ORDINANCE NO. 2007-041

AN ORDINANCE OF THE BOARD OF COUNTY
COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA,
AMENDING CHAPTER 3-8 ARTICLE VI OF THE
CHARLOTTE COUNTY CODE, "RECLAIMED WATER
SYSTEM"; PROVIDING FOR SEVERABILITY; AND
PROVIDING AN EFFECTIVE DATE.

WHEREAS, the encouragement and promotion of water conservation and reuse of
reclaimed water are state objectives and considered to be in the public interest pursuant to
section 403.064, Florida Statutes; and

WHEREAS, local governments may and are encouraged to implement programs for
the reuse of reclaimed water and are allowed to allocate costs in a reasonable matter, pursuant
to section 403.064, Florida Statutes; and

WHEREAS, potable water is a valuable resource which needs to be conserved,
particularly in coastal communities such as Charlotte County; and

WHEREAS, highly treated wastewater is also a valuable water resource which can
safely be used for irrigation and other non-potable purposes, thereby substantially
contributing to the conservation of potable water; and

WHEREAS, Charlotte County is determined to continue to expand its reclaimed water
system, to make treated wastewater available in certain areas of the County for irrigation
purposes and other approved non-potable uses; and

WHEREAS, the Board of County Commissioners now wishes to revise and update
certain policies, procedures, and conditions regarding the use of the reclaimed water system.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
COMMISSIONERS, of Charlotte County, Florida:
Section 1. Article VI, chapter 3-8, of the Charlotte County Code is hereby deleted in its entirety and replaced with the following:

ARTICLE VI. RECLAIMED WATER SYSTEM

DIVISION 1. GENERALLY

Sec. 3-8-191. Intent.

It is the intent of the county to make reclaimed water available for irrigation purposes and other authorized non-potable uses in certain areas of the county where the board of county commissioners determines that the construction of a reclaimed water distribution system is desired or requested by customers, and is practical and economical. The reclaimed water distribution system shall be constructed in phases to provide service to designated areas as determined by the board of county commissioners, pursuant to the terms and conditions set forth herein.

Sec. 3-8-192. Definitions.

For the purpose of this article, the definitions contained in this section shall apply unless otherwise specifically stated.

Approved backflow prevention assembly shall mean any effective assembly used to prevent backflow into a potable water system that has been investigated and approved by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research, or the American Water Works Association, using whichever standard is more stringent.

CCU shall mean Charlotte County Utilities.

Cross-connection shall mean any physical connection or arrangement which would allow the movement of fluids between the potable water system and any non-potable piping system, such as the reclaimed water system.

Customer shall mean owner or agent with the legal authority, relative to real property, to make binding determinations.

Department shall mean Charlotte County Utilities.

Director of utilities (also referred to as the Director) shall mean the individual responsible for the technical and operational activities of Charlotte County Utilities or his/her designee.

Distribution mains shall mean those conduits used to supply reclaimed water to service lines from trunk mains.
Facilities shall be defined as the components that form the reclaimed water delivery system, including, but not limited to, piping, valves, pumps, controls, meters, sensors and remote telemetry.

FDEP shall mean the Florida Department of Environmental Protection.

Neighborhood shall be defined (as a minimum size) as the residential, multi-family, commercial and industrial customers within a Pump Station Service Area (PSSA).

Reclaimed water shall mean wastewater that has received advanced secondary treatment in accordance with FDEP regulations, as amended, and is reused after flowing out of a water reclamation facility.

Reuse shall mean the deliberate application of reclaimed water, in compliance with FDEP regulations, as amended, for a beneficial purpose.

Service line shall mean that conduit for reclaimed water from the distribution main to the property line.

Transmission mains shall mean those conduits used to supply reclaimed water from the pumping station or water reclamation facility to the distribution mains.

Sec. 3-8-193. Availability of service.

The term "available" means that a functioning reclaimed water distribution main is located within five hundred (500) feet of the property to be serviced or, in the alternative, that it is cost effective for the county to extend a reclaimed water distribution main to within five hundred (500) feet of the subject property. However, regardless of proximity to a distribution main, the county reserves the right to make a final determination of the availability of service to a property based on the practicality, economics and clear and measurable benefits of providing said service, as determined by the director.

Sec. 3-8-194. Procedure for voluntary distribution main extension.

As reclaimed water transmission mains become available, the county shall conduct neighborhood surveys to determine customer interest in receiving reclaimed water. Based on the results of these surveys, and where extending reclaimed water service is determined to be practical and economical, the county shall:

1. Prioritize areas for extension of distribution mains.
2. Prepare and adopt a resolution designating the new service area for reclaimed water.
3. Authorize the preparation of construction contract documents for extending distribution mains in accordance with county procurement procedures.
(4) Award the construction contract in accordance with county procurement procedures.

