**SOUTH FLORIDA WATER MANAGEMENT DISTRICT’S**

**MODEL WATER SHORTAGE ORDINANCE**

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

**AN ORDINANCE OF THE [*COUNTY/CITY*], FLORIDA; PROVIDING FOR THE INTENT AND PURPOSE; PROVIDING DEFINITIONS; PROVIDING FOR APPLICABILITY; PROVIDING FOR THE DECLARATION OF WATER SHORTAGE OR WATER SHORTAGE EMERGENCY; PROVIDING FOR VARIANCES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTIES; PROVIDING FOR CODIFICATION; PROVIDING FOR THE REPEAL OF ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING 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-21, Florida Administrative Code (F.A.C.), which comprises the District’s water shortage plan required under subsection 373.246(1), Florida Statutes, the purpose of which is to protect the water resources of the District from serious harm; to ensure equitable distribution of available water resources among all water users during times of shortage consistent with the goals of minimizing adverse economic, social and health related impacts; to provide advance knowledge of the means by which water apportionments and reductions will be made during times of shortage; and to promote greater security for water use permittees; and

**WHEREAS,** Chapter 40E-21, F.A.C., applies to all users as defined in subsection 40E-21.051(3), F.A.C., including permitted and exempt users under Chapter 40E-2, F.A.C.; and

**WHEREAS,** Rule 40E-21.421, F.A.C., seeks the cooperation and assistance of state, county, and municipal governmental officials, law enforcement officials, and police officers in the enforcement of the water shortage plan or any issued water shortage orders; and

**WHEREAS,** Rule 40E-21.421, F.A.C., authorizes and encourages counties and municipalities throughout the District’s jurisdication to adopt ordinances which provide for local enforcement of the water shortage plan or any issued water shortage orders; and

**WHEREAS,** it is the desire of the [*Governing Body*] of [*County/City*] to adopt such an Ordinance in accordance with Rule 40E-21.421, F.A.C.; and

**WHEREAS,** the [*Governing Body*] of [*County/City*] 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 [*GOVERNING BODY*] OF [*COUNTY/CITY*], FLORIDA:** Section \_\_\_\_. Sections \_\_\_\_ through \_\_\_, Code of Ordinances, are hereby created to read:

**WATER SHORTAGE ORDINANCE**

**SECTION 1. INTENT AND PURPOSE**

It is the intent and purpose of this Ordinance to protect the water resources of the [*County/City*] from the harmful effects of overutilization during periods of water shortage by assisting the District in the implementation of its water shortage plan, or issued water shortage orders, under Chapter 40E-21, F.A.C.

**SECTION 2. 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. “District” means the South Florida Water Management District, a government entity created under Chapter 373, Florida Statutes.
2. “Law Enforcement Officals” means *[County/City] should include definition of a law enforcement, code enforcement, or any local government employee who may be responsible for enforcing this ordinance.*
3. “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.
4. “Water Resource” means any and all water on or beneath the surface of the ground, including natural or artificial water courses, lakes, ponds, or diffused surface water, and water percolating, standing, or flowing beneath the surface of the ground.
5. “Water Shortage” means when the District determines there is the 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 temporary reduction in total use within a particular area to protect water resources from serious harm.
6. “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 3. APPLICABILITY**

The provisions of this Ordinance shall apply to each user, as defined in Section 2(3), using the water resource, as defined in Section 2(4), within the geographical areas subject to the water shortage condition or water shortage emergency, as defined in Section 2(6), as determined by the District, whether from publicly or privately-owned water utility systems, private wells, or private connections with surface water bodies. This Section shall not apply to users using reclaimed water or saltwater.

**SECTION 4.** **DECLARATION OF WATER SHORTAGE OR WATER SHORTAGE EMERGENCY**

(1) A declaration of a water shortage condition and/or water shortage emergency in accordance with Part II of Chapter 40E-21, F.A.C., within all or parts of the [*County/City*] by the District’s Governing Board or Executive Director, shall invoke the provisions of this Ordinance.

(2) A water shortage, as defined in Section 2(5), or water shortage emergency order shall supersede mandatory year-round water irigation measures until the more restrictive measure is rescinded by the District.

(3) Upon the District issuing a water shortage order, all water use restrictions or other measures adopted by the District applicable to the [*County/City*], or any portion thereof, shall be subject to enforcement action by the [*County/City*] officials pursuant to Section 6 of this Ordinance. Any violation of Chapter 40E-21, F.A.C., or any order issued pursuant thereto, shall be a violation of this Ordinance.

**SECTION 5.** **VARIANCES**

The [*County/City*] recognizes all variances issued by the District pursuant to Rule 40E-21.275, F.A.C.

**SECTION 6.** **ENFORCEMENT**

The [*County/City*] authorizes law enforcement officials having jurisdiction in the area governed by this Ordinance to enforce the provisions of this Ordinance. In addition, the [*County/City*] [*Administrator/Manager*] may delegate this Ordinance’s enforcement responsibility to agencies and departments within the [*County/City*] government.

**SECTION 7.** **PENALTIES**

1. Violations of any provision of this Ordinance may be punished pursuant to Section 162.21, Florida Statutes, as amended, as a civil infraction as set forth in the code enforcement citation ordinance of [*County/City*], Ordinance No. \_\_\_\_\_\_, as may be amended from time to time.

OR

(1) Violation of any provision of this Ordinance shall be subject to the following penalties:

a. First violations, a [written warning/fine not to exceed $\_\_\_.00].

b. Second violations, a fine not to exceed $\_\_\_\_.00.

c. Third violations, a fine not to exceed $\_\_\_\_.00.

d. Subsequent violations, a fine not to exceed $500.00.

(2) Each day a violation of this Ordinance occurs shall be a separate offense. Law enforcement officials, and others as delegated, may provide violators with no more than 1 written warning. In addition to civil penalties the [*County/City*] may take any other appropriate legal action, including but not limited to injunctive action to enforce the provisions of this Ordinance.

**SECTION 8.** **CODIFICATION**

Codification of this Ordinance is hereby directed and authorized.

**SECTION 9.** **REPEAL OF CONFLICTING ORDINANCES**

Sections \_\_\_\_\_ through \_\_\_\_\_, Code of Ordinances, are hereby repealed.

**SECTION 10.** **SEVERABILITY**

If any Section, subsection, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional, by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

**SECTION 11.** **EFFECTIVE DATE**

This Ordinance shall take effect immediately upon adoption.

**APPROVED AND ADOPTED** by the [*Governing Body*] of [*County/City*], Florida on this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_ 2XXX.

LOCAL EXECUTION PROVISIONS