

MEMORANDUM

Agenda Item No. 7(F)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: (Second Reading: 2-7-23)
October 6, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to water conservation and year-round landscape irrigation restrictions; amending section 32-8.2 of the Code; clarifying intent, purpose, and applicability; revising definitions; adopting Florida Administrative Code provisions pertaining to the South Florida Water Management District's Landscape Irrigation Regulations; adopting conforming restrictions consistent with Florida Administrative Code provisions; granting enforcement authority to code inspectors as defined in chapter 8CC; authorizing the County Mayor to delegate enforcement responsibility to County agencies and departments; providing for alternate method of compliance; providing for supersession upon declaration of water shortage by South Florida Water Management District

Ordinance No. 23-11

The accompanying resolution was prepared by the Water and Sewer Department and placed on the agenda at the request of Prime Sponsor PortMiami and Environmental Resilience Committee.



Geri Bonzon-Keenan
County Attorney

GBK/jp

Memorandum



Date: February 7, 2023

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava 
Mayor

Subject: Recommended Changes to Miami-Dade County Section 32-8.2 Permanent Landscape Irrigation Restrictions to Comply With the South Florida Water Management District's Mandatory Year-Round Landscape Irrigation Conservation Measures per Chapter 40E-24, Florida Administrative Code

Executive Summary

As South Florida continues to see rapid growth and is among the country's fastest-growing regions, the Water and Sewer Department (WASD) seeks to change Miami-Dade County (County) Section 32-8.2, permanent landscape irrigation restrictions, to comply with the South Florida Water Management District's (District) mandatory Year-Round Landscape Irrigation Conservation Measures (YRR) per Chapter 40E-24, Florida Administrative Code (F.A.C.). The Mandatory YRR restricts the times and number of days landscape irrigation is allowed within the District's jurisdiction and follows science-based recommendations for lawn irrigation. These ordinance changes will allow the County to successfully compete for District grants. In addition, changes are proposed to align the ordinance with the County's efforts to conserve and protect its water resources and clarify the enforcement and administration of the ordinance.

Recommendation

It is recommended that the Board of County Commissioners (Board) approve changes to County Section 32-8.2 permanent landscape irrigation restrictions to comply with the YRR, as well as changes to align the ordinance with County efforts to conserve and protect its water resources and clarify enforcement and administration of the ordinance.

Scope

The impact of changes to Section 32-8.2 of the Miami-Dade County Code (Code) is countywide since the restrictions are applicable throughout the County.

Delegation of Authority

As part of the proposed changes to section 32-8.2 of the Code under this ordinance, the County Mayor will be authorized to delegate enforcement responsibility under section 32-8.2 to County agencies and departments.

Fiscal Impact/Funding Source

It is anticipated that there will be no fiscal impact on County finances with the approval of this recommendation.

Social Equity Statement

The proposed ordinance seeks to update County Code Section 32-8.2, permanent landscape irrigation restrictions, to comply with the YRR per chapter 40E-24, Florida Administrative Code. In addition, updates to the ordinance will align it with other County efforts to conserve and protect its water resources, as well as clarify enforcement and administration rules.

Additionally, by aligning the County's ordinance with the YRR, a variance procedure has been included for residents who cannot adhere to the specific days and hours for landscape irrigation outlined in the ordinance.

The County's permanent irrigation restrictions were implemented to ensure efficient use of outdoor watering, which can account for more than 30 percent of total household use. Of that use, as much as 50 percent is lost due to wind, evaporation, and runoff caused by inefficient irrigation methods and systems. The proposed ordinance encourages a more socially equitable and responsible use of the County's water resources to ensure a sustainable supply of fresh water and fulfills obligations outlined in the County's water use consumption permit issued by the District and the County's Strategic Plan.

Track Record/Monitor

WASD's Chief Financial Officer, Frances Morris, will oversee the implementation and management of the ordinance.

