

**CITY OF MIRAMAR  
PROPOSED CITY COMMISSION AGENDA ITEM**

**First Reading Date:** April 21, 2021

**Second Reading Date:** May 19, 2021

**Presenter's Name and Title:** Eric Silva, Director, on behalf of the Community Development Department and Ronnie Navarro, Assistant Director, on behalf of the Utilities Department

**Prepared By:** Nixon Lebrun, Development and Capital Management Coordinator, Community Development Department

**Temp. Res. Number:** 1773

**Item Description:** **SECOND READING** of Temp. Ord. No. 1773, RELATING TO WATER CONSERVATION; AMENDING CHAPTER 21, ENTITLED "UTILITIES," ARTICLE II, ENTITLED "WATER," OF THE CODE OF THE CITY OF MIRAMAR, BY ADDING A NEW DIVISION 3, ENTITLED "YEAR-ROUND LANDSCAPE IRRIGATION MEASURES" TO SUPPORT THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT'S MANDATORY YEAR-ROUND LANDSCAPE IRRIGATION CONSERVATION MEASURES, AS COMPRISED IN CHAPTER 40E-24, FLORIDA ADMINISTRATIVE CODE; MAKING FINDINGS; PROVIDING FOR INTENT AND PURPOSE; PROVIDING DEFINITIONS; PROVIDING FOR APPLICABILITY; PROVIDING FOR YEAR-ROUND LANDSCAPE IRRIGATION CONSERVATION MEASURES; PROVIDING FOR EXCEPTIONS TO THE LANDSCAPE IRRIGATION SCHEDULES; PROVIDING FOR ADDITIONAL MEASURES; PROVIDING FOR VARIANCES AND WAIVERS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTIES; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR INTERPRETATION; PROVIDING FOR ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. *(Passed 1<sup>st</sup> Reading on 04/21/21) (Eric Silva, Community Development Director & Ronnie Navarro, Utilities Assistant Director)*

Consent ☐ Resolution ☐ Ordinance ☒ Quasi-Judicial ☐ Public Hearing ☐

**Instructions for the Office of the City Clerk:** None

**Public Notice** – As required by the Sec. \_\_\_301.11\_\_\_ of the City Code and/or Sec. 163.3184(11)\_\_\_\_, Florida Statutes, public notice for this item was provided as follows: on \_\_\_\_\_ in a \_\_\_\_\_ ad in the \_\_\_\_\_; by the posting the property on \_\_\_\_\_ and/or by sending mailed notice to property owners within \_\_\_\_\_ feet of the property on \_\_\_\_\_ (fill in all that apply)

Special Voting Requirement – As required by Sec. \_\_\_\_\_ of the City Code and/or Sec. \_\_\_\_\_, Florida Statutes, approval of this item requires a \_\_\_\_\_ (unanimous, 4/5ths etc.) vote by the City Commission.

**Fiscal Impact:** Yes ☐ No ☒

**REMARKS:** None


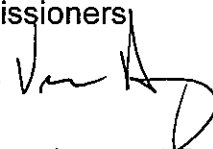
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- **Agenda Item Memo from the City Manager to City Commission**
- **Ordinance TO 1773**



**CITY OF MIRAMAR  
INTEROFFICE MEMORANDUM**

**TO:** Mayor, Vice Mayor, & City Commissioners

**FROM:**  Vernon E. Hargray, City Manager 

**BY:** Eric Silva, Director, Community Development Department

**DATE:** May 13, 2021

**RE:** SECOND READING of Temp. Ord. No. 1773, amending Chapter 21, Article II of the City Code by adding a new Division 3 to support the South Florida Water Management District's Mandatory Year-Round Landscape Irrigation Conservation Measures

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**RECOMMENDATION:** That the City Commission holds two (2) public hearings (a first reading and a second reading), in accordance with the procedures prescribed in Chapter 1, entitled *General Provisions*, Section 1-10, entitled *Altering the Code*, of the Code of the City of Miramar (the "City Code") and s. 166.041(3)(a), Florida Statutes ("F.S."), to review and adopt the attached ordinance, which amends the City Code, at Chapter 21, entitled *Utilities*, Article II, entitled *Water*, adding a new Division 3, to be entitled, *Year-Round Landscape Irrigation Measures*, to support the Mandatory Year-Round Landscape Irrigation Conservation Measures of the South Florida Water Management District (the "District"), as comprised in Chapter 40E-24, Florida Administrative Code ("F.A.C.").

