

CITY OF MARGATE, FLORIDA

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

AN ORDINANCE OF THE CITY OF MARGATE, FLORIDA, AMENDING CHAPTER 23 - LANDSCAPING, AMENDING SECTION 23-5 MATERIALS, INSTALLATION AND IRRIGATION REQUIREMENTS, AND SECTION 23-12 MAINTENANCE OF LANDSCAPING; PROVIDING FOR YEAR-ROUND LANDSCAPE IRRIGATION CONSERVATION MEASURES OF FLORIDA ADMINISTRATIVE CODE CHAPTER 40E-24; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Administrative Code (F.A.C.) Chapter 40E-24 provides for the Mandatory Year-Round Landscape Irrigation Conservation Measures within the boundaries of the South Florida Water Management District; and,

WHEREAS, these mandatory conservation measures are 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; and,

WHEREAS, water savings achieved by City 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.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MARGATE, FLORIDA:

**SECTION 1:** The Code of Ordinances of the City of Margate, Florida, Chapter 23 - Landscape, Section 23-5

1 Materials, installation and irrigation requirements, is hereby  
2 amended to read as follows<sup>1</sup>:

3 **Sec. 23-5. Materials, installation and irrigation**  
4 **requirements.**

5 . . .

6 (C) *Irrigation:*

7 (1) Exclusive of one- or two-family dwellings, all  
8 landscaping required by this code shall be supplied with  
9 water through an underground irrigation system. Said  
10 irrigation system shall deliver one hundred (100) per cent  
11 coverage of all landscaping plants, including swale turf.  
12 Irrigation systems shall not spray upon abutting property,  
13 adjoining sidewalks and streets, or any other impervious  
14 surfaces.

15 (2) Trees, shrubs, flowers, and ground covers may be  
16 irrigated with low volume drip, micro-spray, or bubbler  
17 emitters.

18 (3) All irrigation systems installed after the effective  
19 date of this article ~~are required to utilize rain sensors~~  
20 shall properly install, maintain, and operate technology

21 <sup>1</sup>CODING: Words in ~~struck through~~ text are deletions from  
22 existing text, words in underscoring text are additions to  
23 existing text, and **shaded** text are changes between First and  
24 Second Readings.

1       that inhibits or interrupts operation of the system during  
2       periods of sufficient moisture in accordance with Section  
3       373.62, Florida Statutes, as amended. Such technologies  
4       include, but are not limited to rain sensors, also called  
5       rain shutoff devices, and soil moisture sensors.

6               **[Note to Municipal Code: The rest of this section shall**  
7               **remain as codified.]**  
8

9               **SECTION 2:** The Code of Ordinances of the City of  
10       Margate, Florida, Chapter 23 - Landscape, Section 23-12  
11       Maintenance of landscaping, is hereby amended to read as  
12       follows:

13       **Section 23-12. Maintenance of landscaping**

14                                               .       .       .

15       (F)       *Irrigation.*

16               (1)   *Limitations.*

17                       (a)   Irrigation of landscaping which has been  
18                               planted in the ground for more than ninety  
19                               (90) days shall be limited to two (2) days  
20                       per week, as follows:

21                       i.   Residences and businesses with an odd  
22                               numbered street address may water on  
23                               Wednesdays and/or Saturdays only.

1                   ii. Residences and business with an even  
2                   numbered street address or other  
3                   locations without an address may water  
4                   on Thursdays and/or Sundays only.

5                   (b) Irrigation systems shall not apply more than  
6                   one (1) inch of water per cycle.

7                   (c) Irrigation is not permitted between the  
8                   hours of ~~10~~7:00 a.m. and 4:00 p.m.

9                   (d) Irrigation overspray or flooding onto  
10                  adjacent impervious areas is not permitted.

11                  (e) All wasteful and unnecessary irrigation,  
12                  including but not limited to, allowing water  
13                  to be dispersed without any practical  
14                  purpose to the water use, allowing water to  
15                  be dispersed in a grossly inefficient  
16                  manner, and allowing water to flow through a  
17                  broken or malfunctioning water delivery or  
18                  landscape irrigation system is not  
19                  permitted.

20                  (2) *Exemptions.*

21                  (a) Irrigating any landscaping which has been  
22                  planted and established for ninety (90) days  
23                  or less, "New Landscaping," shall comply

1                   with the following provisions:~~newly planted~~  
2                   ~~landscaping during the establishment period.~~

3                   i.    New Landscaping may be irrigated once  
4                   on the day it is installed without  
5                   regard to the listed watering days and  
6                   times. Irrigation of soil immediately  
7                   prior to the installation of the New  
8                   Landscaping is allowed without regard  
9                   to the listed watering days and times.

10                  ii.   A ninety (90) day establishment period  
11                  begins on the day New Landscaping is  
12                  installed. The New Landscaping shall be  
13                  installed within a reasonable time from  
14                  the date of purchase, which may be  
15                  demonstrated with a dated receipt or  
16                  invoice.

