation by the Coordinator or Lee County Code Enforcement in accordance with § 162.21, F.S., (et. seq.) when, based upon personal investigation, the Coordinator or Code Enforcement Officer has reasonable cause to believe that the person has committed an infraction in violation of this Ordinance and that the county court will hear the charge.
 2. Other Actions: Nothing contained in this Ordinance shall prohibit the County from enforcing this Ordinance by any other means including, without limitation, Code Enforcement Actions, a suit seeking the issuance of an injunction, damages or other appropriate relief to enforce the provisions of this Ordinance.
- C. Emergency Termination of Service: In the event of an actual or threatened unlawful discharge of reclaimed water which may present an imminent endangerment to the health and welfare of persons or the environment, the Public Utilities Director shall terminate the service of such Customer or Customers as necessary to abate the

condition. The Public Utilities Director will restore service as soon as the emergency situation has been corrected.

- D. Penalties. Any person who is found to have violated any provisions of this Ordinance or any condition of Permit issued hereunder, shall be subject to discontinuation of reclaimed water, issuance of a civil citation, or such other legal actions identified above. In addition to the penalties provided herein, the County may recover reasonable fees and costs incurred with enforcement of this Ordinance, including, but not limited to, reasonable attorney's fees and costs, any financial penalties imposed upon the County from State or Federal regulators as a result of the actions or inaction of a Customer.

SECTION TWELVE: CONFLICT

Whenever the requirements or provisions of this Ordinance are in conflict with the provisions of any other lawfully adopted Ordinance or statute, the most restrictive requirements will apply. Such agreement must meet all current federal, state, and local requirements for inter-municipal agreements.

SECTION THIRTEEN: SEVERABILITY

The provisions of this Ordinance are severable and it is the intention to confer the whole or any part of the powers herein provided for. If any provision, paragraph, word, section or article of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and articles shall not be affected and shall continue in full force and effect.

SECTION FOURTEEN: MODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

SECTION FIFTEEN: CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS

It is the intention of the Board of County Commissioners that the provisions of this Ordinance will become and be made a part of the Lee County Code; and that sections of this Ordinance may be renumbered or re-lettered and that the word "Ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the code is accomplished, sections of this Ordinance may be renumbered or re-lettered and typographical errors which do not affect the intent may be authorized by the County Manager, or the County Manager's designee, without need of public hearing, by filing a corrected or re-codified copy of same with the Clerk of Circuit Court.

SECTION SIXTEEN: EFFECTIVE DATE

This Ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

Commissioner Mann made a motion to adopt the foregoing ordinance, seconded by Commissioner Pendergrass. The vote was as follows:

John Manning	Aye
Cecil L Pendergrass	Aye
Larry Kiker	Aye
Brian Hamman	Aye
Frank Mann	Aye

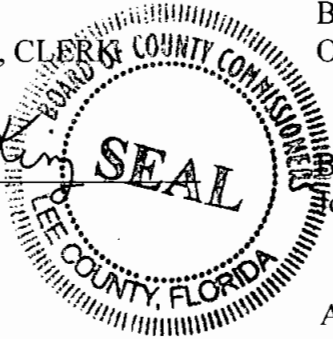
DULY PASSED AND ADOPTED this 20th day of June, 2017.

ATTEST:

LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Shirley King
Deputy Clerk



BY: John Manning
John Manning, Chair

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

BY: [Signature]
Office of the County Attorney



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

June 23, 2017

Honorable Linda Doggett
Clerk of the Circuit Courts
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Theresa King

Dear Ms. Doggett:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Ordinance No. 17-03, which was filed in this office on June 23, 2017.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb