DRAFT
9/28/2026 @ 12:07pm

ORDINANCE NO. 2026-_____

AN ORDINANCE PERTAINING TO WATER USE IN ORANGE COUNTY, FLORIDA; AMENDING SECTION 37-2 ("DEFINITIONS") OF CHAPTER 37 ("WATER AND WASTEWATER") OF THE ORANGE COUNTY CODE; CREATING A POLICY FOR HIGH-INTENSITY WATER USERS IN SECTION 37-8 ("HIGH-INTENSITY WATER USERS") OF CHAPTER 37 BY ESTABLISHING CLASSIFICATION, REVIEW, APPROVAL, AND APPEAL PROCESSES FOR HIGH-INTENSITY WATER USERS; AUTHORIZING RATES, SERVICE STANDARDS, COMPLIANCE REQUIREMENTS, AND LIMITATIONS ON SERVICE; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Article VIII, section 1(g) of the Florida Constitution grants charter counties broad home rule authority to exercise any power of local self-government not inconsistent with general law; and

WHEREAS, section 125.01(1), Florida Statutes, authorizes the Orange County Board of County Commissioners ("Board") to carry on county government and to adopt ordinances and resolutions necessary for the exercise of county powers; and

WHEREAS, section 125.01(1)(k), Florida Statutes, specifically authorizes counties to provide and regulate water, wastewater, alternative water supplies, reclaimed water, and water conservation programs; and

WHEREAS, Orange County ("County") owns and operates potable water, wastewater, and reclaimed water utility systems that provide essential services to residents, businesses, institutions, and other customers within the Orange County Utilities ("Utilities") service area; and

WHEREAS, continued growth and increasing water demands, together with limitations and conditions applicable to the County under water consumptive use permits issued by the applicable water management districts, require the County to plan for, develop, finance, and utilize alternative water supply sources that are more costly than traditional fresh groundwater supplies; and

WHEREAS, certain non-residential uses, facilities, developments, projects, and customers may require exceptionally large volumes of potable water, reclaimed water, or both for industrial, manufacturing, processing, cooling, operational, or similar purposes; and

WHEREAS, exceptionally large water demands may affect the available capacity, reliability, operation, regulatory compliance, and long-term planning of the County's potable water, wastewater, and reclaimed water systems; and

WHEREAS, the Board desires to protect the availability and reliability of potable water service for domestic consumption, public health and safety, existing customers, and other community-serving uses while allowing the County to evaluate requests for exceptionally high-volume utility service on a case-by-case basis; and

WHEREAS, section 153.11, Florida Statutes, authorizes the County to establish just and equitable utility rates, fees, and charges sufficient to fund system replacements and necessary extensions, and to impose an additional charge when the amount of water furnished to a premises imposes an unreasonable burden upon the water supply system; and

WHEREAS, applicants and customers whose demands consume or reserve extraordinary water-supply capacity, accelerate or increase the need for alternative water supplies, or necessitate utility extensions, improvements, additional monitoring, or other utility-system investments should bear the costs reasonably attributable to providing and maintaining such utility service; and

WHEREAS, reclaimed water is an alternative water supply under sections 373.019(1) and 373.250(2), Florida Statutes, and must be considered in regional water-supply planning; and

WHEREAS, sections 373.250 and 403.064, Florida Statutes, establish state policies promoting water conservation and the beneficial reuse of reclaimed water, including volume-based reclaimed-water rates as a water-management tool for industrial uses; and

WHEREAS, the Board finds that traditional fresh groundwater and reclaimed water available to the County constitute finite and valuable components of the County's water-supply portfolio; that commitment of such supplies to high-intensity water users reduces water-supply capacity otherwise available to meet existing and future demands and may accelerate the need to develop substantially more costly alternative water supplies; that the use of traditional fresh groundwater for industrial cooling, process water, and other purposes not requiring potable-quality water should therefore be minimized where reclaimed water supply is available and environmentally, economically, and technically feasible; and that rates and charges for high-intensity water users should appropriately reflect the costs attributable to providing, preserving, replacing, and expanding the water-supply capacity required to serve such demands; and

WHEREAS, the Board finds it necessary and in the public interest to establish additional review, approval, reclaimed-water use, monitoring, cost recovery, and compliance requirements for high-intensity water users; and

WHEREAS, Florida law recognizes a water demand in excess of 100,000 gallons per day ("gpd") as a significant threshold for regulatory review of water consumptive use permits and permit modifications; and