**ISSUE:** An ordinance of the City Commission is required to amend by addition or deletion any portion of the City Code, as per the terms of Chapter 1, entitled *General Provisions*, Section 1-10, entitled *Altering the Code* thereof.

**BACKGROUND:** The District has promulgated and amended Chapter 40E-24, F.A.C., which comprises its Year-Round Landscape Irrigation Rule ("YRR"), also known as the Mandatory Year-Round Landscape Irrigation Conservation Measures. The YRR is a component of the District's Comprehensive Water Conservation Program and was established to encourage more responsible use of water resources throughout South Florida. The YRR is intended to provide a framework for consistent implementation to ensure the long-term sustainability of the water resources of the region, increase water use efficiency and prevent and curtail wasteful water use practices through regulatory means for landscape irrigation by all users. Water savings achieved by public and private water supply utilities through conservation may be used to extend the availability of all

water sources to meet future demands and defer the need for additional capital investment in alternative water supplies, subject to compliance with Chapter 40E-2, F.A.C.

These conservation measures call for year-round and permanent landscape irrigation restrictions, separate and independent from water shortage declarations, in accordance with Chapter 40E-21, F.A.C. These measures are in addition to the Chapter 40E-2, F.A.C., provisions and non-regulatory measures, such as education and incentive programs, which are also utilized by the District to promote water conservation. These conservation measures, apply to all water 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 to all water sources apply to all water sources, except that the use of reclaimed water, which may or may not be supplemented from another source, is allowed anytime.

The District strongly encourages local governments to implement these conservation measures through the adoption of ordinances that would include these measures, variance, and enforcement provisions, in accordance with Rule 40E-24.301, F.A.C. The District has even drafted a model ordinance and a model for code language to assist local governments in adopting such ordinances or codes.

**DISCUSSION:** In February 2020, the District sent a letter to the City and all other local governments throughout the District's jurisdiction, which appeared to have not enacted or updated their irrigation ordinances to comport with the District's YRR, as comprised in Chapter 40E-24, F.A.C. After the District had confirmed that Broward County does not now, nor intends to, enforce its irrigation ordinance within incorporated areas other than to route complaints of potential violations to the appropriate municipalities for further investigation, the City was then asked to enact its own irrigation ordinance. In compliance with, and in furtherance of, the provisions set forth in Rule 40E-24.301, F.A.C., the City is amending Chapter 21, entitled *Utilities*, Article II, entitled *Water*, 2, of the City Code to add a new Division 3, to be entitled, *Year-Round Landscape Irrigation Measures*, which would apply to all users within the boundaries of the City, not just those users within the service areas of the City's two (2) Water Treatment Plants.

**ANALYSIS:** The proposed amendments established watering days and times for landscape irrigation in the City and are fashioned after the model ordinance and model code language drafted by the District to assist local government entities within its jurisdictions in implementing YRR measures. As such, they are closely aligned with, and in keeping with the purpose and intent of, the District's YRR, as comprised in Chapter 40E-24, F.A.C. They would help promote water conservation throughout the City through the efficient use of landscape irrigation, would serve a legitimate government purpose, and protect the public health, safety, and welfare of the residents of the City.

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**CITY OF MIRAMAR  
MIRAMAR, FLORIDA**

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

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA, RELATING TO WATER CONSERVATION; AMENDING CHAPTER 21, ENTITLED "UTILITIES," ARTICLE II, ENTITLED "WATER," OF THE CODE OF THE CITY OF MIRAMAR, BY ADDING A NEW DIVISION 3, ENTITLED "YEAR-ROUND LANDSCAPE IRRIGATION MEASURES" TO SUPPORT THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT'S MANDATORY YEAR-ROUND LANDSCAPE IRRIGATION CONSERVATION MEASURES, AS COMPRISED IN CHAPTER 40E-24, FLORIDA ADMINISTRATIVE CODE; MAKING FINDINGS; PROVIDING FOR INTENT AND PURPOSE; PROVIDING DEFINITIONS; PROVIDING FOR APPLICABILITY; PROVIDING FOR YEAR-ROUND LANDSCAPE IRRIGATION CONSERVATION MEASURES; PROVIDING FOR EXCEPTIONS TO THE LANDSCAPE IRRIGATION SCHEDULES; PROVIDING FOR ADDITIONAL MEASURES; PROVIDING FOR VARIANCES AND WAIVERS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTIES; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR INTERPRETATION; PROVIDING FOR ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Article VIII of the Constitution of the State of Florida and Chapter 166, Florida Statutes (F.S.), provide that municipalities shall have the governmental, corporate and proprietary home rule powers to enable them to conduct municipal government, perform municipal functions, render municipal services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

