

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING CHAPTER 51 OF THE CITY CODE OF ORDINANCES ENTITLED "WATER" TO UPDATE THE CURRENT REGULATIONS TO INCLUDE LOCAL IMPLEMENTATION OF THE MANDATORY YEAR-ROUND LANDSCAPE IRRIGATION CONSERVATION MEASURES.

WHEREAS, Chapter 51 of the City Code of Ordinances provides for regulations relating to water shortage and such regulations have been established to assist the South Florida Water Management District ("District") in the implementation of its water conservation measures and water shortage plan; and

WHEREAS, the District has promulgated Chapter 40E-2, Florida Administrative Code ("F.A.C.") for the consumptive use of water which includes Rule 40E-2.061, F.A.C., General Consumptive Use Permits by Rule, regulating landscape irrigation at a single-family dwelling or duplex, and Rule 40E-2.071, F.A.C., Noticed General and Individual Permits, regulating larger landscape irrigation users; and

WHEREAS, the District promulgated and amended Chapter 40E-24, F.A.C., requiring year-round irrigation conservation measures; and

WHEREAS, Chapter 40E-24, F.A.C., applies to all users as defined in subsection 40E-24.101(14), F.A.C., including permitted and exempt users under Chapter 40E-2, F.A.C.; and

WHEREAS, Chapter 40E-24, F.A.C., calls for year-round and permanent landscape irrigation restrictions, separate and independent from water shortage declarations, in accordance with Chapter 40E-21, F.A.C.; and

WHEREAS, Chapter 40E-24 F.A.C., applies to all landscape irrigations regardless of whether the water comes from the ground or surface water, from a private well or pump, or from a public or private utility; and

WHEREAS, Rule 40E-24.301, F.A.C., provides that local governments may adopt a landscape irrigation ordinance that achieves water conservation consistent with Rule 40E-24.201, F.A.C., including variance and enforcement procedures; and

WHEREAS, the District requested that the City either update its current regulations or adopt a separate ordinance relating to landscape irrigation; and

WHEREAS, the Department of Public Utilities reviewed the District’s proposed model ordinance and determined that such landscape irrigation requirements can be incorporated into Chapter 51 of the Hollywood Code of Ordinances.

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

Section 1: That the foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are incorporated in this Ordinance.

Section 2: That Chapter 51 of the City Code of Ordinances is hereby amended as follows:<sup>1</sup>

**TITLE V: PUBLIC WORKS**

\* \* \*

**CHAPTER 51: WATER**

\* \* \*

**WATER CONSERVATION MEASURES AND WATER SHORTAGES**

\* \* \*

**§ 51.111 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

\* \* \*

**ADDRESS.** 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. 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”.

**ATHLETIC PLAY AREA.** All golf course fairways, tees, roughs, greens, and other athletic play surfaces; including football, baseball, soccer, polo, tennis, and lawn bowling fields, and rodeo equestrian, and livestock arenas.

<sup>1</sup> Coding: Words in ~~struck through~~ type are deletions from existing text; underscored words are additions to existing text.

**CONSUMPTIVE USE PERMIT.** A permit issued pursuant to Chapter 40E-2, F.A.C., authorizing the consumptive use of water.

\* \* \*

**EVEN NUMBERED ADDRESS.** An address ending in the numbers 0, 2, 4, 6, 8, or rights-of-way or other locations with no address, or the letters A-M.

**EXISTING LANDSCAPING.** Any landscaping which has been planted and in the ground for more than 90 days.

\* \* \*

**LANDSCAPING. LANDSCAPING.** Any shrubbery, trees, lawns, sod, grass, ground covers, plants, vines, ornamental gardens, and such 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. Any combination of living plants (such as grass, ground cover, shrubs, vines or trees) an nonliving material (such as rocks, pebbles, paving materials or fences).

**LANDSCAPE IRRIGATION.** 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 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.

**LOW VOLUME HAND WATERING.** The watering of landscape by one person with one hose, fitted with a self-canceling or automatic shut-off nozzle.

**LOW VOLUME IRRIGATION. LOW VOLUME IRRIGATION.** 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 plants being irrigated, and designed to allow that water to be placed with a high degree of efficiency within the root zone of the plant; and the low volume irrigation of plants with one hose fitted with self-canceling or automatic shutoff nozzle, attended by one person. 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.** 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 NEW LANDSCAPING.** Any lawn or landscaping which has been planted in existence in the same location for less than 30 days in the ground for 90 days or less.

**ODD NUMBERED ADDRESS.** An address ending in the numbers 1, 3, 5, 7, 9 or the letters N-Z.

\* \* \*

**RECLAIMED WASTEWATER RECLAIMED WATER.** Wastewater that has received at least secondary treatment and basic disinfection, and is reused after flowing out of a wastewater treatment facility.