WHEREAS, the County was required to develop expensive, environmentally challenging AWS capacity per its consumptive use permits which required over two decades of engineering, construction, and permitting efforts; and

WHEREAS, 100,000 gpd constitutes approximately one percent (1%) of the County's recently developed and permitted AWS capacity; and

WHEREAS, the Board finds that high-intensity water users with total water demand in excess of 100,000 gpd shall be subject to additional utility capacity charges and volumetric utility rates designed to recover the reasonable costs of providing, reserving, replacing, and extending the water-supply capacity required to serve such demands, including the reasonably allocable costs of alternative water supplies required by the County's long-term water-supply obligations and water consumptive use permits; and

WHEREAS, the Board finds that this Ordinance serves a valid public purpose, promotes the responsible allocation and use of the County's water resources, and protects the capacity, reliability, financial integrity, and regulatory compliance of the County's utility systems.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY:

Section 1. ***Amendment to Section 37-2.*** The definitions of "approved service volume", "engineer's estimate", "high-intensity water user", "special high-intensity water user charges, fees, and rates", and "total water demand" are hereby added to Section 37-2 of the Orange County Code ("Definitions") to read as follows, with additions being shown by underlines and deletions being shown by strike-throughs:

Sec. 37-2. - 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:

Applicant shall mean a developer or a potential customer or an authorized agent of a developer or potential customer.

Approved service volume (paid capacity) shall mean the maximum volume of potable water, reclaimed water, or both, approved by the county for service to a high-intensity water user.

Backflow shall mean a hydraulic condition, caused by differences in pressure, that may cause non-potable water or another substance to flow into a potable water system.

* * *

Effluent disposal facilities shall mean those wastewater facilities necessary to detain, transmit, store, and dispose of wastewater previously treated at treatment facilities.

Engineer's estimate shall mean a water, wastewater, and reclaimed water demand estimate prepared, signed, and sealed by a professional engineer licensed in the State of Florida, unless otherwise approved by the Director, and submitted in a form acceptable to Utilities.

Entity shall mean an organization, public or private, that has a legal identity apart from its members.

* * *

GPD shall mean gallons per day.

High-intensity water user shall mean any non-residential use, facility, development, project, customer, or applicant, as determined by the Utilities Director, or the Board of County Commissioners when applicable, pursuant to Section 37-8.(d)(4), with an exceptionally large non-domestic water demand, that is required to submit an engineer's estimate and enter into a flow monitoring agreement in accordance with Section 37-5(b)(4)b.2. High-intensity water users with total water demand in excess of one hundred thousand (100,000) gallons per day will be subject to special high-intensity water user charges, fees, and rates.

Interim private wastewater treatment facilities shall mean those wastewater facilities to be constructed by a person or entity other than the county, and operated on an interim, temporary basis until the wastewater flows treated thereby are permanently connected to a regional, subregional or area-wide wastewater treatment plant.

* * *

Residential cross connection control program shall mean that portion of the cross connection control program established by Utilities for testing and maintenance of backflow preventers applicable to all residential customers who have an individually metered potable water connection and who are required to have a backflow preventer per the cross connection control program.

Special high-intensity water user charges, fees, and rates shall mean the higher rates applicable to high-intensity water users with a total

water demand in excess of one hundred thousand (100,000) gallons per day and established by the Board based upon a cost-of-service, marginal-cost, or other professionally accepted utility rate methodology that reasonably allocates costs attributable to serving high-intensity water demands, including reasonably allocable alternative-water-supply costs.

Total water demand shall mean the actual total or projected demand for potable water and reclaimed water, expressed in gallons per day, including domestic and non-domestic, process, cooling, operational, and other water demands, excluding irrigation demand, as determined by an engineer's estimate accepted by Utilities or determined through flow monitoring.

UCCAB shall mean the Utilities Capital Charge Appeal Board established by Orange County Ordinance No. 2005-18.

* * *

Water system shall mean all facilities and interests in real and personal property owned, operated, managed or controlled by the county now and in the future and used to provide water service to existing and future customers.

In all other respects, Section 37-2 shall remain unchanged.

Section 2. Creation of Section 37-8. Section 37-8, presently "Reserved" under Article I ("ORANGE COUNTY WATER, WASTEWATER AND RECLAIMED WATER SERVICE RULES") of Chapter 37, is created to read as follows:

Sec. 37-8. High-intensity water users.

