

**ORDINANCE NO. 2020- \_\_\_\_\_**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF TAMARAC, FLORIDA, AMENDING AND RESTATING CHAPTER 22, ARTICLE VIII OF THE CODE OF ORDINANCES OF THE CITY OF TAMARAC, ENTITLED "WATER CONSERVATION REGULATIONS", IN ITS ENTIRETY; AUTHORIZING THE CITY TO IMPLEMENT PROCEDURES TO PROTECT THE WATER RESOURCES OF THE CITY OF TAMARAC AND TO PROMOTE WATER CONSERVATION THROUGH THE EFFICIENT USE OF LANDSCAPE IRRIGATION AND CONSISTENCY WITH THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT'S (DISTRICT) MANDATORY YEAR-ROUND LANDSCAPE IRRIGATION CONSERVATION MEASURES UNDER CHAPTER 40E-24, FLORIDA ADMINISTRATIVE CODE, (F.A.C.); PROVIDING FOR DEFINITIONS; AUTHORIZING CITY ADMINISTRATION TO TAKE ALL STEPS NECESSARY TO IMPLEMENT AND OPERATE THE ENFORCEMENT PROGRAM PURSUANT TO THE REQUIREMENTS OF STATE LAW; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Tamarac adopted Ordinance No. O-2001-02, which created Article VIII "Water Conservation Regulations", the provisions of which were codified in Sections 22-300 through 22-309, in Chapter 22 of the City's Code of Ordinances ("Ordinance No. O-2001-02"); and,

WHEREAS, Ordinance O-2001-02 authorized the City to implement certain water conservation measures; and

WHEREAS, to encourage more responsible use of water resources throughout South Florida, the South Florida Water Management District Governing Board adopted the Mandatory Year-Round Landscape Irrigation

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Conservation Measures (Year-Round Irrigation Rule), Chapter 40E-24, Florida Administrative Code (FAC), in 2010; and

WHEREAS, the rule restricts the times and number of days landscape irrigation is allowed within the District's jurisdiction and follows scientifically sound recommendations for lawn irrigation; and

WHEREAS, all counties and municipalities within the District are required to update their local irrigation ordinances to be in compliance with the District's Year-Round Irrigation Rule; and

WHEREAS, the City Commission of the City of Tamarac finds that implementation of the Year-Round Irrigation Conservation Measures will encourage more responsible use of water resources within the City of Tamarac; and

WHEREAS, the City Commission desires to implement the water conservation measures set forth; now, therefore

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

**Section 1. Legislative Findings and Intent.** The City Commission of the City of Tamarac hereby adopts and incorporates into this Ordinance the recitals (whereas clauses) to this Ordinance and the City staff reports relating to this Ordinance as the legislative findings and intents of the City Commission.

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**Section 2.** Chapter 22, Article VIII of the Code of Ordinances of the City of Tamarac, entitled “WATER CONSERVATION REGULATIONS”, shall be amended and restated to read as follows

**ARTICLE VIII. – WATER CONSERVATION REGULATIONS**

**Year-round landscape irrigation measures; variances; enforcement; penalties.**

**Sec. 22-300. - Intent and purpose.**

It is the intent and purpose of this article to implement procedures to protect the water resources of the City of Tamarac and to promote water conservation through efficient use of landscape irrigation and consistency with the South Florida Water Management District’s (District) mandatory year-round landscape irrigation conservation measures under Chapter 40E-24, Florida Administrative Code, (F.A.C.). This Code will increase water use efficiency; prevent and curtail wasteful irrigation practices by providing mandatory landscape irrigation conservation measures; and prohibit the operation of irrigation systems in a manner causing water to be wasted. ~~allocate available water supplies by assisting the South Florida Water Management District in the implementation of its water shortage plan.~~

**Sec. 22-301. - Definitions.**

For the purpose of this article, the following terms, phrases, words and their derivatives shall have the meaning given herein. 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.

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.”

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*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.

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

*District* ~~is~~ means the South Florida Water Management District.

*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.

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

*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.

*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.

