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ORDINANCE NO. 2025 - 01

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LABELLE, FLORIDA; ESTABLISHING A MANDATORY YEAR-ROUND LANDSCAPE IRRIGATION MEASURES; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, the South Florida Water Management District (“District”) has the responsibility and exclusive authority under Chapter 373, Florida Statutes, for implementation of a water shortage plan; and

WHEREAS, the District has promulgated and amended Chapter 40E-24, Florida Administrative Code (“F.A.C.”), establishing mandatory year-round irrigation conservation measures intended to provide a framework for long-term sustainability of water resources; and

WHEREAS, Rule 40E-24.001, F.A.C., seeks the cooperation and assistance of local governmentals to enforce these conservation measures through adoption of local implenting ordinances; and

WHEREAS, the City of LaBelle relies upon the model ordinance guidance and regulations issued by the District in the drafting, adopting, and implementing this Ordinance; and

WHEREAS, it is the desire of the City Commission to adopt such an Ordinance in accordance with Rule 40E-24, F.A.C.; and

WHEREAS, the City Commission of City of LaBelle finds and declares that the adoption of this Ordinance is appropriate, and in the public interest of this community.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LABELLE, FLORIDA:

Section 1. Recitals.

Each and all of the foregoing recitals are hereby incorporated into this Ordinance as if specifically set forth herein.

Section 2. Purpose.

It is the intent and purpose of this Ordinance to protect the water resources of the City of LaBelle from the harmful effects of overutilization, especially during periods of water shortage, by assisting the District in the implementation of its landscape irrigation conservation measures, under Chapter 40E-24, F.A.C.

Section 3. Definitions.

For the purpose of this Ordinance, the following terms, phrases, words, and their derivatives shall have the meaning listed below. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

(1) "Address" means the "house number" (a numeric or alphanumeric designation) that, together with the street name, describes the physical location of a specific property. This includes "rural route" numbers, but excludes post office box numbers. If a lot number in a mobile home park or similar community is used by the U.S. Postal Service to determine a delivery location, the lot number shall be the property's address. If a lot number in a mobile home park or similar residential community is not used by the U.S. Postal Service (e.g., the park manager sorts incoming mail delivered to the community's address), then the community's main address shall be the property's address. If a property has no address, it shall be considered "even-numbered."

(2) "Athletic Play Area" means all golf course fairways, tees, roughs, greens, and other athletic play surfaces; including, football, baseball, soccer, polo, tennis, lawn bowling fields, and rodeo, equestrian and livestock arenas.

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

(4) "District" means the South Florida Water Management District, a government entity created under Chapter 373, Florida Statutes.

(5) "Even-Numbered Address" means an address ending in the number 0, 2, 4, 6 or 8; rights-of-way or other locations with no address; or the letters A-M.

(6) "Existing Landscaping" means any landscaping which has been planted in the ground for more than ninety (90) days.

(7) "Landscaping" means shrubbery, trees, lawns, sod, grass, ground covers, plants, vines, ornamental gardens, and such other flora not intended for resale, which are situated in such diverse locations as residential landscapes, recreation areas, cemeteries, public, commercial, and industrial establishments, public medians, and rights-of-way, except athletic play areas.

(8) "Landscape Irrigation" means the outside watering of shrubbery, trees, lawns, sod, grass, ground covers, plants, vines, ornamental gardens, and such other flora not intended for resale, which are planted and are situated in such diverse locations as residential landscapes, recreation areas, cemeteries, public, commercial, and industrial establishments, public medians, and rights-of-way, except athletic play areas.

(9) "Law Enforcement Officials" means designated code inspectors and code enforcement officers of the City.

(10) "Low Volume Hand Watering" means the watering of landscape by one (1) person,

1 with one (1) hose, fitted with a self-canceling or automatic shutoff nozzle.