\* \* \*

**USER.** 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.** 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 SHORTAGE CONDITION WATER SHORTAGE.** When the District determines that there is a possibility that insufficient water will be available to meet the present and anticipated needs of the users, or when conditions are such as to require a temporary reduction in total use within a particular area to protect water resources from serious harm. A water shortage usually occurs due to drought. When sufficient water is not available to meet present or anticipated needs of persons using the water source, or when conditions are such as to require temporary reduction in total water usage within a particular area to protect the water source from serious harm. A water shortage usually occurs due to drought.

**WATER SHORTAGE EMERGENCY WATER SHORTAGE EMERGENCY Water Shortage Emergency.** That situation when When the District powers which can be exercised under determines that the provisions set forth in Part II of Chapter 40E-21,

Florida Administrative Code, are not sufficient to protect the public health, safety or welfare, or the health of animals, fish or aquatic life, or a public water supply, or commercial, industrial, agricultural, recreational or other reasonable beneficial uses.

**§ 51.112 APPLICATION.**

~~The provisions of this subchapter shall apply to all persons using the water resource within the geographical areas subject to the “water shortage” or “water shortage emergency,” as determined by the district, whether from public or privately-owned water utility systems, private wells or private connections with surface water bodies. This subchapter shall not apply to persons using treated effluent or salt water. The provisions of this subchapter shall apply to each user providing landscape irrigation from all water resources within the boundaries of the City with the following exceptions:~~

- ~~(1) The use of reclaimed water, which may or may not be supplemented from another source; and~~
- ~~(2) Irrigation at agricultural and nursery operations; and~~
- ~~(3) Irrigation of athletic play areas.~~

\* \* \*

**§ 51.114 DECLARATION OF WATER SHORTAGE OR WATER SHORTAGE EMERGENCY.**

The declaration of a water shortage or water shortage emergency within all or any part of the City ~~city~~ by the District governing Board or the Executive Director of the District ~~district~~ shall ~~supersede the provisions of this subchapter for the duration of the applicable water shortage declaration invoke the provisions of this subchapter.~~ Upon such declaration all water use restrictions or other measures adopted by the District ~~district~~ applicable to the City ~~city~~, or any portion thereof, shall be subject to enforcement action pursuant to this subchapter. Any violation of the provisions of Chapter 40E-21, Florida Administrative Code, or any order issued pursuant thereto, shall be a violation of this subchapter.

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**§ 51.116 PERMANENT RESTRICTIONS ON LAWNS AND LANDSCAPE LANDSCAPING IRRIGATION; YEAR-ROUND LANDSCAPE IRRIGATION CONSERVATION MEASURES.**

\* \* \*

(B) *Year-Round Landscape Irrigation Conservation Measures.* The rules adopted by the District set forth in Chapter 40E-24.201(1) through (6) of the Florida Administrative Code, including subsequent additions or revisions, and as set forth below:

(1) The year-round landscape irrigation conservation measures contained in this section are applicable to all users including permitted and exempt users under Chapter 40E-2, Florida Administrative Code, unless otherwise indicated. These conservation measures apply to all water sources, unless otherwise indicated. In addition to the requirements set forth in this section, all permitted users under Chapter 40E-2, Florida Administrative Code, are required to maintain compliance with all Consumptive Use Permit conditions and terms, including requirements to implement water conservation practices.

(2) It shall be the duty of each user to keep informed as to the landscape irrigation conservation measures within this subchapter which affect each particular water use.

(3) In addition to the specific conservation measures, all wasteful and unnecessary water use is prohibited.

(4) Unless specified in § 55.112 or (D) below, the following requirements shall apply to all users:

(a) Landscape irrigation shall be prohibited between the hours of 9:00 a.m. and 5:00 p.m., except as otherwise provided.

(b) Irrigation of existing landscaping shall comply with the following provisions:

(i) 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 shall have the opportunity to accomplish necessary landscape irrigation two days a week, only on Thursday and/or Sunday.

(ii) Odd addresses, shall have the opportunity to accomplish necessary landscape irrigation two days a week, only on Wednesday and/or Saturday.

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

(i) 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 normal watering days and times.

(ii) A 90-day establishment period begins on 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 date receipt or invoice.

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

(iv) Irrigation of new landscaping which has been in place for 31 days or less may be accomplished on Monday, Tuesday, Wednesday, Thursday, Saturday, and/or Sunday.

(v) Irrigation of new landscaping is limited to areas only containing the new landscaping. An entire zone of an irrigation system shall only be utilized for landscape irrigation under this Section if the zone 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. Targeted watering may be accomplished by low volume hand watering, or any appropriate method which isolates and waters only the new landscaping.

