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**ORDINANCE
NUMBER 2020- _____**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA; AMENDING CHAPTER 3-8 OF THE CODE OF LAWS AND ORDINANCES OF CHARLOTTE COUNTY, FLORIDA ENTITLED "WATERS AND SEWERS," ARTICLE III, "YEAR-ROUND AND SHORTAGE / EMERGENCY WATER CONSERVATION MEASURES," TO DELETE OBSOLETE AND UNNECESSARY PROVISIONS, TO UPDATE THE CODE TO COMPLY WITH SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT YEAR-ROUND WATER CONSERVATION MEASURES AND TO ADD WATER SHORTAGE PLAN PROVISIONS DISTINGUISHING BETWEEN DISTRICTS IN CHARLOTTE COUNTY; PROVIDING FOR INCLUSION IN THE CHARLOTTE COUNTY CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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RECITALS

25 **WHEREAS**, Charlotte County includes lands located in both the Southwest
26 Florida Water Management District and the South Florida Water Management District;
27 and

28 **WHEREAS**, year-round water conservation measures are an integral component
29 of long-term efforts to preserve and protect water supplies and water resources; and,

30 **WHEREAS**, a water shortage or water shortage emergency may be declared
31 from time to time by either Southwest Florida Water Management District and/or the
32 South Florida Water Management District, which affects users in their respective
33 districts located in Charlotte County; and

34 **WHEREAS**, the South Florida Water Management District's rules allow for local
governments with a jurisdiction divided between the South Florida Water Management

District and the Southwest Florida Water Management District to enact an ordinance providing for alternative water year-round conservation measures as necessary for the County to achieve a uniform schedule within its jurisdiction that is in accordance with at least one of the involved water management districts.

WHEREAS, the majority of the public water supplies and domestic wells that serve the population of Charlotte County are currently located within the Southwest Florida Water Management District, indicating that the most logical set of year-round water conservation regulations to follow would be those of the Southwest Florida Water Management District; and

WHEREAS, both the Southwest Florida Water Management District and South Florida Water Management District have primary responsibility under Chapter 373, Florida Statutes, for regulating water use and allocating available water supplies during periods of water shortage or water shortage emergency in Charlotte County; and

WHEREAS, both the Southwest Florida Water Management District and the South Florida Water Management District have adopted "Water Shortage Plans", codified in the Florida Administrative Code, for the purpose of allocating and conserving water resources during periods of water shortage or water shortage emergency;

WHEREAS, South Florida Water Management District has requested the assistance of Charlotte County in the enforcement of the provisions its Water Shortage Plan for properties located in the portions of unincorporated Charlotte County within South Florida Water Management District's boundaries; and

WHEREAS, Section 373.609, Florida Statutes, provides that it shall be the duty of county/municipal governmental and law enforcement officials to assist a Water

Management District in the enforcement of Chapter 373, Florida Statutes, and any rules adopted thereunder, upon request by the Water Management District; and

WHEREAS, the Board of County Commissioners of Charlotte County, Florida hereby finds and declares that adoption of this ordinance to amend the Charlotte County Code is necessary, appropriate, and in the public interest of citizens of this community; now therefore:

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA: Section 3-8-76 through of the Code of Laws and Ordinances of Charlotte County, Florida, is hereby amended to read as follows: (Words that are ~~stricken~~ out are deletions; words that are underlined are additions.)

1.

ARTICLE III. YEAR-ROUND CONSERVATION AND WATER SHORTAGE MEASURES

~~Sec. 3-8-79. Year round or shortage/emergency water conservation measures.~~

~~The year round water conservation and shortage/emergency measures set forth by SWFWMD are hereby adopted by the Charlotte County Board of County Commissioners and are applicable to all users.~~

~~Any restrictions or other measures declared pursuant to FAC Chapters 40D-21, 40D-22, or related Board or Executive Director Orders which are more restrictive than a measure contained within SWFWMD rules (FAC Chapters 40D-21 or 40D-22), shall supersede that rule for the duration of the applicable declaration.~~

~~It shall be the duty of each water user to keep informed as to the year round or shortage/emergency conservation measures required by SWFWMD in FAC Chapters 40D-21 and 40D-22, and any further declarations, which affect each particular water use.~~

~~In addition to the specific measures enumerated in FAC Chapters 40D-21 and 40D-22, all wasteful and unnecessary water use is prohibited.~~

~~FAC Chapters 40D-21 and 40D-22, as the same may be amended from time to time, are incorporated herein by reference as a part of this article.~~

~~(Ord. No. 2010-016, § 1, 3-23-10)~~

~~Sec. 3-8-80. Declaration of year round water conservation or water shortage/emergency measures—Violations declared unlawful.~~