*Law Enforcement Official(s)* means Every code enforcement officer, police officer or sheriff having jurisdiction in the area governed by this article shall, in connection with all other duties imposed bylaw, diligently enforce the provisions of this article. In addition, the city manager may also delegate enforcement responsibility for this article to departments of the City of Tamarac government in accordance with state and local law.

*Low Volume Hand Watering* means the watering of landscape by one (1) person, with one (1) hose, fitted with a self-canceling or automatic shutoff nozzle.

*Low Volume Irrigation* means the use of equipment and devices specifically designed to allow the volume of water delivered to be limited to a

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level consistent with the water requirement of the plant being irrigated, and to allow that water to be placed with a high degree of efficiency in the root zone of the plant. 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* means 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 micro-spray, and subsurface irrigation.

*New Landscaping* means any landscaping which has been planted and established for ninety (90) days or less.

*Odd-Numbered Address* means an address ending in the number 1, 3, 5, 7 or 9; or the letters N-Z.

*Reclaimed Water* means wastewater that has received at least secondary treatment, and basic disinfection and is reused after flowing out of a wastewater treatment facility as defined by Rule 62-40.210, F.A.C.

*User* means 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* means 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.

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

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~~\_\_\_\_\_ *Restaurant* means a building or room, which is open to the general public and where food is prepared and served for pay for consumption on the premises.~~

*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, and water percolating, standing, or slowing beneath the surface of the ground.

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

*Water shortage emergency* means when the District determines the provisions listed that situation when the powers, which can be exercised under, 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.

#### **Sec. 22-302. - Application of article.**

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

Declaration of a water shortage condition and/or water shortage emergency within all or parts of the City of Tamarac by the District's Governing Board or Executive Director, pursuant to Chapter 40E-21, F.A.C., shall supersede this Code for the duration of the applicable declaration.

Such a declaration would apply to all users using the water resource within the

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geographical areas subject to a 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, but shall not apply to users using reclaimed water or saltwater.

**Sec. 22-303. - ~~Amendments to water shortage plan~~ Year-Round Permanent Landscape Irrigation Measures.**

~~Chapter 40E-21, Florida Administrative Code, as it may be amended from time to time, is incorporated herein by reference as a part of the City of Tamarac Code.~~

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 Thursdays and/or Sundays.
  - b. Odd-Numbered Addresses may accomplish necessary landscape irrigation only on 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.
  - c. Irrigation of new landscaping which has been in place for thirty (30) days or less may be accomplished on Monday, Tuesday, Wednesday, Thursday, Saturday, and/or Sunday.

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- d. Irrigation of new landscaping which has been in place for thirty-one (31) to ninety (90) days may be accomplished on Monday, Wednesday, Thursday, and/or Saturday.
  - e. Irrigation of the new landscaping is limited to areas containing only the new landscaping. An entire zone of an irrigation system shall only be utilized for landscape irrigation under this Code if the zone in question is for an area that contains at least fifty percent (50%) new landscaping. If a zone contains less than fifty percent (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.
- (4) Irrigation systems may be operated outside restricted days and/or times for cleaning, maintenance, and repair 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 (1) test should not exceed ten (10) minutes per zone.
  - (5) Landscape irrigation for the purpose of watering-in fertilizers, insecticides, pesticides, fungicides, and herbicides, where such watering-in is required by the manufacturer, or by federal, state or local law, shall be allowed under the following conditions:
    - a. Such watering-in shall be limited to one (1) application in the absence of specific alternative instructions from the manufacturer; and
    - b. Such watering-in shall be accomplished during normal watering days and times listed 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.
  - (6) Any plant material may be watered using low volume irrigation, micro-irrigation, low volume hand watering methods, rain barrels, cisterns, or other similar rain-harvesting devices without regard to the listed watering days or times.
  - (7) In addition to the specific listed measures, all wasteful and unnecessary water use is prohibited.

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- (8) In the event the District imposes restrictions on landscape irrigation for new and existing installations which are more restrictive than those imposed by this Code, such as under the declaration of a water shortage or water shortage emergency, the more restrictive regulations shall apply for the applicable duration of the more restrictive regulations.
- (9) It shall be the duty of each user to keep informed as to the landscape irrigation conservation measures within this Code, which affect each particular water use.