(5) Upon construction completion and engineer's certification of the operation of the system, provide written notification to all customers that service is available. Refer to section 3-8-195 for system connection requirements.

The county reserves the right to redefine the geographic boundaries of proposed project areas, as necessary to meet the engineering and economic objectives associated with the reclaimed water system.

Sec. 3-8-195. Connection to system.

Customers in designated service areas may connect to the reclaimed water system when service is available and upon submission of a proper application, including projection of use, and land application calculation plans showing proposed tie-in points, signed and sealed by a Florida licensed engineer and in compliance with all county requirements. When service is available, all customers that connect to the reclaimed water system will be charged a monthly usage charge. These charges shall be established by resolution, which may be amended from time to time.

Sec. 3-8-196. Authority to adopt rates, fees and charges.

The board of county commissioners shall have the authority by resolution, duly adopted after a public hearing, to establish rates, fees and charges for the reclaimed water system and to provide terms and conditions for the payment and collection of same. Pursuant to the authority of section 403.064, Florida Statutes, as amended, the county shall have the power to allocate the costs of the reclaimed water system in a reasonable manner and to recover all or a portion of such costs in the rates established for such a system.

Sec. 3-8-197. Discontinuing service by county.

The county may discontinue reclaimed water service to any customer due to a violation of the terms of this article or county regulations; local, state or federal regulations; nonpayment of bills; tampering with any service; cross-connections with any potable water source; or for any reason that may be detrimental to the system or a risk to public health. The county has the right to cease service until the condition is corrected and all costs due the county are paid. Costs due to the county may include past due bills and penalties, connection charges, and payment for any damage caused to the system, together with any charges established on the basis of the expenses incurred in the disconnection and restoration of service, which shall be non-discriminatory in its application. Should discontinued service be turned on without authorization, the department shall remove the service and make such additional charges as are established by resolution or ordinance, or as are incurred.
Sec. 3-8-198. Service interruption.

The county reserves the right to temporarily discontinue service to any portion of, or the entire reclaimed water system as deemed necessary by the director or as required by FDEP regulations, as amended, or for predictable as well as unforeseen shortages and reclaimed water supply issues, or maintenance to the system.

In addition, the director shall have the authority to establish schedules which restrict the use of the reclaimed water system at certain times in order to control pressure and flow demands within the system and to regulate usage during periods of limited reclaimed water availability.

Sec. 3-8-199. Right to refuse service.

No payment of any costs, submittal of any petition, or any other act to receive reclaimed water service shall guarantee such service. The county shall have the right, at all times, to refuse to extend service on the basis of a use detrimental to the system, a potential risk to public health, inadequate supply of reclaimed water, lack of payment of required fees, or for any other reason which, in the judgment of the director, will cause the extension to be nonbeneficial to the county.

Sec. 3-8-200. Service application requirements.

(a) No connection to the county reclaimed water system shall be permitted without a written agreement for reclaimed water service with the county, a completed application for service, and FDEP approval.

(b) The application for service shall be on a form provided by the county and shall be filed with the department.

(c) The agreement for reclaimed water service shall provide that the customer consents to the entry by the county upon the property described in said application for the purpose of conducting all inspections permitted or required by this article and waives the right to receive further notice from the county of inspections conducted pursuant to this article and indemnifies the county, its agents and employees, from all claims, damages, judgments and expenses (including attorney fees) incurred by the county as a direct result of the use or discharge of reclaimed water by the customer in violation of the terms of this article or other applicable laws or regulations.

(d) The county shall inspect each property prior to connection to the reclaimed water system, as described in detail in section 3-8-210 of this article.

(e) No connection shall be permitted until the customer has a CCU-approved backflow prevention assembly installed on their potable water system to protect the potable water supply.
All connections to the reclaimed water system shall be inspected by the department prior to the use of reclaimed water.

Sec. 3-8-201. Meter requirements.

Reclaimed water shall only be supplied through CCU-approved metered connections. The director shall determine the size and type of meter required for each service. All approved meters for the reclaimed water system shall be installed by the user, unless provided otherwise in a written agreement with the county. Non-residential bulk users, condos, apartments, and other multi-family customers may require master meters if beneficial to the system, as decided by the director.

Sec. 3-8-202. Cross-connection control.

