

**ORDINANCE NO. 03-2021**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 34, ARTICLE III., SECTIONS 34-61., 34-62., 34-63., 34-64., 34-65., AND 34-66 OF THE TOWN CODE AND CREATING SECTION 34-67, ADOPTING THE SOUTH FLORIDA WATER MANAGEMENT'S DISTRICT YEAR-ROUND LANDSCAPE IRRIGATION CONSERVATION MEASURES, REQUIRING ADDITIONAL WATER-MANAGEMENT BEST PRACTICES, REQUIRING CERTAIN IRRIGATION LIMITATIONS, EXEMPTING CERTAIN ACTIVITIES, AND PROVIDING FOR WAIVERS; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Lake Park, Florida (Town), is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, the Town Commission has adopted an irrigation code in Article III of Chapter 34 of the Town Code; and

**WHEREAS**, the Community Development Department Director recommends that the Town Commission amend the Town Code, Chapter 34, Article III., Sections 34-61., 34-62., 34-63., 34-64., 34-65., and 34-66. to create more environmentally responsible watering regulations in the Town; and

**WHEREAS**, Community Development Department Director has recommended that the Town Commission adopt the South Florida Water Management's Year-Round Landscape Irrigation Conservation Measures,

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA:**

**Section 1.** The whereas clauses are incorporated herein as true and correct and as the legislative findings of the Town Commission.

**Section 2.** Chapter 34, Article III, Sections 34-61., 34-62., 34-63., 34-64., 34-65., 34-66., and 34-67 of the Town Code are hereby amended to read as follows:

**Sec. 34-61. Applicability.**

~~All provisions of this article shall be effective within the incorporated areas of the town and shall set restrictions, constraints and prohibitions to enhance the town water resources and provide a permanent water conservation measure. Unless otherwise provided, nothing in this article shall be construed to relieve any person from compliance with any applicable regulations enacted by any agency of the state having jurisdiction over water resources in the town.~~

~~(Ord. No. 3-1992, § 1, 2-5-1992; Code 1978, § 31-40)~~

### **Sec. 34-62. Purpose.**

The purpose of this article is to establish a regulatory framework and guidance document which will help ensure that landscape irrigation will be consistent throughout the town.

(Ord. No. 3-1992, § 2, 2-5-1992; Code 1978, § 31-41)

### **Sec. 34-63. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Impervious* means land surfaces which do not allow the penetration of water including paved roads, sidewalks, driveways, parking lots and highly compacted areas including shell and clay.

*Low volume irrigation system (micro-irrigation)* means that type of equipment or irrigation device designed to provide small quantities of water on or below the soil surface as drops or tiny streams of spray through emitters or applicators placed along a water delivery line. Micro-irrigation includes methods or concepts such as bubbler, drip, trickler, mist, or microspray, and subsurface irrigation.

(Ord. No. 3-1992, § 3, 2-5-1992; Code 1978, § 31-42)

Cross reference(s)—Definitions generally, § 1-2.

### **Sec. 34-64. Restrictions.**

(a) *Hours*. Irrigation of any residential, commercial, institutional, governmental or industrial landscape areas shall be restricted to the hours of 5:00 p.m. to 9:00 a.m.

(b) *Wasting water prohibited*. It shall be unlawful to operate or cause the operation of any irrigation system or device in a manner causing water to be wasted, including but not limited to unnecessary watering of impervious areas.

(c) *Installation of water sensing devices*. From February 5, 1992, new installations of automatic irrigation systems or multizoned systems providing coverage of greater than one acre of irrigated area shall be equipped with a water sensing device which will automatically discontinue irrigation during periods of rainfall.

