

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 follows¹:

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 ¹CODING: Words in ~~struck through~~ text are deletions from
22 existing text, words in underscored 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.]**

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.

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

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

(c) Irrigation is not permitted between the hours of 107:00 a.m. and 4:00 p.m.

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

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

(2) *Exemptions.*

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

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

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

ii. 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.

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

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

v. Irrigation of New Landscaping is limited to areas containing only New Landscaping. An entire zone of an irrigation system shall only be utilized for landscape irrigation under this exemption 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 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 by one (1) person, with one (1) hose, fitted with a self-cancelling

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

- (b) Agricultural businesses, including plant nurseries.
- (c) Irrigation systems supplied with reclaimed water.
- (d) Irrigation systems supplied with water captured in a rain barrel or other similar device.
- (e) Low volume Hand watering of landscape by one (1) person, with one (1) hose, fitted with a self-cancelling or automatic shutoff nozzle.
- (f) Irrigation of athletic play areas which includes golf course fairways, tees, roughs, and greens, and other athletic play surfaces; including football, baseball, soccer, polo, tennis, and lawn bowling fields, and rodeo, equestrian and livestock arenas.
- (g) 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.

(h) 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:

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

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

(3) In the event the South Florida Water Management District, or its successor agency, imposes restrictions on landscape irrigation for new and existing installations which are more restrictive than those imposed by this Code, 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.

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

(5) Waiver Application and Appeal Process

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

Engineering Services (DEES). A waiver from specific day or days identified in Sec. 23-12(F) may be granted if strict application of the restrictions would lead to unreasonable or unfair result, 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 the applicant serves. Relief may be granted only upon a determination that such hardship exists, is peculiar to the person or affected property, is not self-imposed, and further demonstrates that granting the waiver would be consistent with the general intent and purpose of this Code.

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

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

iii. Where a user maintains an irrigation system that uses soil moisture sensors with remote monitoring and adjustment capabilities that satisfies the requirements set forth in Section

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

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

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

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

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

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

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

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

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

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

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

Initial waiver application or re-application
(waivers which have been invalidated per
sub-section (h) above or were previously
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 ~~11-51-8~~ 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 PASSED ON FIRST READING THIS _____ DAY OF _____ 2021.

14 PASSED ON SECOND READING THIS _____ DAY OF _____ 2021.

15 ATTEST:

16
17 JOSEPH KAVANAGH
18 CITY CLERK

16
17 MAYOR ARLENE R. SCHWARTZ

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

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

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23 Simone _____
24 Ruzzano _____
25 Arserio _____
26 Schwartz _____