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ORDINANCE NO. 21 - 06

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BONITA SPRINGS, FLORIDA; PROVIDING FOR THE INTENT AND PURPOSE; PROVIDING DEFINITIONS; PROVIDING FOR APPLICABILITY; PROVIDING FOR THE DECLARATION OF WATER SHORTAGE OR WATER SHORTAGE EMERGENCY; PROVIDING FOR VARIANCES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the South Florida Water Management District (“District”) has the responsibility and exclusive authority under Chapter 373, Florida Statutes, for implementation of a water shortage plan; and

WHEREAS, the District has promulgated and amended Chapter 40E-21, Florida Administrative Code (“F.A.C.”), which comprises the District’s water shortage plan required under subsection 373.246(1), Florida Statutes, the purpose of which is to protect the water resources of the District from serious harm; to ensure equitable distribution of available water resources among all water users during times of shortage consistent with the goals of minimizing adverse economic, social and health related impacts; to provide advance knowledge of the means by which water apportionments and reductions will be made during times of shortage; and to promote greater security for water use permittees; and

WHEREAS, Chapter 40E-21, F.A.C., applies to all users as defined in subsection 40E-21.051(3), F.A.C., including permitted and exempt users under Chapter 40E-2, F.A.C.; and

WHEREAS, Rule 40E-21.421, F.A.C., seeks the cooperation and assistance of state, county, municipal governmental, and law enforcement officials in the enforcement of the water shortage plan or any issued water shortage orders; and

WHEREAS, Rule 40E-21.421, F.A.C., authorizes and encourages counties and municipalities throughout the District’s jurisdiction to adopt ordinances which provide for local enforcement of the water shortage plan or any issued water shortage orders; and

WHEREAS, the City of Bonita Springs relies upon the guidance and regulations issued by the District in the drafting, adopting, and implementing this Ordinance; and

WHEREAS, it is the desire of the City Council of the City of Bonita Springs to adopt such an Ordinance in accordance with Rule 40E-21.421, F.A.C.; and

WHEREAS, the City Council of City of Bonita Springs finds and declares that the adoption of this Ordinance is appropriate, and in the public interest of this community.

1 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY**
2 **OF BONITA SPRINGS, FLORIDA:**

3
4 **Section 1.** **Recitals.**

5
6 Each and all of the foregoing recitals are hereby incorporated into this Ordinance as if
7 specifically set forth herein.

8
9 **Section 2.** **Purpose.**

10
11 It is the intent and purpose of this Ordinance to protect the water resources of the City of
12 Bonita Springs from the harmful effects of overutilization during periods of water shortage by
13 assisting the District in the implementation of its water shortage plan, or issued water shortage
14 orders, under Chapter 40E-21, F.A.C.

15
16 **Section 3.** **Definitions.**

17
18 For the purpose of this Ordinance, the following terms, phrases, words, and their
19 derivatives shall have the meaning listed below. When not inconsistent with the context, words
20 used in the present tense include the future, words in the plural include the singular, and words in
21 the singular include the plural. The word "shall" is always mandatory and not merely directory.

22
23 (1) “District” means the South Florida Water Management District, a government
24 entity created under Chapter 373, Florida Statutes.

25
26 (2) “Law Enforcement Officials” means designated code inspectors and code
27 enforcement officers of the City.

28
29 (3) “User” means any person, individual, firm, association, organization, partnership,
30 business trust, corporation, company, agent, employee or other legal entity whether natural or
31 artificial, the United States of America, and the State and all political subdivisions, regions,
32 districts, municipalities, and public agencies thereof, which directly or indirectly takes water from
33 the water resource, including uses from private or public utility systems, uses under water use
34 permits issued pursuant to Chapter 40E-2, F.A.C., or uses from individual wells or pumps.

35
36 (4) “Water Resource” means any and all water on or beneath the surface of the ground,
37 including natural or artificial water courses, lakes, ponds, or diffused surface water, and water
38 percolating, standing, or flowing beneath the surface of the ground.

39
40 (5) “Water Shortage” means when the District determines there is the possibility that
41 insufficient water will be available to meet the present and anticipated needs of the users, or when
42 conditions are such as to require temporary reduction in total use within a particular area to protect
43 water resources from serious harm.