(Ord. No. 3-1992, § 4, 2-5-1992; Code 1978, § 31-43)

### **Sec. 34-65. Exemptions.**

The following activities shall be exempt from the provisions of this article:

- (1) Landscape irrigation by hand watering using a self-canceling nozzle or low volume irrigation system.
- (2) Landscape irrigation by systems from which the sole source is treated wastewater effluent.
- (3) The operation of irrigation systems for system repair and maintenance.
- (4) Flushing of water mains and fire hydrants required for normal water main clearance and maintenance and for maintenance of water quality; however, where practical, contractors and utilities shall direct flushed water into pervious areas, flush at the minimum rate necessary for cleaning and disperse the water in such a manner to benefit local vegetation. Damage to vegetation, landscaping, or plant life due to erosion or high discharge pressure which occurs during such flushing operations shall be the responsibility of the person or entity performing such operations, and said person or entity shall provide for the repair of damages incurred.
- (5) Landscape irrigation for purposes of watering in fungicides, insecticides and herbicides as recommended by the manufacturer or required by federal or state laws; however, this

~~exemption applies only to licensed pest control operators and shall be limited to manufacturer's recommendations.~~

~~(Ord. No. 3-1992, § 5, 2-5-1992; Code 1978, § 31-44)~~

**~~Sec. 34-66. Enforcement.~~**

- ~~(a) *Generally.* This article may be enforced by the code compliance board or by the alternative code enforcement procedures as a class I violation.~~
- ~~(b) *Additional enforcement actions.* In addition to the sanctions contained herein, the town may take appropriate action, including but not limited to administrative action and requests for temporary and permanent injunction, to enforce the provisions of this article.~~

~~(Ord. No. 3-1992, § 6, 2-5-1992; Code 1978, § 31-45)~~

Sec. 34-61. - Applicability.

All provisions of this article shall be effective within the incorporated areas of the town and shall set restrictions, constraints and prohibitions to enhance the town water resources and provide a permanent water conservation measure. The year-round landscape irrigation conservation measures contained herein are applicable to all users, including permitted and exempt users under Chapter 40E-2, Florida Administrative Code (F.A.C.), unless otherwise indicated. These conservation measures shall apply to all water resources, unless otherwise indicated. In addition to the requirements of this section, all permitted users under Chapter 40E-2, F.A.C., are required to maintain compliance with all Consumptive Use Permit conditions and terms, including requirements to implement water conservation practices. Unless otherwise provided, nothing in this article shall be construed to relieve any person from compliance with any applicable regulations enacted by any agency of the state having jurisdiction over water resources in the town.

(Ord. No. 3-1992, § 1, 2-5-1992; Code 1978, § 31-40)

Sec. 34-62. - Purpose.

The purpose of this article is to establish a regulatory framework and guidance document, consistent with the standards of the South Florida Water Management District as set forth herein, which will help ensure that landscape irrigation will be both conservative and consistent throughout the town.

(Ord. No. 3-1992, § 2, 2-5-1992; Code 1978, § 31-41)

Sec. 34-63. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Athletic Play Area* means all golf course fairways, tees, roughs, greens, and other athletic play surfaces; including, football, baseball, soccer, lacrosse and multi-purpose fields, polo, tennis, and lawn bowling fields, and rodeo, equestrian, and livestock arenas.

*Consumptive Use Permit (CUP)* means a permit issued pursuant to Chapter 40E-2, F.A.C., authorizing the consumptive use of water.

*Impervious* means land surfaces which do not allow the penetration of water including paved roads, sidewalks, driveways, parking lots and highly compacted areas including shell and clay.

*Low Volume Hand Watering* means the watering of landscape by one (1) person, with one (1) hose, fitted with a self-canceling or automatic shutoff nozzle

Low Volume Irrigation means the use of equipment and devices specifically designed to allow the volume of water delivered to be limited to a level consistent with the water requirement of the plant being irrigated, and to allow that water to be placed with a high degree of efficiency in the root zone of the plant. The term also includes water used in mist houses and similar establishments for plant propagation. Overhead irrigation and flood irrigation are not included.

Micro-irrigation means the application of small quantities of water on or below the soil surface as drops or tiny streams of spray through emitter or applicators placed along a water delivery line. Micro-irrigation includes a number of methods or concepts, such as bubbler, drip, trickle, mist or microspray, and subsurface irrigation.