(5) Any water shortage, restrictions or other measures declared pursuant to Chapter 40E-21, Florida Administrative Code, or related District governing Board or Executive Director Orders which are more restrictive than a measure contained within this subchapter, shall supersede the provisions of this subchapter for the duration of the applicable water shortage declaration.

~~(B)(C)~~ In the event the ~~South Florida Water Management~~ District imposes restrictions on landscape irrigation for new and established landscaping which are more restrictive than those imposed by this section, such more restrictive regulations shall prevail.

**§ 51.117 EXCLUSIONS TO § 51.116.**

\* \* \*

(F) Landscape irrigation scheduling shall be subject to the following exceptions:

(1) Landscape irrigation systems may be operated during restricted days and/or times for cleaning, maintenance, and repair 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 minutes per zone.

(2) Landscape irrigation for the purpose of watering-in fertilizers, insecticides, pesticides, fungicides and herbicides, where such watering-in is recommended by the manufacturer, or by federal, state or local law, or best management practices, shall be allowed 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 set forth in §51.116(B)(4)(a) and (b) above, unless a professional licensed applicator has posted a temporary sign containing the date of application and the date(s) of needed watering-in activity.

(3) Any plant material may be watered using low volume irrigation, micro-irrigation, low volume had watering method, rain barrels, cisterns, or other similar rain-harvesting devices without regard to the watering days or times allowed pursuant to this section.

**§51.118 (RESERVED) ADDITIONAL REQUIREMENTS.**

Any user who purchases and installs an automatic landscape irrigation system shall properly install, maintain, and operate technology that inhibits or interrupts operation of the system during periods of sufficient moisture in accordance with Section 373.62, Florida Statutes.

**§51.119 EXCEPTIONS.**

\* \* \*

(B) *Criteria for issuance.* No application for exception shall be granted unless the applicant demonstrates that a strict adherence to the ~~Code~~ requirements of §§ 51.116 through 51.118 will result in an undue hardship and that the exception will not otherwise be harmful to the water resources of the City of Hollywood and affirmatively demonstrates that one or more of the following circumstances exists:

(1) The exception is essential to protect health or safety; or

(2) Compliance with the specific rule or order from which exception is sought will result in substantial economic or other hardship on the applicant or those served by the applicant and such hardship is not self-imposed; or

(2)(3) Compliance with the particular rule or order from which the exception is sought will require measures which because of their extent, cannot be accomplished.

\* \* \*

(E) *Procedures.*

\* \* \*

(2) The Director or his/her designee shall present the application to the City Manager or his/her designee to grant, deny or modify the exception. City Manager action denying applications for exceptions shall be by a written order and copies shall be furnished to the applicant. An exception may be granted only upon a demonstration that such hardship exists, is peculiar to the person or the affected property, is not self-imposed and meets the criteria set forth in (B) above. An applicant whose exception has been granted by the City Manager shall be furnished an appropriate notice of lawn/landscape irrigation restriction exception which shall include the terms of the exception and shall be prominently displayed and posted at each parcel to which the exception pertains at the applicant's place of use.

\* \* \*

(F) *Waivers/Variances by District.* All irrigation waivers or variances issued by the District pursuant to Rule 40E-24.501, Florida Administrative Code will be recognized by the City upon submittal of such waiver or variance.

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**§51.999 PENALTY.**

\* \* \*

(D) Any property owner violating the provisions of §§51.116 through ~~51.117~~ 51.118 shall be deemed guilty of a civil infraction. During a one-year period, each violation shall constitute a separate offense. Each day in violation shall constitute a separate offense. Violations of this sections shall be punished as follows:

\* \* \*

Section 3: That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are incorporated into this Ordinance.

Section 4: That it is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Hollywood, Florida, and the provisions of this Ordinance may be renumbered to accomplish such intention.

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING CHAPTER 51 OF THE CITY CODE OF ORDINANCES ENTITLED "WATER" TO UPDATE THE CURRENT REGULATIONS TO INCLUDE LOCAL IMPLEMENTATION OF THE MANDATORY YEAR-ROUND LANDSCAPE IRRIGATION CONSERVATION MEASURES.

Section 5: That if any word, phrase, clause, subsection or section of this Ordinance is for any reason held unconstitutional or invalid, such invalidity shall not affect the validity of any remaining portions of this Ordinance.

Section 6: That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict are repealed to the extent of such conflict.

Section 7: That this Ordinance shall be in full force and effect immediately upon its passage and adoption.

Advertised on \_\_\_\_\_, 2024.

PASSED on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

PASSED AND ADOPTED on the second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
JOSH LEVY, MAYOR

ATTEST:

\_\_\_\_\_  
PATRICIA A. CERNY, MMC  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
DOUGLAS R. GONZALES  
CITY ATTORNEY