2
3 (11) “Low Volume Irrigation” means the use of equipment and devices specifically
4 designed to allow the volume of water delivered to be limited to a level consistent with the water
5 requirement of the plant being irrigated, and to allow that water to be placed with a high degree of
6 efficiency in the root zone of the plant. The term also includes water used in mist houses and
7 similar establishments for plant propagation. Overhead irrigation and flood irrigation are not
8 included.

9
10 (12) “Micro-irrigation” means the application of small quantities of water on or below
11 the soil surface as drops or tiny streams of spray through emitter or applicators placed along a
12 water delivery line. Micro-irrigation includes a number of methods or concepts such as bubbler,
13 drip, trickle, mist or micro-spray, and subsurface irrigation.

14
15 (13) “New Landscaping” means any landscaping which has been planted and
16 established for ninety (90) days or less.

17
18 (14) “Odd-Numbered Address” means an address ending in the number 1, 3, 5, 7 or 9;
19 or the letters N-Z.

20
21 (15) “Reclaimed Water” means wastewater that has received at least secondary
22 treatment, and basic disinfection and is reused after flowing out of a wastewater treatment facility
23 as defined by Rule 62-40.210, F.A.C.

24
25 (16) “User” means any person, individual, firm, association, organization, partnership,
26 business trust, corporation, company, agent, employee or other legal entity whether natural or
27 artificial, the United States of America, and the State and all political subdivisions, regions,
28 districts, municipalities, and public agencies thereof, which directly or indirectly takes water from
29 the water resource, including uses from private or public utility systems, uses under water use
30 permits issued pursuant to Chapter 40E-2, F.A.C., or uses from individual wells or pumps.

31
32 (17) “Wasteful and unnecessary” means allowing water to be dispersed without any
33 practical purpose to the water use; for example, excessive landscape irrigation, leaving an unat-
34 tended hose on a driveway with water flowing, allowing water to be dispersed in a gross-ly
35 inefficient manner, regardless of the type of water use; for example, allowing land-scape irrigation
36 water to unnecessarily fall onto pavement, sidewalks and other impervi-ous surfaces; or allowing
37 water flow through a broken or malfunctioning water delivery or landscape irrigation system.

38
39 (18) “Water Resource” means any and all water on or beneath the surface of the ground,
40 including natural or artificial water courses, lakes, ponds, or diffused surface water, and water
41 percolating, standing, or flowing beneath the surface of the ground.

42
43 (19) “Water Shortage” means when the District determines there is the possibility that
44 insufficient water will be available to meet the present and anticipated needs of the users, or when
45 conditions are such as to require temporary reduction in total use within a particular area to protect
46 water resources from serious harm.

(20) “Water Shortage Emergency” means when the District has determined that the provisions listed in Part II of Chapter 40E-21, F.A.C., are not sufficient to protect the public health, safety, or welfare, the health of animals, fish, or aquatic life, a public water supply, or commercial, industrial, agricultural, recreational, or other reasonable beneficial uses.

Section 4. Applicability.

The provisions of this Ordinance shall apply to each user providing landscape irrigation from all water resources within the boundaries of the City of LaBelle. The provisions of this Ordinance shall not apply to athletic play areas or agricultural operations (including nurseries), and irrigation accomplished using reclaimed water or saltwater.

Section 5. Declaration of Water Shortage or Water Shortage Emergency.

A declaration of a water shortage condition or water shortage emergency in accordance with Part II of Chapter 40E-21, F.A.C., within all or parts of the City by the District’s Governing Board or Executive Director, shall supercede any provisions of this Ordinance in conflict therewith until the more restrictive measures are rescinded by the District.

Section 6. Year-Round Permanent Landscape Irrigation Measures.

The following requirements or exceptions shall apply to all users, unless otherwise specified.