~~The declaration of year round water conservation or water shortage/emergency measures, within all or any part of the county, and any restrictions on water use, by the board of county commissioners or by the governing board or the executive director of SWFWMD applicable to Charlotte County, or any portion thereof, shall be subject to enforcement action, including unauthorized use warnings and charges, and service disconnection, pursuant to this article. It shall be unlawful for any user to violate the provisions of any declared year round water conservation or water shortage/emergency measures by the board of county commissioners, or any provisions of FAC Chapters 40D-21 or 40D-22, or any order or declaration or issued pursuant thereto.~~

~~Sec. 3-8-81. Enforcement.~~

- ~~(a) Every 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.~~
- ~~(b) In addition, the county administrator may also delegate enforcement responsibility for this article to agencies and departments of county government in the service areas governed by this article, in accordance with state and local law.~~
- ~~(c) Any violation of or failure to comply with this article shall also be grounds for progressive action by each water utility that provides service within its own certificated area, to include warnings, unauthorized use charges, and disconnection of violator's water service.~~

~~Sec. 3-8-82. Penalties.~~

- ~~(a) Violation of any provision of this article shall be subject to the following penalties:~~
 - ~~(1) When written warnings are not prohibited by SWFWMD:~~
 - ~~a. First offense: Written warning~~
 - ~~b. Second offense: \$200.00 fine~~
 - ~~c. Third and subsequent offense: \$300.00 fine~~
 - ~~(2) When written warnings are prohibited by SWFWMD:~~
 - ~~a. First offense: \$100.00 fine~~
 - ~~b. Second offense: \$200.00 fine~~
 - ~~c. Third and subsequent offense: \$300.00 fine~~
- ~~(b) Each day a user is in violation of this article shall constitute a separate offense. Law enforcement officials may provide violators with no more than one (1) written warning. The county, 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.~~

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

ARTICLE III. YEAR-ROUND CONSERVATION AND WATER SHORTAGE MEASURES

Sec. 3-8-76. - Intent and purpose.

It is the intent and purpose of this article to protect the water resources of Charlotte County from the harmful effects of wasteful and unnecessary use of water by assisting the state water management districts and the Florida Department of Environmental Protection through year-round water conservation and during declared water shortage/emergency conditions.

Sec. 3-8-77. - Definitions.

FAC means the Florida Administrative Code.

Irrigation means the application of water to plants for the purpose of sustaining plant life, promoting plant growth or to facilitate crop production.

SWFWMD means the Southwest Florida Water Management District, a government entity created under Chapter 373, Florida Statutes, that regulates water management in portions of Charlotte County.

SFWMD means the South Florida Water Management District, a government entity created under Chapter 373, Florida Statutes, that regulates water management in portions of Charlotte County.

User means any person, individual, firm, association, organization, partnership, business trust, corporation, company, agent, employee or other legal entity, 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 but not limited to uses from groundwater wells and private or public utility systems, uses under water use permits issued by either SWFWMD or SFWMD, or uses from individual wells or pumps.

Water resource means any and all water on or beneath the surface of the ground, including natural or artificial water sources, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, specifically including water withdrawn from wells, but excluding seawater.

Water shortage means a drought or other situation within all or part of a District, for which the Governing Board has determined that there is insufficient water to meet the present and anticipated needs of users, or conditions are such that there is a need to require temporary reduction in water use within a particular area to protect to protect the water resource from serious harm. Charlotte County recognizes the declaration of a Water Shortage by either SWFWMD or SFWMD for properties located within the District's respective jurisdictions.

41 Water Shortage Emergency means a Water Shortage for which a determination has
42 been made that the powers exercised by either SWFWMD or SFWMD are not sufficient
43 to protect the public health, safety, or welfare; the health of livestock and other animals,
44 fish or aquatic life; or other Essential Uses. Charlotte County recognizes the declaration
45 of a Water Shortage Emergency by either SWFWMD or SFWMD for properties located
46 within the respective jurisdictions.

47 Sec. 3-8-78. - Application.

48 The provisions of this article shall apply to all users in unincorporated Charlotte
49 County, whether from public or privately-owned water utility systems, private wells, or
50 private connections with surface water bodies. This article shall not apply to users using
51 treated reclaimed water or saltwater.

52 Sec. 3-8-79.

53 (a) Year-Round Water Conservation Measures.

54 (1) The Year-Round Water Conservation Measures set forth by SWFWMD in
55 FAC 40D-22, as amended from time to time, are applicable to all users in
56 unincorporated Charlotte County.

57 (2) Any violation of the Year-Round Water Conservation Measures promulgated
58 by SWFWMD shall be a violation of this Code.