17                  iii. Irrigation of New Landscaping that has  
18                  been in place for thirty (30) days or  
19                  less may be accomplished on Monday,  
20                  Tuesday, Wednesday, Thursday, Saturday,  
21                  and/or Sunday but shall not occur  
22                  between the hours of 7:00 a.m. and 4:00  
23                  p.m.

1           iv. Irrigation of New Landscaping that has  
2           been in place for thirty-one (31) to  
3           ninety (90) days may be accomplished on  
4           Monday, Wednesday, Thursday, and/or  
5           Sunday but shall not occur between the  
6           hours of 7:00 a.m. and 4:00 p.m.

7           v. Irrigation of New Landscaping is  
8           limited to areas containing only New  
9           Landscaping. An entire zone of an  
10          irrigation system shall only be  
11          utilized for landscape irrigation under  
12          this exemption if the zone in question  
13          is for an area that contains at least  
14          fifty percent (50%) New Landscaping. If  
15          a zone contains less than fifty percent  
16          (50%) New Landscaping, of if the New  
17          Landscaping is an area that will not  
18          typically be irrigated by an irrigation  
19          system, only the individual new  
20          plantings are eligible for additional  
21          irrigation. Targeted watering may be  
22          accomplished by low-volume hand  
23          watering by one (1) person, with one  
24          (1) hose, fitted with a self-cancelling

1                   or automatic shutoff nozzle, or any  
2                   appropriate method which isolates and  
3                   waters only the New Landscaping.

4           (b) Agricultural businesses, including plant  
5           nurseries.

6           (c) Irrigation systems supplied with reclaimed  
7           water.

8           (d) Irrigation systems supplied with water  
9           captured in a rain barrel or other similar  
10          device.

11          (e) Low volume ~~h~~hand watering of landscape by  
12          one (1) person, with one (1) hose, fitted  
13          with a self-cancelling or automatic shutoff  
14          nozzle.

15          (f) Irrigation of athletic play areas which  
16          includes golf course fairways, tees, roughs,  
17          and greens, and other athletic play  
18          surfaces; including football, baseball,  
19          soccer, polo, tennis, and lawn bowling  
20          fields, and rodeo, equestrian and livestock  
21          arenas.

22          (g) Irrigation systems may be operated outside  
23          restricted days and/or times for cleaning,  
24          maintenance, and repair with an attendant

1           on-site in the area being tested. Landscape  
2           irrigation systems may routinely be operated  
3           for such purposes no more than once per  
4           week, and the run time for any one (1) test  
5           should not exceed ten (10) minutes per zone.

6           (h) Landscape irrigation for the purpose of  
7           watering-in fertilizers, insecticides,  
8           pesticides, fungicides, and herbicides,  
9           where such watering-in is required by the  
10           manufacturer, or by federal, state, or local  
11           law, shall be allowed under the following  
12           conditions:

13           i. Such watering-in shall be limited to  
14           one (1) application in the absence of  
15           specific alternative instructions from  
16           the manufacturer; and

17           ii. Such watering-in shall be accomplished  
18           during normal watering days and times  
19           permitted by Sec. 23-12(F)(1) above  
20           unless a professional licensed  
21           applicator has posted a temporary sign  
22           containing the date of application and  
23           the dates of needed watering-in  
24           activity.



1       (3) In the event the South Florida Water Management  
2       District, or its successor agency, imposes  
3       restrictions on landscape irrigation for new and  
4       existing installations which are more restrictive  
5       than those imposed by this Code, such as under  
6       the declaration of a water shortage or water  
7       shortage emergency, the more restrictive  
8       regulations shall apply for the applicable  
9       duration of the more restrictive regulations.

10       (4) A licensed contractor who performs work on an  
11       automatic landscape irrigation system must test  
12       for the correct operation of each device that is  
13       intended to inhibit or interrupt the operation of  
14       the system during periods of sufficient moisture.  
15       If such devices or switches are not installed on  
16       the system or are not in proper operating  
17       condition, the contractor must install new ones  
18       or repair the existing ones and confirm that each  
19       device or switch is in proper operating condition  
20       before completing other work on the system.

21       (5) Waiver Application and Appeal Process

22       (a) Any user of an irrigation system affected by  
23       this Code may apply for a waiver to the City  
24       of Margate Department of Environmental and

1                   Engineering Services (DEES). A waiver from  
2                   specific day or days identified in Sec. 23-  
3                   12(F) may be granted if strict application  
4                   of the restrictions would lead to  
5                   unreasonable or unfair result, provided the  
6                   applicant demonstrates with particularity  
7                   that compliance with the schedule will  
8                   result in substantial economic, health, or  
9                   other hardship on the applicant, or those  
10                  the applicant serves. Relief may be granted  
11                  only upon a determination that such hardship  
12                  exists, is peculiar to the person or  
13                  affected property, is not self-imposed, and  
14                  further demonstrates that granting the  
15                  waiver would be consistent with the general  
16                  intent and purpose of this Code.