(a) *Purpose and intent.*
The purpose of this section is to establish additional review, approval, service, monitoring, and cost recovery requirements for high-intensity water users in order to protect the capacity, reliability, and regulatory compliance of the county's water, wastewater, and reclaimed water systems; prioritize domestic potable water service; promote the beneficial use of reclaimed water; and recover costs associated with alternative water supply sources required to serve high-volume demands.

The Board finds that, due to limited potable and reclaimed water supply, priority should be given to residential, public health and

safety, governmental, educational, and community-serving uses before allocating capacity to exceptionally large non-domestic water demand uses.

(b) *Applicability.*

(1) This section shall apply to all applicants and customers who meet the definition of high-intensity water user and request new, expanded, modified, or continued utility service from Utilities.

(2) Compliance with this section shall be in addition to, and not in lieu of, all other applicable requirements of this chapter, county ordinances, county resolutions, development approvals, utility standards, administrative regulations, and service agreements.

(3) For purposes of this section, all references to the Orange County Utilities Director shall include the Director's designee.

(c) *Engineer's estimate and supporting information.*

(1) An applicant or customer subject to this section shall submit an engineer's estimate for the daily water, wastewater, and reclaimed water use and all supporting information required by the Director.

(2) The Director may reject an engineer's estimate that is incomplete, unsupported, inconsistent with accepted engineering practices, or inconsistent with the proposed use or facility.

(d) *Approval thresholds and process.*

(1) The Utilities Director may approve, approve with conditions, or deny any request for water service based on the criteria set forth below.

(2) The Utilities Director may determine a non-residential use meeting the review criteria below as a high-intensity water user regardless of the total water demand. However, if the total water demand exceeds 200,000 gpd, final approval of the requested service volume and any project-specific service conditions requires approval by the Board of County Commissioners.

(3) If the Utilities Director determines that applicant is a high-intensity water user, the applicant may appeal the decision to the Board of County Commissioners.

(4) Review criteria.

a. In determining whether a non-residential use, facility, development, project, customer, or applicant shall be classified as a High-intensity water user, the

Utilities Director and, when applicable the Board, shall consider the definition of high-intensity water user together with the following factors. These factors are intended as guidelines, and no single factor shall be determinative.

i. Whether the proposed use is required to submit an engineer's estimate of water demand and execute a flow monitoring agreement under Utilities Department requirements.

ii. The anticipated average daily demand, maximum daily demand, peak hourly demand, and annual potable water consumption.

iii. Whether water demand is primarily attributable to industrial, manufacturing, processing, cooling, or other operational activities rather than domestic sanitary or customer-serving uses.

iv. Whether the proposed water demand is substantially greater than that of typical commercial, institutional, or hospitality uses of comparable size.

v. Any other objective engineering or operational characteristics demonstrating that the proposed use places an unusually large demand on the County's water supply and distribution system.

b. Generally excludes non-residential uses assigned a specific Equivalent Residential Connection (ERC) factor in the table, ERC Factors for Specific Property Uses, in Section 37-5(b)(4)b.2., that do not otherwise meet the definition of high-intensity water user.

(5) Conditions of approval.

a. County may impose conditions upon the approval of a high-intensity water user. Such conditions shall be related to the proposed demand and impact on the County’s utility systems.

(e) *Appeal process.*

(1) If the Director determines applicant is a high-intensity water user, the applicant may appeal the decision to the Board by filing a written notice of appeal with the County within thirty (30) days after issuance of the Director’s written decision.

(2) The Board may affirm, modify, or overturn the Director’s decision regarding applicant’s high-intensity water user

classification. The decision of the Board shall constitute final administrative action.

(3) For requests in excess of 200,000 gpd, the Board's action shall constitute final administrative action.

(f) *Reclaimed water priority.*

(1) Required use of reclaimed water.

a. A high-intensity water user shall use reclaimed water as the primary County water source for non-domestic uses for which the Director determines reclaimed water to be available, of sufficient quality and reliability, and environmentally and technically feasible for the intended use. Nothing in this section shall be construed as the County exercising consumptive-use permitting authority reserved to the applicable water management district under Part II of chapter 373, Florida Statutes.

(2) Determination of availability and appropriateness.

a. The Director shall determine whether reclaimed water is available and appropriate for a high-intensity water user based on objective utility and engineering factors, including available uncommitted capacity, distance and infrastructure required to provide service, water quality, quantity, pressure, reliability, technical suitability for the intended use, reasonably anticipated capital and operating costs, and consistency with applicable permits and utility plans.