Background

According to the U.S. Environmental Protection Agency, outdoor water use accounts for more than 30 percent of total household water use. In addition, as much as 50 percent of the water we use outdoors is lost due to wind, evaporation, and runoff caused by inefficient irrigation methods and systems. Therefore, in 2009, the County amended its permanent landscape irrigation restrictions, codified in Section 32-8.2 of the County Code since 1991, to limit irrigation to two days per week. In 2010, the District expanded the YRR to encourage more responsible use of water resources throughout its sixteen-county region, including Miami-Dade County. The YRR restricts the times and number of days landscape irrigation is allowed within the District's jurisdiction and follows science-based recommendations for lawn irrigation.

In April 2020, the District requested that all local governments review and update their landscape irrigation ordinances to align with the YRR and ensure they include restricted times and days, variance procedures, and enforcement provisions to promote consistent conservation messaging. In addition, although the County's permanent landscape irrigation restrictions already include many of the same provisions as the YRR, the District requested that the County review the YRR and include provisions that were not already included therein. As a result, WASD worked with the District, Regulatory and Economic Resources (RER), Parks and Recreational Open Spaces (PROS), and other stakeholder County Departments and municipalities and determined the following revisions were needed to the County's permanent landscape irrigation restrictions to correlate with the YRR, which are also addressed in detail in the attached revised ordinance:

1. Expand information on the intent, purpose, and applicability of the County's permanent landscape restrictions for consistency with the District's YRR;
2. Remove the exemption for public gardens and add a process for achieving an alternate method of compliance;
3. Add language regarding irrigation practices for new landscaping, modifying the number of days that irrigation is allowed;
4. Add language noting Section 32-8.2 is superseded by District measures during a water shortage declaration by the District.

In addition to the changes requested by the District above, the County included the following proposed revisions to align the ordinance with County efforts to conserve and protect its water resources and clarify the enforcement and administration of the ordinance:

1. Expand information on the intent, purpose, and applicability of the County's permanent landscape restrictions to further the County's water conservation requirements as outlined in the County's water use consumption permit issued by the District and the County's Strategic Plan objective to "Provide adequate potable water supply and wastewater disposal.";
2. Provide language that allows property owners to water-in fertilizers consistent with the County's regulation on applying fertilizer to urban landscapes, as codified in Section 18C-4 of the Code;

3. Further define enforcement actions and roles within the County's jurisdiction, granting enforcement authority to code inspectors as defined in Chapter 8CC of the Code and requiring municipalities to request County enforcement if desired by the municipality;
4. Allow the County Mayor to delegate enforcement responsibility to agencies and County departments;
5. Update the language in the Code to provide new definitions and administrative changes.

WASD will continue to work with stakeholder Departments to ensure effective management of the permanent landscape irrigation requirements.



Jimmy Morales
Chief Operations Officer



MEMORANDUM

(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: February 7, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(F)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☒ 6 weeks required between first reading and public hearing
- ☒ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(F)
2-7-23

ORDINANCE NO. 23-11

ORDINANCE RELATING TO WATER CONSERVATION AND YEAR-ROUND LANDSCAPE IRRIGATION RESTRICTIONS; AMENDING SECTION 32-8.2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; CLARIFYING INTENT, PURPOSE, AND APPLICABILITY; REVISING DEFINITIONS; ADOPTING FLORIDA ADMINISTRATIVE CODE PROVISIONS PERTAINING TO THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT'S LANDSCAPE IRRIGATION REGULATIONS; ADOPTING CONFORMING RESTRICTIONS CONSISTENT WITH FLORIDA ADMINISTRATIVE CODE PROVISIONS; GRANTING ENFORCEMENT AUTHORITY TO CODE INSPECTORS AS DEFINED IN CHAPTER 8CC; AUTHORIZING THE COUNTY MAYOR TO DELEGATE ENFORCEMENT RESPONSIBILITY TO COUNTY AGENCIES AND DEPARTMENTS; PROVIDING FOR ALTERNATE METHOD OF COMPLIANCE; PROVIDING FOR SUPERSESSION UPON DECLARATION OF WATER SHORTAGE BY SOUTH FLORIDA WATER MANAGEMENT DISTRICT; AND PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, clean, safe, and sustainable water resources and supplies are vital to Florida's economy, environment, residents, visitors, and quality of life; and