**Sec. 22-304. - ~~Declaration of water shortage; water shortage emergency~~  
Additional Measures.**

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. ~~The declaration of a water shortage or water shortage emergency within all or any part of the City of Tamarac by the governing board or the executive director of the district shall invoke the provisions of this article. Upon such declaration all water use restrictions or other measures adopted by the district applicable to the City of Tamarac, or any portion thereof, shall be subject to enforcement action pursuant to this article. Any violation of the provisions of Chapter 40E-21, Florida Administrative Code, or any order issued pursuant thereto, shall be a violation of this article.~~

**Sec. 22-305. - ~~Restrictions on landscape irrigation in non-water shortage conditions~~ Waiver Relief.**

~~(a) Landscape irrigation for new and existing installations shall be restricted to the hours of 5:00 p.m. to 9:00 a.m. seven (7) days per week; low volume irrigation systems or low volume hand watering using a self-canceling nozzle shall not be restricted.~~

~~(b) Irrigation systems may be operated outside restricted hours for the purpose of system repair and maintenance as well as landscape maintenance activities; such as required application of water to apply fertilizer, herbicides, and pesticides.~~

~~(c) In the event the district imposes restrictions on landscape irrigation for new and existing installations, which are more restrictive than those imposed by this~~

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~~section, such more restrictive regulations shall apply in the geographic areas of Tamarac subject to such more restrictive regulations.~~

~~(d) All other uses of the water resource as defined in this article, including but not limited to agricultural, nursery and golf course uses, shall be restricted pursuant to the rules, orders and regulations issued from time to time by the district.~~

(1) Any user affected by this Code may apply for a waiver to the City Manager, or their designee. A waiver from specific day or days identified in Section 22-303 may be granted if strict application of the restrictions would lead to unreasonable or unfair result, provided the applicant demonstrates with particularity that compliance with the schedule will result in substantial economic, health, or other hardship on the applicant, or those the applicant serves. Relief 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 further demonstrates that granting the waiver would be consistent with the general intent and purpose of this Code.

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

a. Two (2) or more properties which share a common source of water;

b. A public or private water system experiencing or anticipating distribution problems;

c. A user maintains an irrigation system that uses soil moisture sensors or weather-based irrigation controllers; or

d. Where a contiguous property is divided into different zones, a waiver may be granted so that each zone may be irrigated on days different than other zones of the property. However, no single zone may be irrigated more than two (2) days per week.

**Sec. 22-306. - Serving of water by restaurants during water shortage restrictions Waiver Application and Appeal Process.**

~~(a) While Phase I moderate water shortage restrictions, or more severe restrictions, as declared by the district are in effect for any portion of Broward County, no person within the geographic areas subject to such restrictions shall cause, permit, or allow the serving of water from any public or private well, water supply or distribution system to any customer of a restaurant~~

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~~unless specifically requested by such customer.~~

~~(b) This restriction shall remain in effect as long as the Phase I moderate water restriction, or more severe restrictions, as declared by the district, remains in effect.~~

(1) Upon receipt of an application for waiver from the requirements of this Article, the City Manager or designee shall render a decision on the waiver within 5 days. Denials of waiver relief may be appealed to the Planning Board in accordance with Chapter 10, Section 10-5.4(R) of the City's Code, within 30 days of the user's receipt of the notice of denial. Any notice of denial or subsequent appeal shall be sent by certified mail, return receipt requested.

(2) The granting of a waiver application under provisions of this article shall operate prospectively, shall not stay or abate the enforcement of the provisions of this article, and shall not affect any prior or pending enforcement actions against the affected person that have been initiated pursuant to the provisions of this article.

(3) If a waiver is granted, the user shall be required to post a notice at each parcel to which the waiver pertains, at least 5 days after the granting of the waiver, in a form and manner established by City staff. However, no single zone may be irrigated more than two (2) days per week.