59
60 (b) Declarations of Water Shortage or Water Shortage Emergency.

61 (1) SWFWMD Water Shortage Plan. Upon such declaration of a Water Shortage
62 or a Water Shortage Emergency by SWFWMD, all water use restrictions
63 for users within the jurisdiction of SWFWMD, and any other measures
64 adopted by the SWFWMD, pursuant to FAC 40D-21, applicable to users
65 within the jurisdiction of SWFWMD, or any portion thereof, shall be subject
66 to enforcement action. Water shortage or water shortage emergency
67 measures adopted by SWFWMD and enforced by Charlotte County shall
68 supersede mandatory year-round water conservation measures until the
69 more restrictive measure is rescinded by SWFWMD.

70 (2) SFWMD Water Shortage Plan. Upon such declaration of a Water Shortage or
71 a Water Shortage Emergency by SFWMD, all water use restrictions for
72 users within the jurisdiction of SFWMD, and any other measures adopted
73 by the SFWMD, pursuant to FAC 40E-21, applicable to users within the
74 jurisdiction of SFWMD, or any portion thereof, shall be subject to
75 enforcement action. Water shortage or water shortage emergency
76 measures adopted by SFWMD and enforced by Charlotte County shall
77 supersede mandatory year-round water conservation measures until the
78 more restrictive measure is rescinded by SFWMD.

79 (3) Any violation of the water use restrictions or other adopted measures
80 pursuant to a Water Shortage or Water Shortage Emergency declared by

81 either SWFWMD or SFWMD by users within the respective jurisdictions
82 shall be a violation of this Code.

83 Sec. 3-8-81. - Enforcement.

84 (a) Every law enforcement official having jurisdiction in unincorporated Charlotte
85 County shall, in connection with all other duties imposed by law, diligently
86 enforce the provisions of this Code by issuance of a citation, summons, or notice
87 to appear in county court, or by filing an action in civil court for injunctive relief.

88
89 (b) The County Administrator may also delegate enforcement responsibility for this
90 Article of the Code to agencies and departments of county government in the
91 service areas governed by this Article, in accordance with this code state and
92 local law.

93 Sec. 3-8-82. - Penalties.

94 (a) Violation of any provision of this article shall be subject to the following penalties:

95 (1) When written warnings are not prohibited by the Management District:

96 a. First offense: Written warning

97 b. Second offense: \$200.00 fine

98 c. Third and subsequent offense: \$300.00 fine

99 (2) When written warnings are prohibited by the Management District:

100 a. First offense: \$100.00 fine

101 b. Second offense: \$200.00 fine

102 c. Third and subsequent offense: \$300.00 fine

103 (b) Each day a user is in violation of this article shall constitute a separate offense. Law
104 enforcement officials may provide violators with no more than one (1) written
105 warning. The county, in addition to the criminal sanctions contained herein, may
106 take any other appropriate legal action, including but not limited to emergency
107 injunctive action, to enforce the provisions of this article.

108 Sec. 3-8-83 Additional Measures

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

113 **2. CODIFICATION.** It is the intention of the Board of County Commissioners of
114 Charlotte County, Florida, and it is hereby provided that the provisions of this
115 Ordinance shall become and be made a part of the Charlotte County, Florida, Code
116 of Ordinances that the sections of this Ordinance may be renumbered or lettered to
117 accomplish such intention, and that the word "Ordinance" may be changed to
118 "Section" or "Article" or other appropriate designation.

119
120 **3. SEVERABILITY.** If any portion of the foregoing conflicts with any other Charlotte
121 County Code or other applicable law, the more restrictive shall apply. If any
122 subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason
123 held invalid or unconstitutional by any court of competent jurisdiction, such portion
124 shall be deemed a separate, distinct, and independent provision and such holding
125 shall not affect the validity of the remainder of this Ordinance.
126

127 **4. EFFECTIVE DATE.** The effective date shall be as provided by law.
128

129
130 PASSED AND DULY ADOPTED this 24th day of November, 2020.

131
132 BOARD OF COUNTY COMMISSIONERS
133 OF CHARLOTTE COUNTY, FLORIDA
134

135 By: _____
136 ,Chairman
137

138
139 ATTEST:
140 Roger D. Eaton, Clerk of the
141 Circuit Court and Ex-officio Clerk of
142 the Board of County Commissioners
143

144 By: _____
145 Deputy Clerk
146

147
148 APPROVED AS TO FORM AND
149 LEGAL SUFFICIENCY:

150
151 By: Janette S. Knowlton
152 Janette S. Knowlton, County Attorney
153 LR 2020-0347 JS
154