

ORDINANCE NO. ____

PROPOSED ORDINANCE NO. 26-026

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKELAND, FLORIDA RELATING TO DROUGHT CONTROL; AMENDING ARTICLE II OF CHAPTER 38 OF THE CODE OF THE CITY OF LAKELAND, FLORIDA; PROVIDING FOR ENFORCEMENT AND APPEAL PROCEDURES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKELAND, FLORIDA:

SECTION 1: Article II of Chapter 38 of the Code of the City of Lakeland is amended to read as follows:

ARTICLE II. - DROUGHT CONTROL

Sec. 38-26. - 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:

District means the Southwest Florida Water Management District.

Enforcement official means every police officer, public safety aide, code enforcement officer, and department of water utilities employee designated by the director of water utilities to assist in enforcement of this article, having jurisdiction in the area governed by this article.

Person is any person, firm, partnership, association, corporation, company, or organization of any kind.

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, reclaimed water, and water percolating, standing or flowing beneath the surface of the ground.

Water shortage condition means sufficient water is not available to meet present or anticipated needs of persons using the water resource, or when conditions are such as

to require temporary reduction in total water usage within a particular area to protect the water resources from serious harm. A water shortage usually occurs due to drought.

Water shortage plan means chapter 40D-21, Florida Administrative Code, adopted and published by the Southwest Florida Water Management District on November 19, 1984.

Year-round water conservation measures mean those contained in chapter 40D-22, Florida Administrative Code, adopted and published by the Southwest Florida Water Management District on March 15, 1992.

Sec. 38-27. - Penalties.

(a) Violation of any provision of this section shall be subject to the following penalties:

(1) *First violation:* ~~Written warning, either by door hang tag or certified letter from the city. A fine of \$50.00.~~

(2) *Second violation:* ~~Citation and \$35.00 fine.~~ A fine of \$200.00.

(3) *Third and subsequent violations:* ~~Citation and \$75.00 fine.~~ A fine of \$500.00.

~~(4) *Fourth violation:* Citation, court appearance and up to a \$500.00 fine set by court.~~

(b) Each day in violation of this section shall constitute a separate offense; however, a subsequent violation of this article shall not be written within fourteen (14) days from the date of a prior notice of violation being mailed to the violator.

(c) If a person has not violated the provisions of this article for twelve (12) consecutive months from the date of the previous violation, the next violation shall be considered that person's first violation.

(d) When a water shortage declaration is not in effect and during the initial stages of a Water Shortage or Water Shortage Emergency, enforcement officials may provide a violator with a written warning.

~~(e) For purposes of enforcement and assessment of these penalties, the owner or occupant of the premises where the violation occurs shall be presumed responsible for those acts which constitute a violation.~~

Sec. 38-28. - Application.

The provisions of this article shall apply to all persons using the water resource, whether from public or privately owned water utility systems, private wells, ~~or~~ private connections with surface water bodies or reclaimed water. ~~This article shall not apply to persons using treated effluent or salt water.~~

Sec. 38-29. – Applicability of year-round water conservation measures.

In the absence of a declaration of a water shortage or water shortage emergency within all or any part of the county that includes the city by the governing board or executive director of the District, all lawn irrigation, landscape irrigation, and related outdoor water conservation measures adopted by the District pursuant to Chapter 40D-22, Florida Administrative Code, applicable to the city, or any portion thereof, shall be subject to enforcement action pursuant to this article. The provisions of Chapter 40D-22, Florida Administrative Code, which are by this reference made a part of hereof, are hereby adopted by the city commission. Any violation of the provisions of Chapter 40D-22, Florida Administrative Code, or any other issued pursuant thereto, shall be a violation of this article.

Sec. 38-~~29~~30. - Declaration of shortage; emergency.