- (1) Landscape irrigation shall be prohibited daily between the hours of 10:00 a.m. and 4:00 p.m., except as provided below.
- (2) Irrigation of existing landscaping shall comply with the following provisions:
 - a. Even-Numbered Addresses and rights-of-way, or other locations without an address, may accomplish necessary landscape irrigation only on Tuesdays, Thursdays, and/or Sundays.
 - b. Odd-Numbered Addresses may accomplish necessary landscape irrigation only on Mondays, Wednesdays, and/or Saturdays.
- (3) Irrigation of new landscaping shall comply with the following provisions:
 - a. New Landscaping may be irrigated once on the day it is installed without regard to the listed watering days and times. Irrigation of the soil immediately prior to the installation of the new landscaping is allowed without regard to the listed watering days and times.
 - b. A ninety (90) day establishment period begins on the day 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.

- 1 c. Irrigation of new landscaping which has been in place for thirty (30) days or less
2 may be accomplished on Monday, Tuesday, Wednesday, Thursday, Saturday,
3 and/or Sunday.
4
- 5 d. Irrigation of new landscaping which has been in place for thirty-one (31) to ninety
6 (90) days may be accomplished on Monday, Wednesday, Thursday, and/or
7 Saturday.
8
- 9 e. Irrigation of the new landscaping is limited to areas containing only the new
10 landscaping. An entire zone of an irrigation system shall only be utilized for
11 landscape irrigation under this Code if the zone in question is for an area that
12 contains at least fifty percent (50%) new landscaping. If a zone contains less than
13 fifty percent (50%) new landscaping, or if the new landscaping is in an area that
14 will not typically be irrigated by an irrigation system, only the individual new
15 plantings are eligible for additional irrigation. Targeted watering may be
16 accomplished by low volume hand watering, or any appropriate method which
17 isolates and waters only the new landscaping.
18
- 19 (4) Irrigation systems may be operated outside restricted days and/or times for cleaning,
20 maintenance, and repair with an attendant on-site in the area being tested. Landscape
21 irrigation systems may routinely be operated for such purposes no more than once per
22 week, and the run time for any one (1) test should not exceed ten (10) minutes per zone.
23
- 24 (5) Landscape irrigation for the purpose of watering-in fertilizers, insecticides, pesticides,
25 fungicides, and herbicides, where such watering-in is required by the manufacturer, or by
26 federal, state or local law, shall be allowed under the following conditions:
27
- 28 a. Such watering-in shall be limited to one (1) application in the absence of specific
29 alternative instructions from the manufacturer; and
30
- 31 b. Such watering-in shall be accomplished during normal watering days and times
32 listed above unless a professional licensed applicator has posted a temporary sign
33 containing the date of application and the date(s) of needed watering-in activity.
34
- 35 (6) Any plant material may be watered using low volume irrigation, micro-irrigation, low
36 volume hand watering methods, rain barrels, cisterns, or other similar rain-harvesting
37 devices without regard to the listed watering days or times.
38
- 39 (7) In addition to the specific listed measures, all wasteful and unnecessary water use is
40 prohibited.
41
- 42 (8) Any user who purchases and installs an automatic landscape irrigation system shall
43 properly install, maintain, and operate technology that inhibits or interrupts operation of
44 the system during periods of sufficient moisture in accordance with Section 373.62, Florida
45 Statutes.

- 1 (9) It shall be the duty of each user to keep informed as to the landscape irrigation conservation
2 measures within this Code, which affect each particular water use.
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4 **Section 6. Variances.**
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- 6 (1) Any user affected by this Ordinance may apply for a variance to. A variance from specific
7 day or days identified in Ordinance may be granted if strict application of the restrictions
8 would lead to unreasonable or unfair result, provided the applicant demonstrates with
9 particularity that compliance with the schedule will result in substantial economic, health,
10 or other hardship on the applicant, or those the applicant serves. Relief may be granted only
11 upon a demonstration that such hardship exists, is peculiar to the person or the affected
12 property, is not self-imposed, and further demonstrates that granting the variance would be
13 consistent with the general intent and purpose of this Ordinance.

