

1 **SOUTH FLORIDA WATER MANAGEMENT DISTRICT'S**
2 **MODEL WATER SHORTAGE ORDINANCE**

3
4 **ORDINANCE NO. _____**

5
6 **AN ORDINANCE OF THE [COUNTY/CITY], FLORIDA; PROVIDING**
7 **FOR THE INTENT AND PURPOSE; PROVIDING DEFINITIONS;**
8 **PROVIDING FOR APPLICABILITY; PROVIDING FOR THE**
9 **DECLARATION OF WATER SHORTAGE OR WATER SHORTAGE**
10 **EMERGENCY; PROVIDING FOR VARIANCES; PROVIDING FOR**
11 **ENFORCEMENT; PROVIDING FOR PENALTIES; PROVIDING FOR**
12 **CODIFICATION; PROVIDING FOR THE REPEAL OF ALL**
13 **CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY;**
14 **AND PROVIDING AN EFFECTIVE DATE.**

15
16 **WHEREAS**, the South Florida Water Management District (District) has the
17 responsibility and exclusive authority under Chapter 373, Florida Statutes, for
18 implementation of a water shortage plan; and

19 **WHEREAS**, the District has promulgated and amended Chapter 40E-21, Florida
20 Administrative Code (F.A.C.), which comprises the District's water shortage plan required
21 under subsection 373.246(1), Florida Statutes, the purpose of which is to protect the
22 water resources of the District from serious harm; to ensure equitable distribution of
23 available water resources among all water users during times of shortage consistent with
24 the goals of minimizing adverse economic, social and health related impacts; to provide
25 advance knowledge of the means by which water apportionments and reductions will be
26 made during times of shortage; and to promote greater security for water use permittees;
27 and

28 **WHEREAS**, Chapter 40E-21, F.A.C., applies to all users as defined in subsection
29 40E-21.051(3), F.A.C., including permitted and exempt users under Chapter 40E-2,
30 F.A.C.; and

1 words used in the present tense include the future, words in the plural include the singular,
2 and words in the singular include the plural. The word "shall" is always mandatory and
3 not merely directory.

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

6 (2) "Law Enforcement Officials" means *[County/City] should include definition*
7 *of a law enforcement, code enforcement, or any local government employee who may be*
8 *responsible for enforcing this ordinance.*

9 (3) "User" means any person, individual, firm, association, organization,
10 partnership, business trust, corporation, company, agent, employee or other legal entity
11 whether natural or artificial, the United States of America, and the State and all political
12 subdivisions, regions, districts, municipalities, and public agencies thereof, which directly
13 or indirectly takes water from the water resource, including uses from private or public
14 utility systems, uses under water use permits issued pursuant to Chapter 40E-2, F.A.C.,
15 or uses from individual wells or pumps.

16 (4) "Water Resource" means any and all water on or beneath the surface of the
17 ground, including natural or artificial water courses, lakes, ponds, or diffused surface
18 water, and water percolating, standing, or flowing beneath the surface of the ground.

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

23 (6) "Water Shortage Emergency" means when the District has determined that

1 the provisions listed in Part II of Chapter 40E-21, F.A.C., are not sufficient to protect the
2 public health, safety, or welfare, the health of animals, fish, or aquatic life, a public water
3 supply, or commercial, industrial, agricultural, recreational, or other reasonable beneficial
4 uses.

5 **SECTION 3. APPLICABILITY**

6 The provisions of this Ordinance shall apply to each user, as defined in Section
7 2(3), using the water resource, as defined in Section 2(4), within the geographical areas
8 subject to the water shortage condition or water shortage emergency, as defined in
9 Section 2(6), as determined by the District, whether from publicly or privately-owned water
10 utility systems, private wells, or private connections with surface water bodies. This
11 Section shall not apply to users using reclaimed water or saltwater.

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

14
15 (1) A declaration of a water shortage condition and/or water shortage
16 emergency in accordance with Part II of Chapter 40E-21, F.A.C., within all or parts of the
17 [County/City] by the District's Governing Board or Executive Director, shall invoke the
18 provisions of this Ordinance.

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

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

1 pursuant thereto, shall be a violation of this Ordinance.

2 **SECTION 5. VARIANCES**

3 The [County/City] recognizes all variances issued by the District pursuant to Rule
4 40E-21.275, F.A.C.

5 **SECTION 6. ENFORCEMENT**

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

10 **SECTION 7. PENALTIES**

11 (1) Violations of any provision of this Ordinance may be punished pursuant to
12 Section 162.21, Florida Statutes, as amended, as a civil infraction as set forth in the code
13 enforcement citation ordinance of [County/City], Ordinance No. _____, as may be
14 amended from time to time.

15 **OR**

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

- 18 a. First violations, a [written warning/fine not to exceed \$____.00].
- 19 b. Second violations, a fine not to exceed \$____.00.
- 20 c. Third violations, a fine not to exceed \$____.00.
- 21
- 22 d. Subsequent violations, a fine not to exceed \$500.00.
- 23

24 (2) Each day a violation of this Ordinance occurs shall be a separate offense.
25 Law enforcement officials, and others as delegated, may provide violators with no more

1 than 1 written warning. In addition to civil penalties the [County/City] may take any other
2 appropriate legal action, including but not limited to injunctive action to enforce the
3 provisions of this Ordinance.

4 **SECTION 8. CODIFICATION**

5 Codification of this Ordinance is hereby directed and authorized.

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

7 Sections _____ through _____, Code of Ordinances, are hereby repealed.

8 **SECTION 10. SEVERABILITY**

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

12 **SECTION 11. EFFECTIVE DATE**

13 This Ordinance shall take effect immediately upon adoption.

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

16
17
18 LOCAL EXECUTION PROVISIONS