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**WHEREAS**, the City of Miramar (“City”) is a duly constituted municipality in the State of Florida (“State”) having such power and authority conferred upon it by the Florida Constitution and Chapter 166, F.S.; and

**WHEREAS**, Section 1.04 of the Charter of the City provides that the City shall have all available governmental, corporate and proprietary powers and may exercise them for municipal purposes, except when prohibited by law, including the power to adopt, amend, or repeal ordinances, resolutions and codes as may be required for the benefit of residents and governance of the City; and

**WHEREAS**, the South Florida Water Management District (“District”) is the regional governmental agency created under Chapter 373, F.S., to manage the water resources in the southern half of the State, from Orlando to the Florida Keys, including all of Broward County and the City, and with the responsibility and exclusive authority for implementation of a 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 has promulgated and amended Chapter 40E-24, F.A.C., which comprises the District’s Mandatory Year-Round Landscape Irrigation Conservation Measures within its boundaries, which are intended to provide a framework for consistent

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implementation to ensure the long-term sustainability of the water resources of the region, increase water use efficiency and prevent and curtail wasteful water use practices through regulatory means for landscape irrigation by all users; and

**WHEREAS**, the rules framed under Chapter 40E-24, F.A.C., apply 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**, the rules framed under Chapter 40E-24, F.A.C., call 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**, the rules framed under Chapter 40E-24, F.A.C., apply to all landscape irrigation regardless of whether the water comes from 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 wishing to establish alternative landscape irrigation conservation measures may adopt a landscape irrigation ordinance, which achieves water conservation consistent with the number of days and times for landscape irrigation set forth in Rule 40E-24.201, F.A.C., and which shall provide for variance and enforcement procedures that do not diminish the effectiveness of the measures; and

**WHEREAS**, as further prescribed in rule 40E-24.401, F.A.C., local governments are strongly encouraged to enforce Rule 40E-204.201, F.A.C., by adopting an ordinance that incorporates the provisions set forth in Rule 40E-24.201, F.A.C.; and

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**WHEREAS**, in order to assist local governments in adopting a year-round irrigation ordinance, the District has drafted a Year-Round Landscape Irrigation Rule (“YRR”) model ordinance and a model for code language that feature, among other elements, sections describing the locality’s provisions for variances, enforcement, and penalties; and

**WHEREAS**, in order to implement procedures to protect the water resources of the City, and promote water conservation through the efficient use of landscape irrigation and consistency with Chapter 40E-24, F.A.C., which comprises the District’s Mandatory Year-Round Landscape Irrigation Conservation Measures, the City Commission is desirous to amend Chapter 21, entitled *Utilities*, Article II, entitled *Water*, of the Code of the City of Miramar (“City Code”) to add a new Division 3, to be entitled *Year-Round Landscape Irrigation Measures*; and

**WHEREAS**, the City Manager found the proposed amendment to further the intent and purpose of Rule 40E-24.201, F.A.C., and recommended adoption thereof; and

**WHEREAS**, Chapter 1, entitled *General Provisions*, Section 1-10, entitled *Altering the Code*, provides that amendments to the City Code, either by addition or deletion of any portion thereof, cannot be made in any manner whatsoever except by ordinance of the City Commission; and

**WHEREAS**, in conformity with the provisions of Section 2-27 of the City Code and in paragraph (a) of Subsection 166.041(3), F.S., the City Commission held two properly noticed public hearings on April 21, 2021 and on May 19, 2021 to read and review the Ordinance to amend Chapter 21, entitled *Utilities*, Article II, entitled *Water*, of the City



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Code, by adding a new Division 2, to be entitled *Year-Round Landscape Irrigation Measures*, as further specified herein, at which public hearings the City Manager's recommendation was considered and public testimony was heard; and

**WHEREAS**, the City Commission found that the adoption of this Ordinance would further the intent and purpose of Rule 40E-24.201, F.A.C., serve a legitimate government purpose, and protect the public health, safety, and welfare of the residents of the City.