(a) On all properties where reclaimed water service is provided, the public or private potable water supply shall be protected by a CCU-approved backflow prevention assembly, as specified in the county’s most current “Manual for Cross-Connection Control and Backflow Protection.” No cross-connection shall be permitted. All assemblies and material installed for cross-connection control must be approved by the director.

(b) To determine the presence of any potential hazards to the public potable water system, representatives of the Charlotte county Health Department and/or CCU shall have the right to enter upon the premises of any customer receiving reclaimed and/or potable water service. Upon the execution of an agreement for reclaimed and/or potable water service, the customer shall be deemed to have consented to the entry by the county upon the property described in said agreement for the purpose of conducting all inspections permitted or required by this article and waives the right to receive further notice from the county of inspections conducted pursuant to this article.

(c) In the event a cross-connection is found on a property receiving reclaimed water service, the director shall have the authority to immediately discontinue reclaimed water service to said property and/or sever the cross-connection. In addition, the Director shall have the authority to clear the potable water lines of any potential contamination and to test for additional cross-connections on said property. Before resuming service, the customer shall make such corrections as may be required by the Director and have the service reinspected in accordance with section 3-8-200. Costs associated with the violation will be applied in accordance with section 3-8-197.

Sec. 3-8-203. Construction specifications.

The following specifications shall apply to irrigation systems, piping and appurtenances to be connected to the reclaimed water system:

(1) All connections shall meet the specifications and be in accordance with all local, state and federal regulations:
a. No reclaimed water is permitted inside any single-family or duplex dwelling unit, or any dwelling unit where the residents have access to the plumbing system for repairs or modifications.

b. As approved by CCU, reclaimed water may be used for air-conditioning cooling systems in commercial or industrial facilities or buildings, in accordance with FDEP regulations as amended.

c. No above ground reclaimed water hose bibbs (spigots or hand-operated connections) shall be permitted for residential customers.

d. For non-residential reclaimed water users, below-ground reclaimed water hose bibbs are permitted when they are clearly labeled as non-potable and can only be operated by use of a special tool to be approved by the director and in accordance with FDEP regulations as amended. Reclaimed water valves will be located in an approved, reclaimed water box.

(2) Existing residential irrigation systems may connect to reclaimed water systems, provided there are no hose bibbs, no cross-connections and the potable water supply is protected by a CCU-approved backflow prevention assembly.

(3) New residential irrigation systems shall comply with all local, state and federal regulations and applicable codes and ordinances. In addition, there shall be no reclaimed water hose bibbs and no cross-connections. Additionally, the potable water supply shall be protected by a CCU-approved backflow prevention assembly.

(4) Existing nonresidential irrigation systems that may connect to the reclaimed water system shall have no above ground reclaimed water hose bibbs and no cross-connections. The potable water supply shall be protected by a CCU-approved backflow prevention assembly.

(5) All connections, residential and non-residential, require the use of a licensed utility contractor or plumber.

(6) New reclaimed water distribution improvements dedicated to the county for maintenance shall meet the following specifications:

a. All pipes shall be at least C-900, DR18, Class 150 PVC and shall be purple in color (similar to Pantone 522C) and marked with metallic tape reading "RECLAIMED WATER."

b. All improvements shall require a construction permit and shall be constructed by a licensed utility contractor or plumber.

c. Three (3) sets of plans and specifications shall be submitted with the permit application, signed and sealed by a licensed Florida professional engineer.
d. Mains shall be a minimum of three (3) inches in diameter or as required by CCU.

e. Service lines shall be sized as required by the property served, but shall in no case be less than one (1) inch in diameter. Sizes of service lines required by the applicant are subject to approval by CCU.

f. Mains in the public right-of-way shall be located at uniform distance from the curb with locations and separation distances from other utilities per department construction specifications or state requirements.

g. Where water mains are to be turned over to the county, the customer shall submit such documents as are normally required for the dedication of public facilities.

h. An appropriate number of automatic blow-offs shall be provided, per department specifications.

(7) As required by state regulations, advisory signs shall be posted where reclaimed water is utilized in public areas. Advisory signs shall include the following text in both English and Spanish: “Do Not Drink,” together with the equivalent standard international symbol.

(8) Advisory signs shall be posted adjacent to lakes and ponds used to store reclaimed water that are not located at the wastewater treatment facility, as well as decorative water features that use reclaimed water. In such cases, the advisory signs shall include the following text in both English and Spanish: “Do Not Drink” and “Do Not Swim,” together with the equivalent standard international symbols.