(4) A waiver is invalid if it has expired or if the user or its agent violates the terms of the waiver. All waivers shall expire upon a declaration by the City that a water shortage no longer exists or when a more restrictive water shortage declaration is made by the City. The City shall provide notice of the expiration of the waiver at least 2 days before it is determined to be invalid.

(5) Recognition of District Waivers. The city recognizes and adopts all irrigation variances or waivers issued by the District. For variances or waiver granted by the District, the user shall be required to post a notice at each parcel to which the variance or waiver pertains, at least 5 days after the granting of the variance or waiver, in a form and manner established by City staff.

#### **Sec. 22-307. - Enforcement.**

Every code enforcement officer, police officer or sheriff having jurisdiction in the area governed by this Article shall, in connection with all other duties imposed by law, diligently enforce the provisions of this Article. In addition, the City Manager may also delegate enforcement responsibility for this article to departments of the City of Tamarac government in accordance with state and

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local law.

**Sec. 22-308. - Penalties.**

Violation of any provision of this article shall be subject to the following penalties:

First Violation	<del>\$50.00</del> <u>Warning (written)</u>
<u>Second Violation</u>	<u>\$50.00</u>
<del>Second</del> <u>Third</u> and subsequent violations	<del>Fine not to exceed \$250 and/or imprisonment in the county jail not to exceed 60 days.</del>  <u>\$100.00</u>

Each day in violation of this article shall constitute a separate offense. ~~In the initial stages of a water shortage or water shortage emergency, law enforcement officials may provide violators with no more than one written warning.~~ The City of Tamarac, in addition to the criminal sanctions contained herein, may take any other appropriate legal action, including but not limited to emergency injunctive action, to enforce the provisions of this article.

**Sec. 22-309. – Water users to accept provisions of article.**

No water service shall be furnished to any person by a public or private utility unless such person agrees to accept all the provisions of this Article. The acceptance of service shall be in itself the acceptance of the provisions thereof.

**Section 3. CODIFICATION.** The provisions of this Ordinance shall be codified and become and be made part of the City of Tamarac Code of Ordinances. The Sections of this Ordinance may be renumbered or relettered to accomplish such intent and the word “Ordinance”, or similar words, may be

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changed to "Section", "Article", or other appropriate word. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

**Section 4. IMPLEMENTING ADMINISTRATIVE ACTIONS.** The City Manager, or designees, shall have the power and authority to implement the provisions of this Ordinance by taking the appropriate actions to include, but not limited to, the promulgation of appropriate administrative rules and forms.

**Section 5. CONFLICTS.** To the extent of any conflict between any other City regulations and ordinances and this Ordinance, this Ordinance shall be deemed to control. Provided, however, that this Ordinance is not intended to amend or repeal any existing chapter or regulation, unless expressly set forth in this Ordinance.

**Section 7. SEVERABILITY.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be 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 effect the validity of the remaining portion hereof.

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**Section 8. EFFECTIVE DATE.** This Ordinance shall become effective sixty (60) days after its passage and adoption by the City Commission.

PASSED, FIRST READING this \_\_\_\_ day of \_\_\_\_\_, 2020.

PASSED, SECOND READING this \_\_\_\_ day of \_\_\_\_\_, 2020.

ATTEST: BY: \_\_\_\_\_  
MAYOR MICHELLE J. GOMEZ

\_\_\_\_\_  
JENNIFER JOHNSON, CMC  
CITY CLERK

RECORD OF COMMISSION VOTE: 1ST Reading

MAYOR GOMEZ	_____
DIST 1: V/M BOLTON	_____
DIST 2: COMM. GELIN	_____
DIST 3: COMM. FISHMAN	_____
DIST 4: COMM. PLACKO	_____

RECORD OF COMMISSION VOTE: 2ND Reading

MAYOR GOMEZ	_____
DIST 1: V/M BOLTON	_____
DIST 2: COMM. GELIN	_____
DIST 3: COMM. FISHMAN	_____
DIST 4: COMM. PLACKO	_____

I HEREBY CERTIFY that  
I have approved this  
ORDINANCE as to form:

\_\_\_\_\_  
SAMUEL S. GOREN  
CITY ATTORNEY

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