

ORDINANCE NO. 03-01-04

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA CREATING REGULATIONS FOR WATER AND IRRIGATION CONSERVATION; PROVIDING FOR A SHORT TITLE; PROVIDING A PURPOSE; PROVIDING FOR APPLICABILITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR HOURS OF IRRIGATION; PROVIDING PROHIBITIONS; PROVIDING EXEMPTIONS; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Keys Aqueduct Authority (the "FKAA") is the provider of potable water for the Florida Keys; and

WHEREAS, the FKAA obtains potable water from the Biscayne Aquifer through a consumptive use permit issued by the South Florida Water Management District ("SFWMD"); and

WHEREAS, as part of the FKAA's permit, Monroe County and its incorporated municipalities will be required to pass a water conservation ordinance; and

WHEREAS, the FKAA and the SFWMD have developed a Water Conservation Plan, for the conservation and distribution of water resources in the Florida Keys; and

WHEREAS, the City of Marathon (the "City") recognizes the need for the protection of potable water as a natural resource through the application of enhanced landscape and irrigation practices; and

WHEREAS, it is the intent and policy of the City to ensure the continued health, safety, welfare, and quality of life for the existing and future residents and visitors of the City by assisting in the conservation of its water resources; and

WHEREAS, enforcement of water restrictions may be made more efficient through the use of a citation system with civil penalties; and

WHEREAS, the City Council finds that the use of the citation system will allow the imposition of civil penalties for violation of the provisions of this Ordinance and will assist in the protection of the water resources of the City and Monroe County.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, AS FOLLOWS:

Section 1. Amendment to the Code.

Chapter ____ of the City Code is hereby created to read as follows:

CHAPTER ____.

WATER AND IRRIGATION CONSERVATION

Section 1. Purpose.

The purpose of this Ordinance is to establish a regulatory framework to ensure that water and landscape irrigation conservation will be consistent throughout the City.

Section 2. Applicability.

This Ordinance shall be effective within the City, and shall set restrictions, constraints and prohibitions to enhance the City's water resources and provide water conservation measures. Unless otherwise provided, nothing in this Ordinance shall be construed to relieve any person from compliance with any applicable regulations enacted by the City.

Section 3. Definitions.

For the purposes of this Ordinance, the following words and phrases shall be defined as follows:

- (a) **Agriculture**. The growing of farm products including, but not limited to, vegetables, citrus and other fruits, sod or nursery stock including, ornamental foliage and greenhouse plants.
- (b) **Automatic Irrigation System**. A landscape irrigation unit that runs mechanically without the need for manual operation.
- (c) **Impervious**. Land surfaces which do not allow the penetration of water, including paved roads, sidewalks, driveways, parking lots and highly compacted areas including shell or clay.
- (d) **Irrigation**. The direct application of water to any landscaped surface by means other than precipitation.
- (e) **Irrigation systems**. Equipment and devices which deliver water to plants being irrigated including, but not limited to pipelines, control structures, pipes and ditches, pumping stations, emitters, valves and fittings, excluding the transfer of water through water management systems from one location to another.
- (f) **Person**. Includes any individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer or any other entity whatsoever, or any combination of such, jointly or severally.
- (g) **Potable Water**. Water that is suitable for drinking.
- (h) **Property**. Includes any land within the boundaries of the incorporated

area of the City of Marathon.

Section 4. Hours of Irrigation and Automatic Irrigation Systems.

- (a) A Person may irrigate with Potable Water on any property within the City between the hours of 5:00 pm and 9:00 am only.
- (b) All automatic irrigation systems installed after the effective date of this Ordinance shall include a water sensing device which shall automatically discontinue irrigation during periods of rainfall.

Section 5. Prohibition.

- (a) It shall be unlawful for any Person to irrigate with Potable Water on any Property, except during the hours specified in Section 4.
- (b) It shall be unlawful to remove, from an automatic irrigation system, any hardware that would trigger automatic shutoff during rainfall.
- (c) It shall be unlawful to allow an automatic irrigation system installed after the effective date of this Ordinance to remain in active irrigation during periods of rainfall.