(g) *Extension to reclaimed water main.*

(1) Where reclaimed water is determined to be available and appropriate under subsection (f), the applicant shall, at the applicant's sole cost and expense, design, permit, construct, and dedicate, as applicable, those reclaimed water facilities responsible for providing service to the property or facility, subject to applicable County utility extension and oversizing policies. The Director's determination shall consider the distance and cost of connection and shall not be based solely on the existence of a reclaimed water main. However, reclaimed water availability for this section shall be determined on a case-by-case basis and not as defined in Section 37-4.(a)(3).

(2) Such facilities may include on-site and off-site mains, service lines, meters, valves, backflow prevention, easements, telemetry, and other improvements required by Utilities.

(3) Applicants using reclaimed water shall treat the water as needed to meet applicable standards appropriate for their use.

(h) *Compliance with standards.*

(1) All reclaimed water facilities and uses shall comply with the Orange County Code of Ordinances, applicable state and federal laws and requirements, Utilities standards, county-approved plans, and all applicable permit conditions.

(2) Potable water limitations.

a. Potable water shall be used for all domestic water uses.

b. As a condition of County utility service, potable water may be approved for non-domestic demands only to the extent the Director determines that reclaimed water is unavailable, environmentally, economically, or technically infeasible, insufficient in quantity or reliability, or inappropriate in quality for the specific use.

c. Approval of potable water service for a high-intensity water user shall not create a right to use potable water for non-domestic purposes where reclaimed water later becomes available and appropriate, unless expressly approved by County.

(i) *High-intensity water user charges, fees, and rates.*

(1) High-intensity water users shall be responsible for payment of the following:

a. All applicable normal water capital charges for all capacity;

b. Plus, all applicable special high-intensity water user capital charges for any total water demand capacity in excess of 100,000 gpd at $20.40/gpd. This charge is supported by a capacity study designed to recover no more than the reasonably allocable capital cost attributable to providing, reserving, replacing, or extending water-supply capacity to serve high-intensity water demands, including alternative-water-supply facilities and related transmission, treatment, storage, and capacity improvements;

c. All applicable volumetric charges, rates, or rate categories for the total water demand, as may be established by resolution of the Board or other applicable rate schedule; and

d. All applicable special high-intensity water user volumetric charges, rates, or rate categories for the

total water demand in excess of 100,000 gpd (approximately 3,000 Kilogallons/month), as may be established by resolution of the Board or other applicable rate schedule. Such rates shall be supported by a utility rate study and reflect the reasonably allocable long-run marginal or incremental cost of alternative water supplies, treatment, transmission, storage, operations, maintenance, renewal and replacement, regulatory compliance, and other utility costs attributable to furnishing high-intensity water service.

(2) No limitation on other charges.

a. Nothing in this section shall limit the county's authority to impose or collect any other lawful utility rate, fee, charge, assessment, or payment required under this chapter or other applicable law. The charges imposed by this section are proprietary utility charges for utility service and capacity and are not intended as taxes, special assessments, or charges for the privilege of withdrawing water from the water resources of the state. Nothing in this section regulates or purports to authorize, prohibit, or condition a consumptive use of water for which permitting authority is vested in the Department of Environmental Protection or a water management district under Part II of chapter 373, Florida Statutes.

(3) Flow Monitoring Agreement.

a. As a condition of approval and prior to initiation or expansion of service, a high-intensity water user shall enter into a flow monitoring agreement with the county in a form approved by the Board of County Commissioners.

(4) Modification, transfer, or expansion.

a. Approval under this section shall be limited to the approved use, facility, property, demand, and service volume. A high-intensity water user shall obtain approval under this section before expanding, transferring, modifying, or changing any use, facility, process, tenant, ownership structure, or operational condition that may increase demand or materially alter the basis for the county's approval.

(5) No guarantee of service.

a. Approval under this section shall not constitute a guarantee of uninterrupted service, a guarantee of future capacity, or a waiver of any emergency restriction, regulatory restriction, conservation

requirement, water shortage order, service limitation, or other lawful action affecting the county's utility systems.

(j) *Compliance required*.

(1) A high-intensity water user shall not exceed the approved service volume or any other demand limitation established as a condition of approval, in a flow monitoring agreement, in a development approval, or in any other county-approved agreement.