WHEREAS, the County is committed to the development and implementation of sound water use, efficiency practices, guidelines, and policies; and

WHEREAS, to protect the water resources in Miami Dade County, this Board previously enacted section 32-8.2 of the Code of Miami-Dade County, which permanently prohibits landscape irrigation daily between 10:00 a.m. and 4:00 p.m., except as otherwise provided; and

WHEREAS, overwatering of landscape can cause runoff of urban fertilizers which contributes some degree of nutrient loading to the County's watershed, including Biscayne Bay, and, as such, reducing all forms of avoidable nutrient loading is essential to protect water resources; and

WHEREAS, this Board finds that a year-round uniform policy for landscape irrigation will effectively protect the water resources of Miami-Dade County and help ensure the availability of potable water to meet the County's projected demand for water; and

WHEREAS, this Board finds that it is in the best interest of the people of Miami-Dade County to have a uniform and permanent landscape irrigation policy consistent with the South Florida Water Management District's model water conservation ordinance for landscape irrigation,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. This Board incorporates and approves the foregoing recitals as if fully set forth herein.

Section 2. Section 32-8.2 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 32-8.2. Permanent >>year-round<< landscape irrigation restrictions.

- (a) *Intent and purpose.* To protect the water resources of Miami-Dade County, Florida >>(County)<< from the harmful effects of overutilization, increase water use efficiency and prevent and curtail wasteful water use practices by providing mandatory year-round landscape irrigation conservation measures and prohibiting the operation of irrigation systems in a manner causing water to be wasted[[-]] >>and to be consistent with the South Florida Water Management District's (District Governing Board) mandatory year-round landscape irrigation conservation measures under chapter 40E-24, Florida Administrative Code, (F.A.C.). This program provides a minimum standard and shall apply to both the incorporated and unincorporated areas of the County, and in the unincorporated areas of the County shall be enforced as described in section 32-8.2(e), and in the incorporated areas of the County shall be enforced by the municipalities, unless the County is notified by a municipality, in the form of a letter from an authorized

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

representative of the municipality or by a duly adopted resolution, that the municipality desires the County to enforce the restrictions identified in this section within that municipality. Any municipality may establish and enforce its ordinance provided such ordinance is equivalent to or more stringent than the provisions of this section.<<

(b) *Definitions.* In constructing the provisions of this section, the following definitions shall apply:

(1) *Address* shall mean the “house number” (a numeric or alphanumeric designation) that, together with the street name, describes the physical location of a specific property. This includes “rural route” numbers but excludes post office box numbers. If a lot number in a mobile home park or similar community is used by the U.S. Postal Service to determine a delivery location, the lot number shall be the property’s address. If a lot number in a mobile home park or similar residential community is not used by the U.S. Postal Service (e.g., the park manager sorts incoming mail delivered to the community’s address), then the community’s main address shall be the property’s address. If a property has no address, it shall be considered “even-numbered.”

(2) *Athletic play area* shall mean all golf course fairways, tees, roughs and greens and other athletic play surfaces; including, football, baseball, >>and<< soccer >>fields<<, polo >>grounds<<, tennis >>courts<< ~~[[and]]~~ >>or<< lawn bowling fields, >>and<< rodeo, equestrian and livestock arenas.

>>(3) *Director* shall mean the Director of the Miami-Dade Water and Sewer Department or its successor agency.

(4) *District Governing Board* shall mean the South Florida Water Management District, a government entity; created under chapter 373, F.S.<<

~~[[(3)]]~~ >>(5) << *Even-numbered address* ~~[[means]]~~ >>shall mean<< an address ending in the numbers 0, 2, 4, 6, 8, or rights-of-way or other locations with no address or the letters A—M.

~~[[(4)]]~~ >>(6) << *Existing landscaping* shall mean any landscaping ~~[[where a period of 90 days has lapsed from the date of purchase.]]~~ >>that has been planted and in the

ground for more than ninety (90) consecutive days.<<

[[~~(5)~~]]>>(7)<<*Irrigation* shall mean the application of water by means other than natural precipitation.