New landscaping means any landscaping which has been planted in the ground for ninety (90) days or less.

Reclaimed Water means wastewater that has received at least secondary treatment and basic disinfection, and is reused after flowing out of a wastewater treatment facility as defined by Rule 62-40.210, F.A.C.

User means any person, individual, firm, association, organization, partnership, business trust, corporation, company, agent, employee, or other legal entity whether natural or artificial, the United States of America, and the State and all political subdivisions, regions, districts, municipalities, and public agencies thereof, which directly or indirectly takes water from the water resource, including uses from private or public utility systems, uses under water use permits issued pursuant to Chapter 40E-2, F.A.C., or uses from individual wells or pumps.

Wasteful and Unnecessary means allowing water to be dispersed without any practical purpose to the water use; for example, excessive landscape irrigation, leaving an unattended hose on a driveway with water flowing, allowing water to be dispersed in a grossly inefficient manner regardless of the type of water use; for example, allowing landscape irrigation water to unnecessarily fall onto pavement, sidewalks, and other impervious surfaces; or allowing water flow through a broken or malfunctioning water delivery or landscape irrigation system.

Water Resource means 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.

(Ord. No. 3-1992, § 3, 2-5-1992; Code 1978, § 31-42)

**Cross reference**— Definitions generally, § 1-2.

**Sec. 34-64. - Restrictions.**

The Town Commission hereby adopts the South Florida Water Management's Year-Round Landscape Irrigation Conservation Measures as detailed in Chapter 40E-24.201 (1)-(6), Florida Administrative Code (F.A.C.), and subsequent additions or corrections thereto; and the same are hereby fully adopted and incorporated as if fully set forth herein at length. The following requirements shall apply to all users, unless specified in Sec. 34-64 (2) (d), or Sec. 34-65.

(a) Hours and days. Irrigation of any residential, commercial, institutional, governmental or industrial landscape areas shall be restricted to two days per week between the hours of 5:00 p.m. to 9:00 a.m., except as otherwise provided in subsection (d) and Sec. 34-65. Furthermore, irrigation of existing landscape areas shall comply with the following provisions:

(1) Even addresses, installations with irrigation systems that irrigate both even and odd addresses within the same zones, such as multi-family units and homeowners' associations, and rights-of-way or other locations with no address as defined in subsection 40E-24.101(4), F.A.C., shall have

the opportunity to accomplish necessary landscaping irrigation no more than twice per week only on Thursday and/or Sunday.

(2) Odd addresses, as defined in subsection 40E-24.101(12), F.A.C., shall have the opportunity to accomplish necessary landscape irrigation no more than twice per week only on Wednesday and/or Saturday.

(b) Wasteful and unnecessary water use is prohibited. It shall be unlawful to operate or cause the operation of any irrigation system or device in a manner causing water to be wasted, including but not limited to unnecessary watering of impervious areas.

(c) Installation of water sensing devices. All new installations of automatic irrigation systems or multizoned systems providing coverage of greater than one acre of irrigated area shall be equipped with a water-sensing device which will automatically discontinue irrigation during periods of rainfall.

(d) Irrigation of new landscaping shall comply with the following provisions:

(1) On the day the new landscaping is installed, the new landscaping may be irrigated once without regard to the normally allowable watering days and times. Irrigation of the soil immediately prior to the installation of the new landscaping is also allowable without regard to the normal allowable watering days and times.

(2) The ninety (90) day period begins the day the new landscaping is installed. The new landscaping shall be installed within a reasonable time from the date of purchase, which may be demonstrated with a dated receipt or invoice.

(3) Irrigation of new landscaping which has been in place for thirty (30) days or less may be accomplished on Monday, Tuesday, Wednesday, Thursday, Saturday and Sunday.

(4) Irrigation of new landscaping which has been in place for thirty-one (31) to ninety (90) days may be accomplished on Monday, Wednesday, Thursday and Saturday.