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**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA, THAT:**

**Section 1:** Recitals. That the foregoing “**WHEREAS**” clauses are hereby adopted as legislative findings of the City of Miramar Commission and are hereby ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

**Section 2:** That Article II of Chapter 21 of the Code of the City of Miramar, Florida, is hereby amended to add a new division to be numbered 3, which said division shall hereafter read as follows:

### **DIVISION 3. – YEAR-ROUND LANDSCAPE IRRIGATION MEASURES**

#### **Sec. 21-46. - Intent and Purpose**

It is the intent and purpose of this division to implement procedures to protect the water resources of the city 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.). This division 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.

#### **Sec. 21-47. - Definitions**

For the purpose of this division, the following terms, phrases, words and any of

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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.

- (a) "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."
- (b) "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.
- (c) "Consumptive Use Permit" (CUP) means a permit issued pursuant to Chapter 40E-2, F.A.C., authorizing the consumptive use of water.
- (d) "District" means the South Florida Water Management District, a government entity created under Chapter 373, F.S.

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- (e) "F.A.C." means the Florida Administrative Code.
- (f) "F.S." means the Florida Statutes.
- (g) "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.
- (h) "Existing Landscaping" means any landscaping which has been planted in the ground for more than ninety (90) days.
- (i) "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.
- (j) "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.
- (k) "Law Enforcement Official(s)" means a City of Miramar police officer, code enforcement officer, or other official designated by the city manager.
- (l) "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.

- (m) “Low Volume Irrigation” means 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 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.
- (n) “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.
- (o) “New Landscaping” means any landscaping which has been planted and established for ninety (90) days or less.
- (p) “Odd-Numbered Address” means an address ending in the number 1, 3, 5, 7 or 9; or the letters N-Z.
- (q) “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.
- (r) “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

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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.

- (s) “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.
- (t) “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 flowing beneath the surface of the ground.
- (u) “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 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.
- (v) “Water Shortage Emergency” means when the District determines the provisions

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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.

#### **Sec. 21-48. - Applicability**

The provisions of this division shall apply to each user providing landscape irrigation from all water resources within the boundaries of the city. The provisions of this division shall not apply to athletic play areas or agricultural operations (including nurseries), and irrigation accomplished using reclaimed water or saltwater.

Declaration of a water shortage condition and/or water shortage emergency within all or parts of the city by the District's Governing Board or Executive Director shall supersede this division for the duration of the applicable declaration, in accordance with the City's Water Shortage Ordinance. A water shortage usually occurs due to drought.

Such a declaration would apply to all users using the water resource within the 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. 21-49. – Year-round permanent landscape irrigation measures**

The following requirements or exceptions shall apply to all users, unless otherwise specified.

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- (a) Landscape irrigation shall be prohibited daily between the hours of 10:00 a.m. and 4:00 p.m., except as provided below.
- (b) Irrigation of existing landscaping shall comply with the following provisions:
  - (1) Even-numbered addresses and rights-of-way, or other locations without an address, may accomplish necessary landscape irrigation only on Thursdays, and/or Sundays.
  - (2) Odd-numbered addresses may accomplish necessary landscape irrigation only on Wednesdays, and/or Saturdays.
- (c) Irrigation of new landscaping shall comply with the following provisions:
  - (1) 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.
  - (2) 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.
  - (3) 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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- (4) 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.
- (5) 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 division 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.
- (d) 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.
- (e) 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:

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- (1) Such watering-in shall be limited to one (1) application in the absence of specific alternative instructions from the manufacturer; and
- (2) 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.
- (f) 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.
- (g) In addition to the specific listed measures, all wasteful and unnecessary water use is prohibited.
- (h) In the event the District imposes restrictions on landscape irrigation for new and existing installations which are more restrictive than those imposed by this division, 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.
- (i) It shall be the duty of each user to keep informed as to the landscape irrigation conservation measures within this division, which affect each particular water use.

**Sec. 21-50. – Additional measures**

Any user who purchases and installs an automatic landscape irrigation system

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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, F.S.