(9) CCU does not guarantee the supply of reclaimed water; therefore the user is responsible for the establishment of a backup system, if needed. Onsite storage ponds or tanks are a recommended means of ensuring an uninterrupted supply. All alternate water sources, such as canals, wells and ponds used as backup sources or to supplement the reclaimed water supply, must comply with local, state and federal regulations, including regulations from FDEP, the South Florida Water Management District, and the Southwest Florida Water Management District.

Sec. 3-8-204. Maintenance by customer.

The property owner and/or customer shall be responsible for the maintenance of all reclaimed water lines and appurtenances on their property not conveyed to the county. The county reserves the right to disconnect the service to any property when the irrigation system or appurtenances are not properly maintained. In addition, should the customer require reclaimed water at different pressures, or different quality, or in any way different from that normally supplied by the county, the customer shall be responsible for the necessary devices for making these adjustments and obtaining approval by the director prior to constructing and/or operating such devices. All signs, markings, etc., which identify an area, pond or
piping as reclaimed water shall not be tampered with by the customer. Tampering will result in discontinuance of reclaimed water service.

Sec. 3-8-205. County maintenance.

(a) All facilities that have been accepted by the county shall become the property of the county and will be operated and maintained by the county. No person shall perform any work or be reimbursed for any work on the system unless written authorization from the county is received prior to the work being accomplished.

(b) The county shall make every effort to inspect and keep its facilities in good repair but assumes no liability for any damage caused by the system that is beyond the control of normal maintenance or due to situations not previously reported to the department. These situations shall include, but are not limited to, damage due to breaking the pipes, poor quality of water caused by unauthorized or illegal entry of foreign material into the system, faulty operation of fire protection facilities, or other reasons.

Sec. 3-8-206. Chemical injections.

All users of direct service connections are prohibited from adding chemicals to the irrigation systems when connected to the county reclaimed water system.

Sec. 3-8-207. Common service lines.

The director has the authority to approve one service line to connect two (2) or more customers when sufficient capacity is available. In such cases, property owners shall each pay the full amount of any applicable fees or charges required for service. Common service lines will be sized to provide adequate service to each customer served.

Sec. 3-8-208. Public easement.

No facilities will be installed and/or accepted by the county for maintenance unless the facilities are in a public right-of-way or dedicated easement. Any new easement shall be adequately sized and approved by CCU to accommodate construction and maintenance of any reclaimed water system component. No obstruction whatsoever shall be planted, built, or otherwise created within the limits of the easement or right-of-way.

Sec. 3-8-209. Ownership by county.

All reclaimed water facilities and appurtenances as determined by CCU within dedicated public easements when constructed or accepted by the county, shall become and remain the property of the county. No person shall by payment of any charges provided herein, or by causing any construction of facilities accepted by the county, acquire any interest or right in any of these facilities or any portion thereof, other than the privilege of
having their property connected thereto for reclaimed water service in accordance with this article and any amendments thereof.

Sec. 3-8-210. Inspections.

(a) In order to ascertain and ensure compliance with the provisions of this article and all regulations relating to reclaimed water, the county shall have the right to inspect, secure and disconnect all facilities and devices wherever located which connect to or control any discharge from the reclaimed water distribution system. The inspection shall include the following:

(1) A review of the information in the application for service or written agreement.

(2) A review of all applicable construction specifications.

(3) A cross-connection control review.

(4) Such other matters as the director shall determine to be applicable.

(b) Upon the execution of an agreement for reclaimed water service, the customer shall be deemed to have consented to the entry by the county upon the property described in said agreement for the purpose of conducting all inspections permitted or required by this article and waives the right to receive further notice from the county of inspections conducted pursuant to this article.

(c) The denial of access to an authorized agent or employee of the county to any property receiving reclaimed water service for the purpose of conducting any inspection permitted under this article shall constitute a violation of this article and shall be grounds for the immediate discontinuance of reclaimed water service by the county to the subject property.

Sec. 3-8-211. Liability and indemnity.

(a) The county shall not be liable for any damages caused by the use of reclaimed water, provided the reclaimed water has been treated by the department to levels required by applicable federal, state and local laws and regulations for irrigation of lands with public access, or as set forth in section 3-8-205(b) of this article.

(b) The county shall not be liable for any damages caused by a failure to deliver or supply reclaimed water.

(c) The customer shall indemnify the county, its agents and employees, from all claims, damages, judgments and expenses (including attorney fees) incurred by the county as a direct result of the use or discharge of reclaimed water by the customer in violation of the terms of this article or other applicable laws or regulations, including, but not limited to, a cross-connection.
The customer shall be liable for any fine or actions imposed on CCU by any local, state, or federal agency as a result of improper or illegal connection made to the reclaimed water system by the customer or agent of the customer.