[[~~(6)~~]]>>(8)<< *Irrigation systems* shall mean equipment and devices which deliver water to the [[~~landscape~~]]>>landscaping<< being irrigated including, but not limited to, pumping stations, controls, main and submain pipelines, lateral pipelines, emitters, valves, fittings>>₁<< and safety devices.

[[~~(7)~~]]>>(9)<<[[~~*Landscape* shall mean all residential, commercial, institutional, industrial or governmental areas which are ornamentally planted including, but not limited to, turf, ground covers, flowers, shrubs, trees, sand, mulch, hedges and similar plant materials, lawns, sod, grass and such other flora, not intended for resale, which are situated in locations including, but not limited to, residential landscapes, recreation areas, cemeteries, public, commercial, and industrial establishments, public medians, and rights-of-way except athletic play areas and public gardens as defined herein.~~]]>>Landscaping shall mean shrubbery, trees, lawns, sod, grass, ground covers, plants, vines, ornamental gardens, and such other flora, not intended for resale, which are planted and situated in such diverse locations as residential landscapes, recreation areas, cemeteries, public, commercial, and industrial establishments, public medians, and rights-of-way except athletic play areas.

(10) *Landscape Irrigation* shall mean the outside watering of [[~~shrubbery, trees, lawns, sod, grass, ground covers, plants, vines, ornamental gardens, and such other flora not intended for resale, which are planted and are situated in such diverse locations as residential landscapes, recreation areas, cemeteries, public, commercial, and industrial establishments, public medians, and rights-of-way~~]]>>landscaping<< except athletic play areas [[~~and public gardens~~]] as defined herein.

~~[(8)]~~>>(11)<< *Low-volume Hand Watering* shall mean the watering of landscaping by one person, with one hose, fitted with a self-canceling or automatic shutoff nozzle.

~~[(9)]~~>>(12)<< *Low-volume Irrigation* shall mean the use of equipment and devices specifically designed to allow the volume of water delivered to be limited to a level consistent with the water requirement of the plant being irrigated and to allow that water to be placed with a high degree of efficiency in the root zone of the plant. The term also includes water used in mist houses and similar establishments for plant propagation. Overhead irrigation and flood irrigation are not included.

~~[(11)]~~>>(13)<< *Micro-irrigation* shall mean the application of small quantities of water on or below the soil surface as drops or tiny streams of spray through emitters or applicators placed along a water delivery line. Micro-irrigation includes a number of methods or techniques such as bubbler, drip, trickle, mist or microspray, and subsurface irrigation.

~~[(12)]~~>>(14)<< *New landscaping* shall mean any landscaping ~~[[where the period of time from the date of purchase is]]~~ >>that has been planted in the ground for<< ninety (90) days or less.

~~[(13)]~~>>(15)<< *Odd-Numbered Address* shall mean an address ending in the numbers 1, 3, 5, 7, 9, or the letters N—Z.

~~[(14)]~~ *Public Gardens* shall mean ~~botanical gardens and zoological parks and any planned outdoor space where landscaping is cared for and exhibited, and the facility is open to the public at least six (6) months during a twelve-month period.]~~

~~[(15)]~~>>(16)<< *Reclaimed Water* shall mean wastewater >>that has received at least secondary treatment and basic disinfection and is reused after flowing out of a wastewater treatment facility<< as defined in Rule 62-40.210, F.A.C.