- 14 (2) Examples of circumstances for a variance include, but are not limited to:

- 15 a. Two (2) or more properties which share a common source of water;
16 b. A public or private water system experiencing or anticipating distribution
17 problems;
18 c. A user maintains an irrigation system that uses soil moisture sensors or weather-
19 based irrigation controllers; or
20 d. Where a contiguous property is divided into different zones, a variance may be
21 granted so that each zone may be irrigated on days different than other zones of the
22 property.
23 e. Where a user maintains, manages, or owns a non-residential property, such as a
24 house of worship or weekly market (farmer/flea), where the primary day of use,
25 operation, or attendance for the property coincides with the prescribed watering day
26 for the address.

- 27 (3) Upon receipt of an application for variance, the Mayor or their designee will render a
28 decision based on the requirements of this Ordinance. In the event the variance is denied,
29 relief may be appealed to the City Commission. Any notice of denial or subsequent appeal
30 shall be sent by certified mail, return receipt requested.

- 31 (4) The granting of a variance under provisions of the Ordinance shall operate prospectively,
32 shall not stay or abate the enforcement of the provisions of this Ordinance, and shall not
33 affect any prior or pending enforcement actions against the affected person that have been
34 initiated pursuant to the provisions of this Ordinance.

- 35 (5) If a variance is granted, the user shall be required to post a notice at each parcel to which
36 the variance pertains.

- 37 (6) A variance is invalid if it has expired or if the user or its agent violates the terms of the
38 variance.

1 (7) The City shall recognize all applicable variances or waivers issued by the District pursuant
2 to Rules 40E-21 or 40E-24, F.A.C.

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4 **Section 7. Enforcement.**

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6 The City authorizes law enforcement officials having jurisdiction within the City to enforce
7 the provisions of this Ordinance. In addition, the City may delegate this Ordinance's enforcement
8 responsibility to other agencies and departments within the City government or other governmental
9 entities through interlocal agreement.

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11 **Section 8. Penalties.**

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13 Violations of any provision of this Ordinance may be punished pursuant to Chapter 162,
14 Florida Statutes, however the City may also take any other appropriate legal action, including but
15 not limited to injunctive action to enforce the provisions of this Ordinance.

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17 **Section 9. Codification.**

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19 The City Commission intends that this Ordinance be made part of the Code of the Laws
20 and Ordinances, of the City of LaBelle, Florida; and that the sections of this Ordinance can be
21 renumbered or re-lettered to the appropriate word or phrase to accomplish codification, and
22 regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or re-
23 lettered and typographical errors and clarification of ambiguous wording that do not affect the
24 intent can be corrected with the authorization of the City Attorney without the need for a public
25 hearing.

26
27 **Section 10. Conflict.**

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29 All ordinances, resolutions, official determinations or parts thereof previously adopted or
30 entered by the City or any of its officials and in conflict with this Ordinance are hereby repealed
31 to the extent inconsistent herewith.

32
33 **Section 11. Severability.**

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35 In the event that any portion of this ordinance is for any reason held invalid or
36 unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate,
37 distinct and independent provision, and such holding shall not affect the validity of the remaining
38 portions of this Ordinance.

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40 **Section 12. Effective Date.**

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42 This Ordinance shall take effect immediately upon adoption.
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PASSED on first reading this 10th day of May 2025.

PASSED AND ADOPTED BY THE CITY COMMISSION of the City of LaBelle,
Florida this 12th day of June, 2025.

CITY OF LABELLE, FLORIDA

By: _____
Julie C. Wilkins, Mayor

Attest:

By: _____
Tijauna Warner, MMC, Deputy City Clerk

Approved as to form and to
Legal Sufficiency:

By: _____
Derek Rooney, City Attorney

Vote: AYE NAY

Mayor Wilkins	_____	_____
Commissioner Vargas	_____	_____
Commissioner Ratica	_____	_____
Commissioner Vacant	_____	_____
Commissioner Spratt	_____	_____