(5) Irrigation of the new landscaping shall be limited to areas containing the new landscaping only. An entire zone of an irrigation system shall only be utilized for landscape irrigation under this paragraph if the zone in question is for an area that contains at least 50% new landscaping. If a zone contains less than 50% new landscaping, or if the new landscaping is in an area that will not typically be irrigated by an irrigation system, only the individual new plantings are eligible for additional irrigation under this paragraph. Targeted watering may only be accomplished by low volume hand watering, or any appropriate method which isolates and waters only the new landscaping.

(e) Water Shortages. Any water shortage emergency, as defined Section 40E-24.101., F.A.C., restrictions or other measures declared pursuant to Chapter 40E-21, F.A.C., or a related order of the South Florida Water Management District which is more restrictive than a measure contained herein, shall supersede the provisions of this chapter for the duration of a declared emergency in accordance with the provisions of Chapter 32, Article II, Division 2. – Water Shortages.

(Ord. No. 3-1992, § 4, 2-5-1992; Code 1978, § 31-43)

#### Sec. 34-65. - Exemptions.

The following activities shall be exempt from the provisions of this article:

(1) The use of reclaimed water, which may or may not be supplemented from another source; Irrigation at agricultural and nursery operations; and Irrigation of athletic play areas.

(2) Landscape irrigation utilizing low-volume irrigation, micro-irrigation, low-volume hand watering methods and rain barrels, cisterns, or other similar rain-harvesting devices without regard to the watering days or times established in Section 34-64 of this chapter.



- (3) Landscape irrigation by systems from which the sole source is treated wastewater effluent.
- (4) Irrigation systems may be operated during restricted days and/or times for cleaning, repair and maintenance purposes with an attendant on site in the area being tested. Landscape irrigation systems may routinely be operated for such purposes no more than once per week, and the run time for any one test should not exceed ten (10) minutes per zone.
- (5) Flushing of water mains and fire hydrants required for normal water main clearance and maintenance and for maintenance of water quality; however, where practical, contractors and utilities shall direct flushed water into pervious areas, flush at the minimum rate necessary for cleaning and disperse the water in such a manner to benefit local vegetation. Damage to vegetation, landscaping, or plant life due to erosion or high discharge pressure which occurs during such flushing operations shall be the responsibility of the person or entity performing such operations, and said person or entity shall provide for the repair of damages incurred.
- (6) Landscape irrigation for purposes of watering-in fertilizers, fungicides, insecticides, pesticides, and herbicides are permitted only under the following conditions:
  - a. Such watering-in shall be limited to one application unless the need for more than one application is stated in the directions for application specified by the manufacturer; and
  - b. Such watering-in shall be accomplished during normally allowable watering days and times in accordance with Section 34-64 of this chapter unless a professional licensed applicator has posted a temporary sign containing the date of application and the date(s) of needed watering-in activity.

(Ord. No. 3-1992, § 5, 2-5-1992; Code 1978, § 31-44)

#### Sec. 34-66. - Enforcement.

- (a) Generally. This article may be enforced by the code compliance board or by the alternative code enforcement procedures such as a class I violation.
- (b) Additional enforcement actions. In addition to the sanctions contained herein, the town may take appropriate action, including but not limited to administrative action and requests for temporary and permanent injunction, to enforce the provisions of this article.

#### Sec. 34-67. – Waivers.

- (1) Users may request relief from the provisions of this chapter by filing a petition for a waiver by writing a letter to the Town's Director of Public Works Director setting forth for the unique circumstances that would justify a waiver. Examples of unique circumstances include but are not limited to:
  - a. Two or more properties which share a common source of water;
  - b. A public or private water system experiencing or anticipating distribution problems;
  - c. A user that maintains an irrigation system that uses weather-based irrigation controllers or soil moisture sensors with remote monitoring and adjustment capabilities that satisfies the requirements set forth in Section 373.62(7), Fla.Stat.
  - d. A user maintains, manages, or owns a non-residential property, such as a house of worship or weekly market (farmer/flea), where the primary day of use or attendance for the property coincides with the address' prescribed watering day.
- (2) To receive a waiver, an applicant shall demonstrate with particularity that compliance with the schedule of days for landscape irrigation presents a substantial hardship to the applicant. If a waiver is granted, the applicant shall post a notice upon each parcel to which the waiver applies.
- (3) Any waiver granted shall become invalid upon its expiration, or where the user or its agent violates the terms or conditions of the waiver.