~~[(16)]~~>>(17)<< *User* shall mean any person, individual, firm, association, organization, partnership, business trust, corporation, company, agent, employee or other legal entity whether natural or artificial, the

United States of America, and the State and all political subdivisions, regions, districts, municipalities, and public agencies thereof, which directly or indirectly takes water from the water resource, including ~~[[users]]~~ >>uses from ~~[[of]]~~ private or public utility systems, individual wells or pumps >>and uses under water use permits issued pursuant to chapter 40E-2, F.A.C. ~~<<~~

~~[[47]]~~ >>(18) ~~<<~~ *Wasteful and unnecessary* shall mean allowing water to be dispersed without any practical purpose to the water use; for example, excessive landscape irrigation, leaving an unattended hose on a driveway with water flowing, allowing water to be dispersed in a grossly inefficient manner, regardless of the type of water use; for example, allowing landscape irrigation water to unnecessarily fall onto pavement, sidewalks and other impervious surfaces; allowing water flow through a broken or malfunctioning water delivery or landscape irrigation system.

~~[[48]]~~ >>(19) ~~<<~~ *Water resource* shall mean >>any and all ~~<<~~ water on or beneath the surface of the ground including, but not limited to, natural or artificial watercourses, >>water bodies, ~~<<~~ lakes, ponds, or diffused surface water, and water percolating, standing, or flowing beneath the surface of the ground.

>>(20) *Water shortage* shall mean when the District Governing Board determines via formal declaration that there is the possibility that insufficient water will be available to meet the present and anticipated needs of the users, or when conditions are such as to require a temporary reduction in total use within a particular area to protect water resources from serious harm. A water shortage usually occurs, but is not limited to occurring, due to drought.

(21) *Water shortage emergency* shall mean when the District Governing Board determines the provisions listed in Part II of chapter 40E-21, F.A.C., are not sufficient to protect the public health, safety, or welfare, the health of animals, fish, or aquatic life, a public water supply, or commercial, industrial, agricultural, recreational, or other reasonable-beneficial uses. ~~<<~~

- (c) *Application of section.* The provisions of this section shall apply to all users of any water resource within ~~[[Miami-Dade]]~~ >>the<< County, whether from publicly or privately owned water utility systems, private wells, or private connections with surface water bodies. The provisions of this section shall not apply to athletic play areas, ~~[[and public gardens,]]~~ >>agricultural and nursery operations and irrigation performed using reclaimed water<< ~~[[as defined herein and users underwater use permits issued pursuant to Chapter 40E-2 and 40E-20, F.A.C.]]~~
- (d) *Permanent landscape irrigation restrictions*
- (i) It shall be the duty of each User to keep informed as to the landscape irrigation conservation measures presented within this section, which affect each particular water use.
- (ii) The following requirements shall apply to all users unless specified otherwise herein:
- (1) Irrigation of existing landscaping shall comply with the following:
- (a) It shall be unlawful for any user to irrigate or to cause, let, permit, allow or suffer the irrigation of any residential, commercial, institutional, governmental or industrial landscaping areas between the hours of 10:00 a.m. and 4:00 p.m. daily except as otherwise provided herein.
- (b) It shall be unlawful for any user to operate or cause, let, permit, allow or suffer the operation of any irrigation system or device in a wasteful and unnecessary manner including, but not limited to, watering paved areas, sidewalks, driveways, and parking lots.
- (c) ~~[[Even—addresses,]]~~>>An Even-Numbered Address that has an<<~~[[installations—with]]~~ irrigation >>system<<[[systems]] that >>irrigates<<[[irrigate]] both even>>-numbered<< and odd>>-numbered<< addresses within the

same zones, including multifamily units and homeowners' associations, and rights-of-way or other locations with no address, as defined in this section shall only conduct necessary landscape irrigation on Thursday >>and<<or Sunday. ~~[[or both Thursday and Sunday]].~~

- (d) ~~[[Odd addresses]]~~>>Odd-Numbered Addresses<< ~~[[as defined in this section]]~~ shall only conduct necessary landscape irrigation on Wednesday >>and<<or Saturday ~~[[or both Wednesday and Saturday]].~~

- (2) Users irrigating new landscaping shall comply with the following:

- (a) Irrigation of new landscaping shall be prohibited between the hours of 10:00 a.m. and 4:00 p.m. daily, except as otherwise provided herein.

- (b) On the day the new landscaping is installed, the new landscaping may be irrigated once without regard to the normally allowable watering days and times. Irrigation of the soil ~~[[immediately prior to the installation of the new landscaping is also allowable]]~~ >>is allowed twenty-four (24) hours before installation<< without regard to the normal allowable watering days and times.

