

TOWN OF GOLDEN BEACH, FLORIDA

ORDINANCE NO. 592.20

AN ORDINANCE OF THE TOWN OF GOLDEN BEACH, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES BY ADDING SECTION 52-17 TO A NEW ARTICLE II "YEAR-ROUND LANDSCAPING IRRIGATION RESTRICTIONS" WITHIN CHAPTER 52, "LANDSCAPING" TO IMPLEMENT THE MANDATORY YEAR-ROUND LANDSCAPE CONSERVATION MEASURES RULE OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT (40E-24, F.A.C.); PROVIDING DEFINITIONS; PROVIDING FOR APPLICABILITY, PROVIDING THE LANDSCAPE IRRIGATION SCHEDULE; PROVIDING EXCEPTIONS TO THE LANDSCAPE IRRIGATION SCHEDULE; PROVIDING FOR A REQUIREMENT TO OPERATE TECHNOLOGY THAT INHIBITS OR INTERRUPTS AN IRRIGATION SYSTEM DURING PERIODS OF SUFFICIENT MOISTURE; PROVIDING FOR VARIANCES FROM THE SPECIFIC DAY OF THE WEEK LIMITATIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTIES FOR VIOLATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

1 **WHEREAS**, the South Florida Water management District (District) has the
2 responsibility and exclusive authority under Chapter 373, Florida Statutes (F.S.), for
3 regulating the consumptive use of water; and

4 **WHEREAS**, the District has promulgated Chapter 40E-2, Florida Administrative
5 Code (F.A.C.), for the consumptive use of water which includes Rule 40E-2.061, F.A.C.,
6 General Consumptive Use Permits by Rule, regulating landscape irrigation at a single
7 family dwelling or duplex, and Rule 40E-2.071, F.A.C., Noticed General and Individual
8 Permits, regulating larger landscape irrigation users; and

9 **WHEREAS**, the District promulgated and amended Chapter 40E-24, F.A.C.,
10 requiring year-round irrigation conservation measures; and

11 **WHEREAS**, Chapter 40E-24, F.A.C., applies to all users as defined in subsection
12 40E-24.101(14), F.A.C., including permitted and exempt users under Chapter 40E-2,
13 F.A.C.; and

14 **WHEREAS**, Chapter 40E-24, F.A.C., calls for year-round and permanent landscape
15 irrigation restrictions, separate and independent from water shortage declarations in
16 accordance with Chapter 40E-21, F.A.C.; and

17 **WHEREAS**, Chapter 40E-24, F.A.C., applies to all landscape irrigation regardless of
18 whether the water comes from ground or surface water, from a private well or pump, or from
19 a public or private utility; and

20 **WHEREAS**, Rule 40E-24.301, F.A.C., provides that local governments may adopt a
21 landscape irrigation ordinance that achieves water conservation consistent with Rule 40E-
22 24.201, F.A.C., including variance and enforcement procedures; and

23 **WHEREAS**, the District strongly encourages local governments to adopt an
24 ordinance in accordance with Rules 40E-24.201 and 40E-24.301, F.A.C.; and

25 **WHEREAS**, the Town of Golden Beach, Florida (the "Town") Council desires to
26 amend the Code of Ordinances of the Town of Golden Beach, Florida by adding Section
27 52-17 to a new Article II, "Year-Round Landscaping Irrigation Restrictions" within the
28 existing Chapter 52, "Landscaping" to provide regulations for the use of irrigation systems
29 in accordance with Rules 40E-24.201 and 40E-24.301, F.A.C., and Section 32-8.2 of the
30 Miami-Dade County Code of Ordinances; and

31 **WHEREAS**, the Town Council finds this Ordinance to be in the best interest and
32 welfare of the residents of the Town.

33 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF GOLDEN
34 BEACH, FLORIDA:

35 Section 1. Recitals. That the recitals set forth above are hereby adopted and
36 confirmed.

37 Section 2. Amending Code. That the Code of Ordinances of the Town of
38 Golden Beach, Florida is hereby amended by adding Sections 52-17 through 52-25 to a
39 new Article II, titled "Year-Round Landscaping Irrigation Restrictions" within the existing
40 Chapter 52, "Landscaping", which sections shall read as follows:¹

41 Chapter 52 – LANDSCAPING

42 * * *

43 ARTICLE II – YEAR-ROUND LANDSCAPING IRRIGATION RESTRICTIONS

44 Sec. 52-17. - Legislative intent.

45 It is the intent of this article to implement procedures that promote water conservation
46 through the efficient use of landscape irrigation.