44
45 (6) “Water Shortage Emergency” means when the District has determined that the
46 provisions listed in Part II of Chapter 40E-21, F.A.C., are not sufficient to protect the public health,

1 safety, or welfare, the health of animals, fish, or aquatic life, a public water supply, or commercial,
2 industrial, agricultural, recreational, or other reasonable beneficial uses.

3
4 **Section 4. Applicability.**

5
6 The provisions of this Ordinance shall apply to each user, as defined in Section 3.(3), using
7 the water resource, as defined in Section 3.(4), within the geographical areas subject to the water
8 shortage condition or water shortage emergency, as defined in Section 3.(6), as determined by the
9 District, whether from publicly or privately-owned water utility systems, private wells, or private
10 connections with surface water bodies. This Section shall not apply to users using reclaimed water
11 or saltwater.

12
13 **Section 5. Declaration of Water Shortage or Water Shortage Emergency.**

14
15 (1) A declaration of a water shortage condition or water shortage emergency in
16 accordance with Part II of Chapter 40E-21, F.A.C., within all or parts of the City by the District's
17 Governing Board or Executive Director, shall invoke the provisions of this Ordinance.

18
19 (2) A water shortage, as defined in Section 2(5), or water shortage emergency order
20 shall supersede mandatory year-round water irrigation measures until the more restrictive measure
21 is rescinded by the District.

22
23 (3) Upon the District issuing a water shortage order, all water use restrictions or other
24 measures adopted by the District applicable to the City, or any portion thereof, shall be subject to
25 enforcement action by the City officials pursuant to Section 6 of this Ordinance. Any violation of
26 Chapter 40E-21, F.A.C., or any order issued pursuant thereto, shall be a violation of this Ordinance.

27
28 **Section 6. Variances.**

29
30 The City shall recognize all variances issued by the District pursuant to Rule 40E-21.275,
31 F.A.C.

32
33 **Section 7. Enforcement.**

34
35 The City authorizes law enforcement officials having jurisdiction within the City to enforce
36 the provisions of this Ordinance. In addition, the City may delegate this Ordinance's enforcement
37 responsibility to other agencies and departments within the City government or other governmental
38 entities through interlocal agreement.

39
40 **Section 8. Penalties.**

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42 Violations of any provision of this Ordinance may be punished pursuant to Chapter 162,
43 Florida Statutes, however the City may also take any other appropriate legal action, including but
44 not limited to injunctive action to enforce the provisions of this Ordinance.

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Section 9. Codification.

The City Council intends that this Ordinance be made part of the Code of the Laws and Ordinances, of the City of Bonita Springs, Florida; and that the sections of this Ordinance can be renumbered or re-lettered to the appropriate word or phrase to accomplish codification, and regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or re-lettered and typographical errors and clarification of ambiguous wording that do not affect the intent can be corrected with the authorization of the City Manager without the need for a public hearing.

Section 10. Conflict.

All ordinances, resolutions, official determinations or parts thereof previously adopted or entered by the City or any of its officials and in conflict with this Ordinance are hereby repealed to the extent inconsistent herewith.

Section 11. Severability.

In the event that any portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 12. Effective Date.

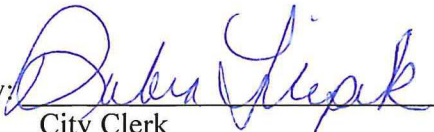
This Ordinance shall take effect immediately upon adoption.

[SIGNATURE PAGE FOLLOWS]

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3 **DULY PASSED AND ENACTED** by the City Council of the City of Bonita
4 Springs, Florida this 1st day of September, 2021.

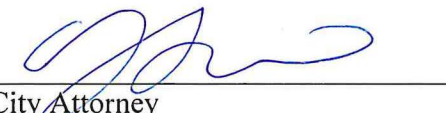
5
6 Attest:

CITY OF BONITA SPRINGS, FLORIDA

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9 By: 
10 City Clerk

By: 
Mayor

11
12
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14 Reviewed for legal sufficiency:

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17 By: 
18 City Attorney

19
20
21
22 Vote:

23 Carr Aye Gibson Aye
24 Purdon Aye Quaremba Aye
25 Forbes Aye Steinmeyer Aye
26 Corrie Aye

27
28
29 Date filed with City Clerk: 9/2/2021
30