- (c) ~~[[Irrigation of new landscaping which has been purchased for ninety (90) days or less may be conducted on any day except Friday.]]~~>>The new landscaping shall be installed within a reasonable time from the date of purchase.<<

- (d) The date of purchase of new landscaping may be demonstrated with a dated receipt or invoice.

(e) Irrigation of new landscaping is limited to areas containing the new landscaping only. An entire zone of an irrigation system shall only be utilized for landscape irrigation under this paragraph if the zone in question is for an area that contains at least fifty (50) percent new landscaping. If a zone contains less than fifty (50) percent new landscaping, or if the new landscaping is in an area that will not typically be irrigated by an irrigation system, only the individual new plantings are eligible for additional irrigation under this paragraph. Targeted watering may be accomplished by low-volume hand watering, or any appropriate method which isolates and waters only the new landscaping.

>>(f) New landscaping which has been in place for thirty (30) days or less may be irrigated on Monday, Tuesday, Wednesday, Thursday, Saturday and/or Sunday.

(g) New landscaping which has been in place for thirty-one (31) to ninety (90) days may be irrigated on Monday, Wednesday, Thursday and/or Saturday.

(3) Any water shortage restrictions or other measures declared pursuant to chapter 40E-21, F.A.C., or related District Governing Board or Executive Director orders which are more restrictive than a measure contained within this section, shall supersede this section for the duration of the applicable water shortage declaration.<<

[[~~(3)~~]]>>(4)<< Landscape irrigation systems may be operated during restricted days and times for cleaning, maintenance, and repair purposes 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 test should not exceed ten (10) minutes per zone.

~~[(4)]~~>>(5)<<Landscape irrigation for the purpose of watering-in fertilizers, insecticides, pesticides, fungicides and herbicides, where such watering-in is recommended by the manufacturer, or by federal, state or local law, or by the Florida Green Industries Best Management Practices for Protection of Florida Water Resources Manual, shall be allowed under the following conditions:

>>(a) Such watering-in of fertilizers containing nitrogen or phosphorus and application of fertilizers containing nitrogen or phosphorus for turf or landscaping are allowed only from November 1 to May 14 of each year pursuant to Section 18C-4 of the Code of Miami-Dade County, Florida.

(b) Such watering-in of fertilizers containing phosphorus and application of fertilizers containing phosphorus for turf or landscaping plants shall be limited to areas where a phosphorus deficiency has been demonstrated in the soil underlying the respective turf and landscaping by a soil analysis test performed by a State of Florida certified laboratory as required pursuant to Section 18C-4(C)(4) of the Code of Miami-Dade County, Florida.<<

~~[(a)]~~>>(c)<< Such watering-in shall be limited to one application unless the need for more than one application is stated in the directions for application specified by the manufacturer: and

~~[(b)]~~>>(d)<< Such watering-in shall be accomplished during normally allowable watering days and times set forth in ~~[[paragraphs]]~~>>subsections 32-8.2<<(d)(ii)(1)(c) and (d)(ii)(1)(d) unless a professional licensed applicator has

posted >>on the date the fertilizer is applied<< a temporary sign containing the date of application and the date(s) of needed watering-in activity.

[[~~(5)~~]]>>(6)<< Any landscaping may be irrigated using low volume irrigation, micro-irrigation, >>or<< low-volume hand watering methods including but not limited to the use of-~~[[a hose with a self-canceling or closing nozzle,]]~~ rain barrels, cisterns, or other similar rain-harvesting devices without regard to the watering days or times allowed pursuant to this section.