47 Sec. 52-18. - Definitions.

48 (1) "Address" means the "house number" (a numeric or alphanumeric
49 designation) that, together with the street name, describes the physical
50 location of a specific property. This includes "rural route" numbers, but
51 excludes post office box numbers. If a lot number in a mobile home park or
52 similar community is used by the U.S. Postal Service to determine a delivery
53 location, the lot number shall be the property's address. If a lot number in a
54 mobile home park or similar residential community is not used by the U.S.
55 Postal Service (e.g., the park manager sorts incoming mail delivered to the
56 community's address), then the community's main address shall be the
57 property's address. If a property has no address, it shall be considered
58 "even-numbered."

59 (2) "Athletic Play Area" means all athletic play surfaces; including but not limited
60 to, football, baseball, soccer, polo, and tennis.

61

¹ Additions to the text are shown in underline. Deletions to the text are shown in ~~strikethrough~~. Additions added between first and second reading are shown in double underline.

- 62 (3) "Consumptive Use Permit" (CUP) means a permit issued pursuant to
63 Chapter 40E-2, F.A.C., authorizing the consumptive use of water.
- 64 (4) "District" means the South Florida Water Management District, a
65 government entity created under Chapter 373, F.S.
- 66 (5) "Even Numbered Address" means an address ending in the numbers 0, 2,
67 4, 6, 8, or rights-of-way or other locations with no address, or the letters A-
68 M.
- 69 (6) "Existing landscaping" means any landscaping which has been planted and
70 in the ground for more than ninety (90) days.
- 71 (7) "Landscaping" means shrubbery, trees, lawns, sod, grass, ground covers,
72 plans, vines, ornamental gardens, and such other flora not intended for
73 resale, which are situated in such diverse locations as residential
74 landscapes, recreation areas, public medians, rights-of-way, and other
75 public areas, except athletic play areas, as defined above.
- 76 (8) "Landscape Irrigation" means the outside watering of shrubbery, trees,
77 lawns, sod, grass, ground covers, plants, vines, ornamental gardens, and
78 such other flora not intended for resale, which are planted and situated in
79 such diverse locations as residential landscapes, recreation areas, public
80 medians, rights-of-way, and other public areas, except athletic play areas.
- 81 (9) "Law Enforcement Officials" includes any police officer or code enforcement
82 inspector of the Town of Golden Beach.
- 83 (10) "Low Volume Hand Watering" means the watering of landscape by one (1)
84 person, with one (1) hose, fitted with a self-canceling or automatic shutoff
85 nozzle.
- 86 (11) "Low Volume Irrigation" means the use of equipment and devices
87 specifically designed to allow the volume of water delivered to be limited to
88 a level consistent with the water requirement of the plant being irrigated,
89 and to allow that water to placed with a high degree of efficiency in the root
90 zone of the plant. The term also includes water used in mist houses and
91 similar establishments for plant propagation. Overhead irrigation and flood
92 irrigation are not included.
- 93 (12) "Micro-irrigation" means the application of small quantities of water on or
94 below the soil surface as drops or tiny streams of spray through emitter or
95 applicators placed along a water delivery line. Micro-irrigation includes a
96 number of methods or concepts, such as bubbler, drip, trickle, mist or
97 microspray, and subsurface irrigation.
- 98 (13) "New landscaping" means any landscaping which has been planted in the
99 ground for ninety (90) days or less.

- 100 (14) "Odd Numbered Addresses" means an address ending in the numbers 1,
101 3, 5, 7, 9, or the letters N-Z.
- 102 (15) "Reclaimed Water" means wastewater that has received at least secondary
103 treatment and basic disinfection, and is reused after flowing out of a
104 wastewater treatment facility as defined by Rule 62-40.210, F.A.C.
- 105 (16) "Town" shall mean the Town of Golden Beach, Florida.
- 106 (17) "User" means any person, individual, firm, association, organization,
107 partnership, business trust, corporation, company, agent, employee, or
108 other legal entity, whether natural or artificial, the United States of America,
109 and the State of Florida and all political subdivisions, regions, districts,
110 municipalities and public agencies thereof, which directly or indirectly takes
111 water from the water resource, including uses from private or public utility
112 systems, uses under water use permits issued pursuant to Chapter 40E-2,
113 F.A.C., or uses from individual wells or pumps.
- 114 (18) "Wasteful and Unnecessary" means allowing water to be disperse without
115 any practical purpose to the water use; for example, excessive landscape
116 irrigation, leaving an unattended hose on a driveway with water flowing,
117 allowing water to be dispersed in a grossly inefficient manner regardless of
118 the type of water use, for example, allowing landscape irrigation water to
119 unnecessarily fall onto pavement, sidewalks and other impervious surfaces,
120 or allowing water flow through a broken or malfunctioning water delivery or
121 landscape irrigation system.
- 122 (19) "Water Resource" means any and all water on or beneath the surface of the
123 ground, including natural or artificial watercourses, lakes, ponds, or diffused
124 surface water, and water percolating, standing, or flowing beneath the
125 surface of the ground.
- 126 (20) "Water Shortage" means when the District determines there is the possibility
127 that insufficient water will be available to meet the present and anticipated
128 needs of the Users, or when conditions are such as to require a temporary
129 reduction in total use within a particular area to protect water resources from
130 serious harm. A water shortage usually occurs due to drought.
- 131 (21) "Water Shortage Emergency" means when the District determines the
132 provisions listed in Part II of Chapter 40E-21, F.A.C., are not sufficient to
133 protect the public health, safety, or welfare, the health of animals, fish or
134 aquatic life, a public water supply, or commercial, industrial, agricultural,
135 recreational, or other reasonable-beneficial uses.