17                  (b) Examples of qualifying circumstances for a  
18                  waiver include, but are not limited to:

- 19                  i. Two (2) or more properties share a  
20                  common source of water;  
21                  ii. A public or private water system is  
22                  experiencing, or anticipates  
23                  distribution problems;

1                    iii. Where a user maintains an irrigation  
2                    system that uses soil moisture sensors  
3                    with remote monitoring and adjustment  
4                    capabilities that satisfies the  
5                    requirements set forth in Section  
6                    373.62(7), F.S., as may be amended;

7                    iv. Where contiguous property is divided  
8                    into different zones, a waiver may be  
9                    granted so that each zone may be  
10                   irrigated on days different than other  
11                   zones of the property;

12                   v. Where a user maintains, manages, or  
13                   owns a non-residential property, such  
14                   as a house of worship, market  
15                   (farmer/flea), where the primary day of  
16                   use, operation, or attendance for the  
17                   property coincides with the prescribed  
18                   watering day for the address.

19                   (c) However, no single zone may be irrigated  
20                   more than two (2) days per week unless a  
21                   user maintains an irrigation system that  
22                   uses soil moisture sensors.

23                   (d) Applicants utilizing technology (e.g. soil  
24                   moisture sensor) as justification for waiver

1           are required to provide documentation from a  
2           licensed irrigation professional that said  
3           technology is fully functional and its setup  
4           meets the requirements of Sec. 23-12(F) of  
5           this Code.

6           (e) Upon receipt of an application for waiver  
7           from the requirements of Sec. 23-12(F), DEES  
8           shall render a decision on the waiver within  
9           fifteen (15) days. Denials of waiver may be  
10           appealed to the City Manager within fifteen  
11           (15) days of the applicant's receipt of the  
12           notice of denial. Any notice of denial or  
13           subsequent appeal shall be sent by certified  
14           mail, return receipt requested.

15           (f) A waiver application and/or granting a  
16           waiver under provisions of this Code shall  
17           operate prospectively, shall not stay or  
18           abate the enforcement of the provisions of  
19           this Code, and shall not affect any prior or  
20           pending enforcement actions against the  
21           affected person that have been initiated  
22           pursuant to the provisions of Sec. 23-12(F)  
23           of this Code.

1           (g) If a waiver is granted, the applicant shall  
2           be required to post a notice at each parcel  
3           to which the waiver pertains no later than  
4           five (5) days after the waiver is granted.  
5           Said notice is subject to approval by City  
6           staff but at a minimum shall be conspicuous  
7           and posted such that it is visible from the  
8           exterior of any buildings on the property.

9           (h) A waiver is invalid if it has expired or if  
10           the applicant or its agent violates the  
11           terms of the waiver.

12           (i) Approved waivers shall expire on the date  
13           specified on the approval. However, no  
14           waiver shall be valid for a term greater  
15           than two (2) years.

16           (j) Application fee. To be acceptable, an  
17           application for an irrigation waiver shall  
18           be accompanied by a non-refundable  
19           application fee in the following amount, as  
20           appropriate:

21           Initial waiver application or re-application  
22           (waivers which have been invalidated per  
23           sub-section (h) above or were previously  
24           denied are re-applications) ...\$100

Renewal of waiver (for renewal applications  
which have been received by the City prior  
to the expiration of a currently valid  
waiver)...\$50

Transfer of waiver to a new property  
owner...\$50

(G) *Notice to abate.* Should the owner or occupant of any area where there has not been compliance with section 23-12 refuse or neglect to comply with the above subsection, or fail to repair any city improvements, abatement or repair shall be accomplished pursuant to the procedures contained in chapter 22 of the City Code.

(H) *[Violations.]* Violations of this chapter shall be enforced pursuant to section ~~11-51~~51-8 of the City Code.

**[Note to Municipal Code: The rest of this section shall remain as codified.]**

**SECTION 3:** All ordinances or parts of ordinances in conflict herewith are and the same is hereby repealed to the extent of such conflict.

**SECTION 4:** If any section, sentence, clause, or phrase of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then

1 said holding shall in no way affect the validity of the  
2 remaining portions of this ordinance.

3 **SECTION 5:** It is the intention of the City  
4 Commission that the provisions of this ordinance shall become  
5 and be made a part of the City of Margate Code, and that the  
6 sections of this ordinance may be renumbered or relettered  
7 and the word "ordinance" may be changed to "section",  
8 "article" or such other appropriate word or phrase in order  
9 to accomplish such intentions.

10 **SECTION 6:** This ordinance shall become effective  
11 immediately upon adoption at its second reading.

12  
13 PASSED ON FIRST READING THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2021.

14 PASSED ON SECOND READING THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2021.

15 ATTEST:

16  
17 \_\_\_\_\_  
18 JOSEPH KAVANAGH  
19 CITY CLERK

\_\_\_\_\_  
MAYOR ARLENE R. SCHWARTZ

20 RECORD OF VOTE - 1ST READING RECORD OF VOTE - 2ND READING

21					
22	Caggiano	_____		Caggiano	_____
23	Simone	_____		Simone	_____
24	Ruzzano	_____		Ruzzano	_____
25	Arserio	_____		Arserio	_____
26	Schwartz	_____		Schwartz	_____
27					