**Sec. 21-50. - Variances**

- (1) A variance from the specific day or days identified in this division may be granted by the city, if strict application of the restrictions would lead to unreasonable or unfair result and 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 served by the applicant. If granted, the applicant shall be required to post a notice at each parcel to which the variance pertains. 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 variance would be consistent with the general intent and purpose of this division.
- (2) Upon receipt of an application for variance from the requirements of this division, the city manager or his /her designee shall render a decision on the variance within thirty (30) days. Denials of variance relief may be appealed to the city commission within thirty (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.

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- (3) If a variance is granted, the user shall be required to post a notice at each parcel to which the variance pertains.
- (4) A variance is invalid if it has expired or if the user or its agent violates the terms of the variance.
- (5) Recognition of District's variances. The city recognizes and adopts all irrigation variances or waivers issued by the District under rule 40E-24.501, F.A.C.

#### **Sec. 21-51. - Enforcement**

Every law enforcement official having jurisdiction in the area governed by this division shall, in connection with all other duties imposed by law, diligently enforce the provisions of this division by issuance of a citation, summons, or notice to appear in county court, or by filing an action in civil court for injunctive relief. In addition, the city manager may also delegate enforcement responsibility for this division to other departments of the city government, in accordance with state and local law.

#### **Sec. 21-52. - Penalties**

- (1) Violation of any provision of this division shall be subject to the following penalties:
  - a. First violation: Warning.
  - b. Second violation: Fifty dollars (\$50.00).
  - c. Third and subsequent violations: a fine not to exceed five hundred dollars (\$500.00).

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- (2) Each day a violation of this division 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 city may take any other appropriate legal action, including, but not limited to, injunctive action to enforce the provisions of this division.
- (3) Notice of alleged violations shall be provided to the alleged violator by a city law enforcement official, or by certified mail, return receipt requested, to the owner of the property in question at the address listed with the tax collector's office for tax notices, or property appraiser's records, and at any other address provided to the city. If notice is provided by certified mail and returned unclaimed or refused, notice may be provided by posting same in a conspicuous location at the subject property.

**Section 3: Repeal.** That all sections or parts of sections of the City Code, all Ordinances and part of Ordinances, all Resolutions or parts of Resolutions determined by a court of law to be inconsistent or in conflict with this Ordinance are hereby repealed.

**Section 4: Severability.** That should any phrase, clause, sentence, paragraph or section of this Ordinance be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining portions or applications which shall remain in full force and effect.

**Section 5: Interpretation.** That in interpreting this Ordinance, underlined words indicate additions to existing text indicate additions to existing text, and ~~stricken through~~

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words include deletions from existing text. Changes between first and second readings are denoted by underlined words. Asterisks (\* \* \*) indicate a deletion from the Ordinance of text, which exists in the Code of Ordinances. It is intended that the text in the Code of Ordinances denoted by the asterisks and do not set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance.

**Section 6:**    **Administrative Correction of Scrivener's Error.** The City Attorney is hereby authorized to correct scrivener's errors found in this Ordinance by filing a corrected copy with the City Clerk.

**Section 7:**    **Codification.** That it is the intention of the City Commission of the City of Miramar that that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miramar, Florida. The sections of this Ordinance may be renumbered or re-lettered and the word "Ordinance" may be changed to "Chapter," "Article," "Division," or "Section," or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed.

**Section 8:**    **Effective Date.** That this Ordinance shall become effective upon adoption.

Temp. Ord. No. 1773  
7/30/20  
4/14/21

**PASSED FIRST READING:** \_\_\_\_\_

**PASSED AND ADOPTED ON SECOND READING:** \_\_\_\_\_

\_\_\_\_\_  
Mayor, Wayne M. Messam

\_\_\_\_\_  
Vice Mayor, Yvette Colbourne

ATTEST:

\_\_\_\_\_  
City Clerk, Denise A. Gibbs

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

\_\_\_\_\_  
City Attorney,  
Austin Pamies Norris Weeks Powell, PLLC

<b><u>Requested by Administration</u></b>	<b><u>Voted</u></b>
Commissioner Winston F. Barnes	_____
Commissioner Maxwell B. Chambers	_____
Vice Mayor Yvette Colbourne	_____
Commissioner Alexandra P. Davis	_____
Mayor Wayne M. Messam	_____