[[~~(6)~~]] ~~Any landscaping may be irrigated with reclaimed water in accordance with federal, State and local water reuse quality standards, or the use of saltwater without regard to the watering days or times allowed pursuant to this section.]]~~

>>(7)<< ~~[[Irrigation of new lawns and landscaping shall be allowed between 11:00 a.m. and 12:01 p.m. daily for a period of thirty (30) days or until the lawn or landscaping is considered established, whichever period is shorter.]]~~ >>Any user who purchases and installs an automatic landscape irrigation system shall properly install, maintain, and use technology that inhibits or interrupts the operation of the system during periods of sufficient moisture as required by section 373.62, F.S.<<

(e) *Enforcement.* >>In the absence of a declaration of water shortage or water shortage emergency within all or any part of the County by the District's Governing Board or District's Executive Director, compliance with the landscape irrigation restrictions of this section shall be subject to enforcement action. Any violation of the provisions of subsection 32-8.2 (d) herein shall be a violation of this section.

(1)<< Every >>law enforcement<<[[~~police~~]] officer, >>code inspector as defined in chapter 8CC,<< or sheriff, having jurisdiction in the area governed by this section shall, in connection with all other duties imposed by law, diligently enforce the provisions of

this section. >>In addition, the County Mayor may delegate this section's enforcement responsibility to agencies and departments within the County government.

(2)<< Officers >>and code inspectors<< may provide violators with no more than one [[(4)]] written warning. This section shall also be enforceable in accordance with the provisions of [[Chapter]]>>chapter<< 8CC[[~~of this code~~]]. The County may take any appropriate legal action, including but not limited to emergency prohibitory and mandatory injunctive action to enforce the provisions of this section.

(f) *Penalties.* Violations of any provision of this section shall be subject to the [[~~following~~]] penalties >>enumerated in chapter 8CC.<<[[:

~~First violation: Seventy-five dollar (\$75.00) fine.~~

~~Second and subsequent violations: Fine not to exceed five hundred dollars (\$500.00) and/or imprisonment in the County jail not to exceed sixty (60) days.]]~~ Each day in violation of this section shall constitute a separate offense.

>> (g) Alternate method of compliance.

(A) Policy and intent. It is the policy of Miami-Dade County to provide an alternate method of compliance to its year-round landscape irrigation restrictions for persons who demonstrate the need for such an alternate method of compliance to obtain reasonable and fair results. The purpose of this subsection is to provide persons with a process for making a request for and obtaining such an alternate method of compliance.

(B) Applicability. Any person who requires an alternate method of compliance in the application of the year-round landscape irrigation restrictions may request such accommodation pursuant to this subsection. A request for an alternate method of compliance shall be made in the manner prescribed in this subsection, which shall be the exclusive administrative remedy.

(C) Application for an alternate method of compliance. An application for an alternate method of compliance shall provide, at a minimum, the following information on a form prescribed by the Director:

(1) Petitioner's name;

(2) Petitioner's address of the property for which a request for an alternate method of compliance is made;

(3) Petitioner's telephone number or other contact information if Petitioner does not have a telephone number;

(4) South Florida Water Management District permit number and project name (if applicable);

(5) Petitioner's representative (if applicable);

(6) Water use activity;

(7) Description of relief desired;

(8) Demonstration that the request qualifies for an alternate method of compliance; and

(9) Such other reasonable information or pertinent facts as the Director may require to verify that the requested alternate method of compliance is necessary.

(D) *Review and approval procedures.* An application for an alternate method of compliance shall be reviewed and decided in accordance with the following procedures:

(1) *Reviewing authority.* The Director shall, in his or her sole discretion, designate an Alternate Method of Compliance Evaluator (the "AMC Evaluator") to review and decide on all applications for an alternate method of compliance based on the criteria provided below in subsection 32-8.2 (g)(D)(3) of the Code of Miami-Dade County, Florida. Appeals of such decisions shall be permitted only in accordance with the procedures below and shall be decided by the Director, whose decision shall be final, notwithstanding any other provisions of the Code governing appeals of administrative decisions.

(2) *Decision.* The AMC Evaluator shall make a written determination within twenty-one (21) days of filing a complete alternate method of compliance application, as determined by the Director, and shall either grant, grant with modifications, or deny the application. The applicant will be notified of the determination by certified mail to the property's physical address.

