

**REQUESTED MOTION:** FIRST READING OF THE FOLLOWING ORDINANCE: AN ORDINANCE OF THE CITY OF BONITA SPRINGS, 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.

**REQUESTOR:** Sean Gibbons, Environmental Sciences - Community Development Department

**AGENDA:** First Reading of an Ordinance

**STRATEGIC PRIORITY:** # 4 Environment

---

**BACKGROUND:** In an effort to assure compliance with State Statutes (Chapter 40E-24 & 40E-21 of the Florida Administrative Code), the South Florida Water Management District (SFWMD) has reached out to all municipalities within the district with direction to, and guidance for, updating and amending their respective regulations pertaining to Water Conservation and Irrigation Restrictions for consistency across the district. The principal goals being to: Assure the continued viability, quantity and quality of the area's water resources long into the future; Provide consistency among the regulatory language(s) used across the district; assure full compliance with the requirements of State Statute; Assure protection of our water resources during periods of extensive drought; and provide District resources and support for regulatory guidance and enforcement. It is also worth noting that applications for funding under the District's Cooperative Funding Program for FY2022 will be evaluated based on factors including the adoption of an ordinance which fully comports with Chapter 40E-24 F.A.C; a consideration which may be extended to other cooperative funding programs in the future as well.

**STAFF RECOMMENDATION:** Review and approved for second reading.

**ATTACHMENTS:**

1) Draft Updated Water Conservation Ordinance

---

**REVIEWERS:**

City Manager: Arleen Hunter  
City Attorney: Derek Rooney  
City Clerk: Debra Filipek  
Department Director: John Dulmer

Council Action: Approved \_\_\_ Denied \_\_\_ Deferred \_\_\_ Other \_\_\_\_\_



1           **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY**  
2 **OF BONITA SPRINGS, FLORIDA:**

3  
4           **Section 1.**     **Recitals.**

5  
6           Each and all of the foregoing recitals are hereby incorporated into this Ordinance as if  
7 specifically set forth herein.

8  
9           **Section 2.**     **Purpose.**

10  
11           It is the intent and purpose of this Ordinance to protect the water resources of the City of  
12 Bonita Springs from the harmful effects of overutilization during periods of water shortage by  
13 assisting the District in the implementation of its water shortage plan, or issued water shortage  
14 orders, under Chapter 40E-21, F.A.C.

15  
16           **Section 3.**     **Definitions.**

17  
18           For the purpose of this Ordinance, the following terms, phrases, words, and their  
19 derivatives shall have the meaning listed below. When not inconsistent with the context, words  
20 used in the present tense include the future, words in the plural include the singular, and words in  
21 the singular include the plural. The word "shall" is always mandatory and not merely directory.

22  
23           (1)     “District” means the South Florida Water Management District, a government  
24 entity created under Chapter 373, Florida Statutes.

25  
26           (2)     “Law Enforcement Officials” means designated code inspectors and code  
27 enforcement officers of the City.

28  
29           (3)     “User” means any person, individual, firm, association, organization, partnership,  
30 business trust, corporation, company, agent, employee or other legal entity whether natural or  
31 artificial, the United States of America, and the State and all political subdivisions, regions,  
32 districts, municipalities, and public agencies thereof, which directly or indirectly takes water from  
33 the water resource, including uses from private or public utility systems, uses under water use  
34 permits issued pursuant to Chapter 40E-2, F.A.C., or uses from individual wells or pumps.

35  
36           (4)     “Water Resource” means any and all water on or beneath the surface of the ground,  
37 including natural or artificial water courses, lakes, ponds, or diffused surface water, and water  
38 percolating, standing, or flowing beneath the surface of the ground.

39  
40           (5)     “Water Shortage” means when the District determines there is the possibility that  
41 insufficient water will be available to meet the present and anticipated needs of the users, or when  
42 conditions are such as to require temporary reduction in total use within a particular area to protect  
43 water resources from serious harm.

44  
45           (6)     “Water Shortage Emergency” means when the District has determined that the  
46 provisions listed in Part II of Chapter 40E-21, F.A.C., are not sufficient to protect the public health,

1 safety, or welfare, the health of animals, fish, or aquatic life, a public water supply, or commercial,  
2 industrial, agricultural, recreational, or other reasonable beneficial uses.

3  
4 **Section 4. Applicability.**

5  
6 The provisions of this Ordinance shall apply to each user, as defined in Section 3.(3), using  
7 the water resource, as defined in Section 3.(4), within the geographical areas subject to the water  
8 shortage condition or water shortage emergency, as defined in Section 3.(6), as determined by the  
9 District, whether from publicly or privately-owned water utility systems, private wells, or private  
10 connections with surface water bodies. This Section shall not apply to users using reclaimed water  
11 or saltwater.

12  
13 **Section 5. Declaration of Water Shortage or Water Shortage Emergency.**

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

18  
19 (2) A water shortage, as defined in Section 2(5), or water shortage emergency order  
20 shall supersede mandatory year-round water irrigation measures until the more restrictive measure  
21 is rescinded by the District.