Section 6. Exemptions.

The following activities shall be exempt from the provisions of this Ordinance:

- (a) Landscape irrigation by hand watering using a self-canceling nozzle;
- (b) Landscape irrigation by systems from which the sole source is treated wastewater effluent;
- (c) The operation of irrigation systems for system repair and maintenance;
- (d) Flushing of water mains required for normal water main clearance and

maintenance and for maintenance of water quality; provided that, where practical, flushed water shall be directed into pervious areas, and flushed at the minimum rate necessary for cleaning and dispersing the water in such a manner to benefit local vegetation;

- (e) Landscape irrigation, by a licensed pest control operator, for purposes of watering in fungicides, insecticides and herbicides as required by the manufacturer or by federal or state laws;
- (f) Landscape irrigation for the purpose of watering in newly planted grass and foliage for the first 45 days after initial installation;
- (g) Irrigation activity for dust emissions required by court order or administrative action;
- (h) Agricultural irrigation where the use of water is permitted by a consumptive or water use permit issued by the SFWMD;
- (i) Landscape irrigation from which the sole source is a cistern;
- (j) Slow drip irrigation systems; and
- (k) Any irrigation approved by the City Manager or his designee under Section 8 of this Ordinance.

Section 7. Penalties.

A violation of this Ordinance or any resolution adopted pursuant to this Ordinance may be enforced by issuance of a citation, summons, notice to appear in county court, or by filing an action in civil court for injunctive relief. This Ordinance is supplemental and nothing contained herein shall prohibit the City from enforcing this Ordinance by any other lawful

means.

Section 8. Waiver.

The City Manager may issue a written waiver to the provisions of this Ordinance provided that following conditions are satisfied:

- (1) A written request containing reasons for the waiver is submitted to the City Manager;
- (2) Upon the City Manager's evaluation, it is in the best interests of the City to approve the request in order to preserve landscaping; and
- (3) The waiver is limited to 14 consecutive days.

Section 2. Severability.

The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 3. Inclusion in the Code.

It is the intention of the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the City of Marathon, Florida Code of Ordinances; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 4. Effective Date.

This Ordinance shall be effective upon adoption on second reading.

The foregoing Ordinance as offered by Councilman Greenman, who moved for its adoption. This motion was seconded by Councilman Mearns and upon being put to a vote, the vote was as follows:

Mayor John Bartus	<u>Yes</u>
Vice Mayor Randy Mearns	<u>Yes</u>
Councilman Frank Greenman	<u>Yes</u>
Councilman John Repetto	<u>Yes</u>
Councilman Pete Worthington	<u>Yes</u>

PASSED on first reading this 11th day of December, 2002.

The foregoing Ordinance as offered by Councilman Greenman, who moved for its adoption. This motion was seconded by Councilman Mearns, and upon being put to a vote, the vote was as follows:

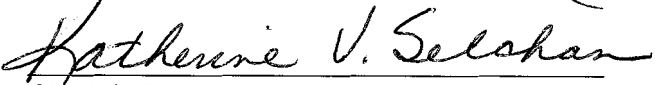
Mayor John Bartus	<u>Yes</u>
Vice Mayor Randy Mearns	<u>Yes</u>
Councilman Frank Greenman	<u>Yes</u>
Councilman John Repetto	<u>Yes</u>
Councilman Pete Worthington	<u>Yes</u>

PASSED AND ADOPTED on second reading this 7th day of January, 2003.

ATTEST:

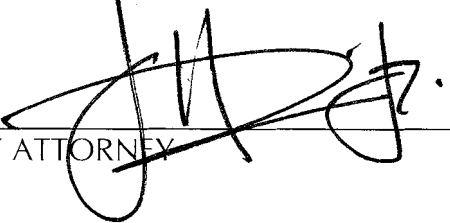


JOHN BARTUS, MAYOR



Katherine V. Selohan
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:



CITY ATTORNEY