(2) The Director may determine that an exceedance has occurred based on meter readings, flow monitoring data, billing records, inspections, engineering calculations, operational records, or other reliable information.

(3) If the Director determines that a high-intensity water user has exceeded the approved service volume or any other applicable demand limitation, the Director may require corrective action, including termination of service.

(4) Except where immediate action is necessary to protect public health, safety, welfare, utility system integrity, regulatory compliance, or service to other customers, the county shall provide written notice of the exceedance and a reasonable opportunity to cure before limiting, interrupting, or terminating service.

(k) *Service limitation or interruption.*

(1) If a high-intensity water user exceeds the approved service volume or fails to comply with corrective action required by the Director, the county may limit, interrupt, suspend, or terminate potable water, reclaimed water, wastewater, or other utility service to the extent permitted by law.

(2) To the extent practicable, any service limitation or interruption shall prioritize protection of domestic potable water service, public health and safety, and service to existing customers.

Section 3. ***Severability.*** If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held to be invalid, unconstitutional, or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 4. ***Codification.*** It is the intention of the Board that the provisions of this Ordinance shall become and be made a part of the Orange County Code; and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

Section 5. ***Effective date.*** This Ordinance shall take effect pursuant to general law.

ADOPTED THIS _____ DAY OF _____, 2026.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By:_____
Jerry L. Demings
Orange County Mayor

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By:_____
Deputy Clerk

BUSINESS IMPACT ESTIMATE REQUIRED BY SECTION 125.66(3), FLORIDA STATUTES, FOR A PROPOSED ORDINANCE AMENDING SECTION 37-2 ("DEFINITIONS") OF CHAPTER 37 ("WATER AND WASTEWATER") OF THE ORANGE COUNTY CODE; CREATING A POLICY FOR HIGH-INTENSITY WATER USERS IN SECTION 37-8 ("HIGH-INTENSITY WATER USERS") OF CHAPTER 37 BY ESTABLISHING REVIEW, APPROVAL, AND APPEAL PROCESSES FOR HIGH-INTENSITY WATER USERS; ESTABLISHING SERVICE STANDARDS AND COMPLIANCE REQUIREMENTS; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.TO BE CONSIDERED BY ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS FOR ADOPTION AT PUBLIC HEARING AT 2:00 P.M. ON OCTOBER 27, 2026.

Orange County Contact: Andres Salcedo, Deputy Director, Orange County Utilities

Website for publishing:
https://www.orangecountyfl.net/BoardofCommissioners/eAgenda/BusinessImpactEstimates.aspx

Date of website publishing: October 11, 2026

Public Hearing Date: October 27, 2026

Summary of proposed ordinance (F.S. § 125.66(3)(a)1.):

This ordinance is designed to amend Chapter 37 of the Orange County Code to protect the availability and reliability of potable water service for domestic consumption, public health and safety, existing customers, and other community-serving uses by establishing review, approval, reclaimed-water use, monitoring, cost recovery, and compliance requirements for high-intensity water users. A high-intensity water user shall be charged a special rate for water use in excess of 100,000 gallons per day (gpd).

An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the county, if any (F.S. § 125.66(3)(a)2.): Any applicable special high-intensity water user will be required to pay water capital charges for all capacity in excess of 100,000 gpd at a rate 165% over the normal water capital charge in addition to the existing water capital charges paid for all capacity.

a. **An estimate of direct compliance costs that businesses may reasonably incur if the ordinance is enacted:** None

b. **Identification of any new charge or fee on businesses subject to the proposed ordinance or for which businesses will be financially responsible:** All applicable special high-intensity water users with total water demand in excess of 100,000 gpd will be required to purchase capacity at $20.40/gpd for the demand over 100,000 gpd in addition to the capacity that would be purchased at the current water capital charge per equivalent residential connection (ERC) for all capacity.

c. **An estimate of the county's regulatory costs, including an estimate of revenues from any new charges or fees that will be imposed on businesses to cover such costs**: None.

A good faith estimate of the number of businesses that will be financially impacted by this ordinance (F.S. § 125.66(3)(a)3.): There will be no current customers financially impacted by this ordinance. There may be a small number of businesses in the future who meet the criteria for a high-intensity water user, as defined in Chapter 37, that would be impacted by this ordinance should they choose to pursue purchasing capacity to establish their business in our service area.

Any additional information the Board determines may be useful (F.S. § 125.66(3)(a)4.): None