The declaration of a water shortage or water shortage emergency within all ~~of~~ or **any** part of the county ~~which that would~~ includes s the city by the governing board or executive director of the ~~D~~istrict shall invoke the provisions of this article. Upon such declaration, all water use restrictions or other measures adopted by the ~~D~~istrict pursuant to chapter 40D-21, Florida Administrative Code, applicable to the city shall be subject to enforcement action. The provisions of chapter 40D-21, Florida Administrative Code, which is by this reference made a part hereof, ~~are~~ **is** hereby adopted by the city commission. Any violation of the provisions of chapter 40D-21, Florida Administrative Code, shall be a violation of this article. A declaration that a water shortage or water shortage emergency no longer exists within all or part of the county, which would include the city, by the governing board or the executive director of the ~~D~~istrict shall suspend any further enforcement of the provisions of ~~this article section until any future invocation of the provisions of this article~~ chapter 40D-21, Florida Administrative Code.

Sec. 38-31. - Enforcement.

(a) The provisions of this article and the rules and regulations adopted herein shall be investigated and enforced by the enforcement officials.

(b) If an enforcement official finds a violation of this article, the department of water utilities shall issue a notice of violation to the person who is listed as the account holder on the utility account for the property where the violation is found. The person who is listed as the account holder on the utility account shall be considered the violator of this article as the entity that controls the use of water resources on that property. The notice of violation shall be sent by U.S. mail to the person and address that appears on the utility account. A certification by the department of water utilities that the notice was mailed to the address given on the utility account constitutes prima facie evidence that the person on the utility account was served with the notice. Mailing the notice of violation to the address listed on the utility account constitutes notification of the violation.

(c) All notices of violation shall include:

(1) The name(s) of the violator who may be referred to as the respondent in the notice of violation.

(2) The nature of the violation with reference to the section of this article.

(3) The date and time the violation was observed.

(4) The date the notice of violation was mailed.

(5) The address or parcel ID of the property upon which the violation was observed.

(6) The amount of the fine and notice that the fine will be billed to the violator's utility account within 60 days from the date of mailing of the notice of violation and that payment is due as stated in the utility bill.

(7) A conspicuous statement that the violator has 30 days from the date in which the notice of violation was mailed to file an appeal to the director of water utilities pursuant to sec. 38-32 and that the written notice of appeal shall be sent to City of Lakeland Department of Water Utilities, 501 E. Lemon St., W-ADMN/ENG, Lakeland, FL 33801-5079.

(8) A conspicuous statement that failure to timely pay the fine may result in the imposition of late fees on the violator's utility account and suspension or termination of utility services.

(d) Fines shall be paid to the city by the person so cited as provided in the violator's utility bill. In the event that the violator fails to timely pay or appeal the fine, the violator's utility service may be subject to a late fee, suspension or termination.

(e) Nothing contained herein shall prohibit the city from enforcing the provisions of this article through any other civil proceeding, including, without limitation, seeking injunctive relief in the circuit court.

Sec. 38-32. - Appeal.

Any violator who receives a notice of violation of this article shall be entitled to an appeal to the director of water utilities or his or her designee. An appeal must be in writing, stating the reasons why the fine should not be assessed, and shall be made within 30 days from the date of mailing of the notice of violation by the city. The director of water utilities or his or her designee shall review the facts and circumstances and shall determine whether the violator has shown good cause why the fine should be withdrawn and shall render a decision on the appeal within ten days of receipt. The decision of the director of water utilities or his or her designee shall be the final

administrative action by the city. Upon making a decision on the matter, the director of water utilities or his or her designee shall notify the violator of the decision in writing. A person who fails to file a notice of appeal with the director of water utilities or his or her designee within 30 days from the date that the notice of violation was mailed shall be deemed to have waived the right to contest the violation.

Secs. 38-33—38-50. – Reserved

SECTION 2. If any word, sentence, clause, phrase, or provision of this ordinance, for any reason, is held to be unconstitutional, void, or invalid, the validity of the remainder of this ordinance shall not be affected thereby.

SECTION 3. This ordinance shall take effect immediately upon its passage.

PASSED AND CERTIFIED AS TO PASSAGE this 8th day of September,

A. D. 2026.

**CITY COMMISSION OF THE
CITY OF LAKELAND, FLORIDA**

By: _____
SARA ROBERTS McCARLEY
MAYOR

ATTEST: _____
KELLY S. KOOS, CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS: _____
PALMER C. DAVIS
CITY ATTORNEY