Sec. 3-8-212. Fines and penalties for violation of article.

CCU shall have the authority to impose fines and penalties, as established through resolution, for any violations of local, state and federal rules relative to the provision of reclaimed water service.

Fines and penalties may include the costs to the county associated with the labor and materials required to correct cross-connections to the reclaimed water system. Applicable fines and penalties may be applied to property owners who are customers of the reclaimed water service, as well as property owners who are not customers of the reclaimed water service.

DIVISION 2.—NEW DEVELOPMENT PROJECT REUSE REQUIREMENTS

Sec. 3-8-221. Intent.

It is the intent of the county to maximize the reuse of treated wastewater and minimize new project impacts on potable water resources. It is the responsibility of the project developer to provide for effluent reuse as a condition precedent to wastewater treatment capacity availability. The county makes no guarantee that service will be available at all times.

Sec. 3-8-222. New development projects.

(a) Evaluation. For all new development projects, there shall be a requirement for evaluation of the incorporation of use of reclaimed water. This evaluation shall be in the form of an application to the department as part of the utility agreement. The Director shall review the water reuse capacity of the project and determine if its incorporation into the reclaimed water system represents a beneficial use of the reclaimed water resource. The water reuse capacity of the project shall be based on the projected irrigated area of the proposed development receiving reclaimed water at an annual average rate of one (1) inch per week and established by an engineering report from a licensed Florida professional engineer and approved by CCU.

(b) Mandatory connection. After consideration of the above evaluation, the director shall have the authority to require the development project to connect to the reclaimed water system and comply with this article. If so required, connection to the reclaimed water system shall be a condition precedent to receipt of potable water and wastewater service for the subject property.
Sec. 3-8-223. Easement dedications.

The applicant shall dedicate perpetual easements on land designated for reuse transmission and distribution facilities as required to provide reclaimed water service.

Sec. 3-8-224. Permits.

The applicant shall obtain and fulfill, at its expense, all necessary permits, licenses, conditions, and approvals for the initial construction and operation of the on-site reclaimed water irrigation facilities and additional costs of any associated CCU treatment facility operating permit modification or as amended by the agreement for reclaimed water.

Sec. 3-8-225. Reuse system.

(a) The applicant shall construct, at its expense, all necessary onsite reuse facilities in the nature of pipes, pumps, valves, meters, controls, sensors, telemetry, storage lakes and/or tanks, retaining ponds, and spray or sprinkler facilities for irrigation with reclaimed water, and other equipment deemed necessary by the director for the proper and safe operation of the system.

(b) The applicant shall construct, at its expense, all necessary transmission lines, pumping stations, and appurtenant improvements for transmitting reclaimed water from the county’s transmission system to the applicant’s site.

(c) Regardless of reclaimed water service availability in proximity to the property at the time of the service application, if the county has published plans to provide reclaimed water service in the region within five (5) years of the service application date, the applicant shall be required to install “dry lines” and associated appurtenant improvements for reclaimed water distribution and service to the project area. All design and construction standards for such work shall meet or exceed the department’s specifications.

DIVISION 3. – SUPERCEDANCE OVER ALL PRIOR AGREEMENTS FOR THE SUPPLY OF RECLAIMED WATER

Sec. 3-8-226. Supercendence.

This article is the master governing law over all agreements between Charlotte county and third-party customers for the supply of reclaimed water. To the extent any provision within a prior agreement shall conflict with the language herein, this article shall supercede and be the controlling document. All prior agreements between Charlotte county and third-party customers for the supply of reclaimed water will be reviewed for compliance with this article, and replaced if deemed by the director to be in conflict with this article.
Section 2. Severability.

In the event this ordinance conflicts with any other provision of the Charlotte County Code or other applicable law, the more restrictive shall apply. 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 remainder of the ordinance.

Section 3. Inclusion in the Charlotte County Code.

It is the intent of the Board of county Commissioners, and it is hereby ordained, that the provisions of this ordinance shall become and be made part of the Code of Laws and Ordinances, Charlotte County, Florida, and the sections of this ordinance may be renumbered to accomplish such intent.

Section 4. Effective Date.

This ordinance shall take effect upon receipt of the acknowledgement of its filing in the Office of the Secretary of State, State of Florida.
PASSED AND DULY ADOPTED this 29th day of May, 2007.

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

By: Richard L. Lars, Chairman

ATTEST:
Barbara T. Scott, Clerk of
Circuit Court and Ex-officio
Clerk of the Board of County
Commissioners

By: [Signature]
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

By: [Signature]
Janette S. Knowlton
County Attorney

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