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

27  
28 **Section 6. Variances.**

29  
30 The City shall recognize all variances issued by the District pursuant to Rule 40E-21.275,  
31 F.A.C.

32  
33 **Section 7. Enforcement.**

34  
35 The City authorizes law enforcement officials having jurisdiction within the City to enforce  
36 the provisions of this Ordinance. In addition, the City may delegate this Ordinance's enforcement  
37 responsibility to other agencies and departments within the City government or other governmental  
38 entities through interlocal agreement.

39  
40 **Section 8. Penalties.**

41  
42 Violations of any provision of this Ordinance may be punished pursuant to Chapter 162,  
43 Florida Statutes, however the City may also take any other appropriate legal action, including but  
44 not limited to injunctive action to enforce the provisions of this Ordinance.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

**Section 9. Codification.**

The City Council intends that this Ordinance be made part of the Code of the Laws and Ordinances, of the City of Bonita Springs, Florida; and that the sections of this Ordinance can be renumbered or re-lettered to the appropriate word or phrase to accomplish codification, and regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or re-lettered and typographical errors and clarification of ambiguous wording that do not affect the intent can be corrected with the authorization of the City Manager without the need for a public hearing.

**Section 10. Conflict.**

All ordinances, resolutions, official determinations or parts thereof previously adopted or entered by the City or any of its officials and in conflict with this Ordinance are hereby repealed to the extent inconsistent herewith.

**Section 11. Severability.**

In the event that any portion of this ordinance is for any reason held 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 affect the validity of the remaining portions of this Ordinance.

**Section 12. Effective Date.**

This Ordinance shall take effect immediately upon adoption.

[SIGNATURE PAGE FOLLOWS]

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

**DULY PASSED AND ENACTED** by the City Council of the City of Bonita Springs,  
Florida this \_\_\_\_ day of August, 2021.

Attest: **CITY OF BONITA SPRINGS, FLORIDA**

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Mayor

Reviewed for legal sufficiency:

By: \_\_\_\_\_  
City Attorney

Vote:	
Carr	Gibson
Purdon	Quaremba
Forbes	Steinmeyer
Corrie	

Date filed with City Clerk: \_\_\_\_\_

**REQUESTED MOTION:** FIRST READING OF THE FOLLOWING ORDINANCE: AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; PROVIDING FOR LOCAL IMPLEMENTATION OF THE MANDATORY YEAR-ROUND LANDSCAPE IRRIGATION CONSERVATION MEASURES RULE OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT (40E-24, F.A.C.); PROVIDING DEFINITIONS; PROVIDING FOR THE APPLICABILITY OF THE ORDINANCE; PROVIDING THE LANDSCAPE IRRIGATION SCHEDULE; PROVIDING EXCEPTIONS TO THE LANDSCAPE IRRIGATION SCHEDULE; PROVIDING FOR A REQUIREMENT TO OPERATE TECHNOLOGY THAT INHIBITS OR INTERRUPTS AN IRRIGATION SYSTEM DURING PERIODS OF SUFFICIENT MOISTURE; PROVIDING FOR VARIANCES FROM THE SPECIFIC DAY OF THE WEEK LIMITATIONS; PROVIDING FOR ENFORCEMENT OF THE ORDINANCE; PROVIDING FOR PENALTIES FOR VIOLATION OF THE ORDINANCE; PROVIDING FOR CODIFICATION OF THE ORDINANCE; PROVIDING FOR THE REPEAL OF ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

**REQUESTOR:** Sean Gibbons, Environmental Sciences - Community Development Department

**AGENDA:** First Reading of Ordinance

**STRATEGIC PRIORITY:** #4 Environment

---

**BACKGROUND:** In an effort to assure compliance with State Statutes (Chapter 40E-24 & 40E-21 of the Florida Administrative Code), the South Florida Water Management District (SFWMD) has reached out to all municipalities within the district with direction to, and guidance for, updating and amending their respective regulations pertaining to Water Conservation and Irrigation Restrictions for consistency across the district. The principal goals being to: Assure the continued viability, quantity and quality of the area's water resources long into the future; Provide consistency among the regulatory language(s) used across the district; assure full compliance with the requirements of State Statute(s); Assure protection of our water resources during periods of extensive drought; and provide District resources and support for regulatory guidance and enforcement. It is also worth noting that applications for funding under the District's Cooperative Funding Program for FY2022 will be evaluated based on factors including the adoption of an ordinance which fully comports with Chapter 40E-24 F.A.C; a consideration which may be extended to other cooperative funding programs in the future as well.

**STAFF RECOMMENDATION:** Review and approve for second reading.

**ATTACHMENTS:**

1) Draft Updated Year-Round Irrigation Ordinance

---

**REVIEWERS:**

City Manager: Arleen Hunter  
City Attorney: Derek Rooney  
City Clerk: Debra Filipek  
Department Director: John Dulmer

Council Action: Approved \_\_\_ Denied \_\_\_ Deferred \_\_\_ Other \_\_\_\_\_