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Introduction Date: May 8, 2007
Public Hearing Dates: May 8, 2007
May 22, 2007
Enactment date: May 22, 2007

**CITY OF MARATHON, FLORIDA
ORDINANCE 2007-12**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING SECTIONS 14-94, 14-95, AND 14-96 OF THE MARATHON CODE RELATING TO WATER CONSERVATION BY ADDING REQUIRMENT TO FOLLOW WATER USE RESTRICTIONS ADOPTED BY THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT DURING TIMES OF SHORTAGE OR EMERGENCY AND CREATING SECTION 14-100 ESTABLISHING ENFORCEMENT PROVISIONS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR INCLUSION IN THE CITY CODE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Marathon (the “City”) is within the jurisdictional boundaries of the South Florida Water Management District (the “District”); and

WHEREAS, the District is empowered to adopt water use restrictions; and

WHEREAS, Florida Statutes impose a duty on the City to assist the District in enforcing the rules and regulations it adopts; and

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

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

~~Strikethrough~~ = deletion **bold underline** = addition

Section 1. The above recitals are hereby confirmed and adopted

Section 2. Section 14-94 of the Marathon Code is hereby amended to read as follows:

Applicability.

(a) This article 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.

(b) The provisions of this article shall apply to all persons 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.

(c) Unless otherwise provided, nothing in this article shall be construed to relieve any person from compliance with any ordinance.

Section 3. Section 14-95 of the Marathon Code is hereby amended to read as follows:

Definitions.

For the purpose of this article the following terms, phrases, words and their derivatives shall have the meaning given herein. 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.

Automatic irrigation system means a landscape irrigation unit that runs mechanically without the need for manual operation

District means the South Florida Water Management District.

Impervious means 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.

Irrigation means the direct application of water to any landscaped surface by means other than precipitation.

Irrigation systems means 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.

Person means any person, firm, partnership, association, corporation, company, or organization of any kind.

Potable water means water that is suitable for drinking.

Property means and includes any land within the boundaries of the incorporated area of the City of Marathon.

Water resource means any and all water on or beneath the surface of the ground, including natural or artificial water courses, lakes, ponds, or diffused surface water, and water percolating, standing, or flowing beneath the surface of the ground.

Water shortage condition means when sufficient water is not available to meet present or anticipated needs of persons using the water resource, or when conditions are such as to require temporary reduction in total water usage within a particular area to protect the water resource from serious harm. A water shortage usually occurs due to drought.

Water shortage emergency means that situation when the powers which can be exercised under Part II of Chapter 40E-21, Florida Administrative Code, are not sufficient to protect the public health, safety, or welfare, or the health of animals, fish or aquatic life, or a public water supply, or commercial, industrial, agricultural, recreational or other reasonable uses.

Section 4. Section 14-96 of the Marathon Code is hereby amended to read as follows:

* * *

(c) In the event of a declaration of a water shortage or water shortage emergency by the governing board or the executive director of the District, all water use restrictions or other measures adopted by the District applicable to the City, or any portion thereof, shall be subject to enforcement action pursuant to this Chapter.

Section 6. Section 14-98 of the Marathon Code is hereby amended to read as follows:

* * *

(a) The following activities shall be exempt from the provisions of this article:

- (1) Landscape irrigation by hand watering using a self-canceling nozzle;
- (2) Landscape irrigation by systems from which the sole source is treated wastewater effluent;
- (3) The operation of the irrigation systems for system repair and maintenance;
- (4) Flushing of 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 as to benefit local vegetation;
- (5) 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;

- (6) Landscape irrigation for the purpose of watering in newly planted grass and foliage for the first 45 days after initial installation
- (7) Irrigation activity for dust emissions required by court order or administrative action;
- (8) Agricultural irrigation where the use of water is permitted by a consumptive or water use permit issued by the **District**;
- (9) Landscape irrigation from which the sole source is cistern;
- (10) Slow drip irrigation systems; and
- (11) Any irrigation approved by the City Manager or his designee under Section 14-99.

(b) In the event that any regulations promulgated by the District conflict with these exemptions, the District's restrictions shall supercede these exemptions.

Section 6. Section 14-99 of the Marathon Code is hereby amended to read as follows:

* * *

(4) The waiver is not inconsistent with any regulations promulgated by the District.

Section 7. Section 14-100 of the Marathon Code is hereby created to read as follows:

Enforcement

The enforcement of this Chapter shall be governed by the provisions in Sections 1-7 and 10-9 of the Marathon Code.

Section 6. The provisions of the City Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 7. It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Marathon, Florida, that the sections of the Ordinance may be renumbered or re-lettered to accomplish to such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 8. This Ordinance shall be effective immediately upon enactment.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, this 22nd day of May, 2007.

THE CITY OF MARATHON, FLORIDA



Christopher M. Bull, Mayor

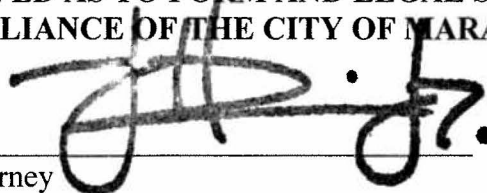
AYES: Tempest, Worthington, Cinque, Vasil, Bull
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:



Diane Clavier
City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:



City Attorney