(a) The determination shall be made in accordance with the review criteria set forth below and, when necessary, shall involve consultation with the applicant or, where appropriate, the person or persons acting on behalf of, or for the benefit of, the applicant.

(b) The AMC Evaluator may impose any reasonable and necessary conditions of approval, including the condition that the alternate method of compliance shall terminate either on the date indicated in the determination or, if no termination date is indicated in the decision, shall not run with the land and shall terminate when the applicant no longer resides at the subject property, to ensure that the alternate method of compliance does not result in negative or detrimental impacts to the County, its water conservation efforts, or the neighborhood and uses surrounding the applicant's property.

(3) *Review criteria.* The written decision to grant or deny a request for an alternate method of compliance shall be consistent with Chapter 40E-24, Florida Administrative Code and shall be based on whether the applicant has demonstrated that the restrictions would lead to an unreasonable or unfair result; provided the applicant demonstrates with particularity that compliance with the schedule will result in substantial hardship to the applicant, those served by the applicant, or the affected property. A substantial hardship as identified herein includes, but is not limited to, an economic hardship, a substantial negative impact on health or public safety, or other hardship on the applicant or those served by the applicant. Relief may be granted only upon a demonstration that such hardship exists, is peculiar to the person or the affected property, is not self-imposed, and a demonstration that granting the alternative method of compliance would be consistent with the general intent and purpose of this section.

(4) If granted, the applicant shall be required to post a notice at each parcel to which the alternate method of compliance applies.

(5) An alternative method of compliance shall automatically be deemed invalid if it has terminated or if the User or its agent violates the terms of the approved alternative method of compliance.

(E) *Appeal of determination.* An aggrieved or adversely affected party may appeal the AMC Evaluator's decision to the Director in accordance with the following procedures:

(1) *Time to appeal.* The applicant may file an appeal within thirty (30) days of the date of the AMC Evaluator's written decision.

(2) *Filing the appeal.* Appeals shall be filed with the Department on a form prescribed by the Director. Where the appeal is filed by a party other than the applicant, the Department shall provide the applicant written notice of such appeal, and the applicant may submit a written response within thirty (30) days of the date of such written notice.

(3) *Director's decision.* Within sixty (60) days of the date the appeal is filed or the date the applicant submits a written response, whichever is later, the Director shall approve or deny the appeal and may affirm, modify, or reverse the decision under review. The applicant will be notified of the determination via certified mail to the property's physical address.

(a) The Director's decision shall be consistent with and based on the above-referenced state laws and the review criteria set forth above, the stated basis for the appeal, and the applicant's response if any.

(b) Except as provided in this section, the Director's decision shall be set forth in writing and shall be final, notwithstanding any other provisions of the code governing appeals of administrative decisions.

(F) *Fees.*

(1) There shall be no fee for an application requesting an alternate method of compliance from the AMC Evaluator in accordance with this section.

(2) There shall be no fee for an applicant's appeal or other parties appealing the AMC Evaluator's decision in accordance with this section.

(3) If the project for which the request is being made includes requests for other approvals or permits, such other application fees shall continue to apply.

(G) Exhaustion of remedies.

(1) To the extent permitted by federal and state laws, any applicant aggrieved or adversely affected by any decision or determination of an administrative official shall exhaust the administrative remedies prescribed in this section prior to applying to any enforcing agency or court for relief.

(2) No party aggrieved or adversely affected by any decision or determination or an administrative official may apply to any court for relief unless such person has first exhausted the remedies provided for in this Section and taken all available steps provided for herein.

(h) Declaration of water shortage or water shortage emergency. Declaration of a water shortage condition and/or water shortage emergency, as declared by the District's Governing Board or District's Executive Director, within all, part, or multiple parts of the County shall supersede this section for the duration of the applicable water shortage declaration in accordance with section 32-8.1, Water Shortage Emergency Restrictions. A water shortage usually, but not always, occurs due to drought.<<

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or another appropriate word.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

February 7, 2023

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Angela F. Benjamin

Handwritten signature in blue ink, appearing to be "GBK", with a horizontal line underneath.