(4) The Town recognizes all irrigation variances or waivers issued by the South Florida Water Management District under Rule 40E-24.501, F.A.C.

(Ord. No. 3-1992, § 6, 2-5-1992; Code 1978, § 31-45)

**Section 5. Severability.**

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

**Section 6. Codification.**

The Sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "Ordinance" may be changed to "section", "article", or any other appropriate word.

**Section 7. Repeal of Laws in Conflict.**

All Ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 8. Effective Date.**

This Ordinance shall take effect upon execution.

LEGAL NOTICE  
OF PROPOSED ORDINANCE  
TOWN OF LAKE PARK

Please take notice that on Wednesday, May 5, 2021 at 6:30 p.m. or soon thereafter the Town Commission, of the Town of Lake Park, Florida to be held at 535 Park Avenue, Lake Park, Florida 33403 will consider the following Ordinances on second reading and proposed adoption thereof:

ORDINANCE NO. 09-2021

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 24, ARTICLES 4 AND 5, SECTIONS 34.61, 34.62, 34.63 AND 34.65, AND 34.66 OF THE TOWN CODE AND CREATING SECTION 34-67 ADOPTING THE SOUTH FLORIDA WATER MANAGEMENT'S DISTRICT YEAR-ROUND LANDSCAPE IRRIGATION CONSERVATION MEASURES, REQUIRING ADDITIONAL WATER MANAGEMENT BEST PRACTICES, REQUIRING CERTAIN IRRIGATION LIMITATIONS, EXEMPTING CERTAIN ACTIVITIES, AND PROVIDING FOR WAIVERS; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

If a person desires to appeal any decision made by the Town Commission with respect to any hearing, they will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the decision is based. For additional information, please contact Vivian Mendez, Town Clerk at 561-881-3311.

Vivian Mendez, MMC, Town Clerk  
Town of Lake Park, Florida  
4-252021  
0000637618-01



Upon First Reading this 21 day of April, 2021, the foregoing Ordinance was offered by Vice-Mayor Glas-Castro who moved its approval. The motion was seconded by Commissioner Michaud and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR MICHAEL O'ROURKE	<u>/</u>	_____
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>/</u>	_____
COMMISSIONER ERIN FLAHERTY	<u>/</u>	_____
COMMISSIONER JOHN LINDEN	<u>/</u>	_____
COMMISSIONER ROGER MICHAUD	<u>/</u>	_____


**PUBLISHED IN THE PALM BEACH POST THIS 25 DAY OF April, 2021**

Upon Second Reading this 5 day of May, 2021, the foregoing Ordinance, was offered by Vice-Mayor Glas-Castro who moved its adoption. The motion was seconded by Commissioner Michaud and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR MICHAEL O'ROURKE	<u>/</u>	_____
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>/</u>	_____
COMMISSIONER ERIN FLAHERTY	<u>Absent</u>	_____
COMMISSIONER JOHN LINDEN	<u>/</u>	_____
COMMISSIONER ROGER MICHAUD	<u>/</u>	_____


The Mayor thereupon declared **Ordinance No.** 03-2021 duly passed and adopted this 5 day of May, 2021.

TOWN OF LAKE PARK, FLORIDA

BY:   
Mayor, Michael O'Rourke

ATTEST:

  
Town Clerk, Vivian Mendez  
(Town Seal)  
**TOWN OF LAKE PARK  
FLORIDA**

Approved as to form and legal sufficiency:  
  
Town Attorney, Thomas J. Baird