136 Section 52-19. – Applicability

137 The provisions of this Article shall apply to each user, as defined in Section 52-18,
138 providing landscape irrigation from all water resources within the boundaries of the Town,
139 with the following exceptions:

140 (a) The use of reclaimed water, which may or may not be supplemented from
141 another source;

142 (b) Irrigation of athletic play areas.

143 Section 52-20. – Year-Round Landscape Irrigation Conservation Measures

144 The Town adopts the rules of the South Florida Water Management District, listed in
145 Subsection 40E-24.201 (1)-(6), F.A.C., including subsequent additions or corrections.
146 The year-round landscape irrigation conservation measures contained in this Ordinance
147 are applicable to all users including permitted and exempt users under Chapter 40E-2,
148 F.A.C., unless otherwise indicated. These conservation measures apply to all water
149 resources, unless otherwise indicated. In addition to the requirements of this Section, all
150 permitted users under Chapter 40E-2, F.A.C., are required to maintain compliance with
151 all CUP conditions and terms, including requirements to implement water conservation
152 practices.

153 (1) It shall be the duty of each user to keep informed as to the landscape
154 irrigation conservation measures within this Section which affect each
155 particular water use.

156 (2) In addition to the specific conservation measures, all wasteful and
157 unnecessary water use, as defined in Section 52-18 is prohibited.

158 (3) The following requirements shall apply to all users, except for the provided
159 exceptions pursuant to Section 52-19(a) and (b), and pursuant to Section
160 52-21.

161 (a) Landscape irrigation shall be prohibited between the hours of 10:00 a.m.
162 and 4:00 p.m., except as otherwise provided.

163 (b) Irrigation of existing landscaping shall comply with the following
164 provisions:

165 i. Even addresses, installations with irrigation systems that irrigate
166 both even and odd addresses within the same zones, such as
167 homeowners associations and rights-of-way or other locations
168 with no address shall have the opportunity to accomplish
169 necessary landscape irrigation two (2) days a week, only on
170 Thursday and/or Sunday.

171 ii. Odd addresses shall have the opportunity to accomplish
172 necessary landscape irrigation two (2) days a week, only on
173 Wednesday and/or Saturday.

- 174 (c) Irrigation of new landscaping shall comply with the following provisions:
- 175 i. New landscaping may be irrigated once on the day it is installed
176 without regard to the listed watering days and times. Irrigation of
177 the soil immediately prior to the installation of the new
178 landscaping is allowed without regard to the normal watering
179 days and times.
- 180 ii. A ninety (90) day establishment period begins on the day the new
181 landscaping is installed. The new landscaping shall be installed
182 within a reasonable time from the date of purchase, which may
183 be demonstrated with a dated receipt or invoice.
- 184 iii. Irrigation of new landscaping which has been in place for thirty
185 (30) days or less may be accomplished on Monday, Tuesday,
186 Wednesday, Thursday, Saturday, and/or Sunday.
- 187 iv. Irrigation of new landscaping which has been in place for thirty-
188 one (31) days to ninety (90) days may be accomplished on
189 Monday, Wednesday, Thursday, and/or Saturday.
- 190 v. Irrigation of new landscaping is limited to only those areas
191 containing the new landscaping. An entire zone of an irrigation
192 system shall only be utilized if the zone contains at least 50% new
193 landscaping, or if the new landscaping is in an area that will not
194 typically be irrigated by an irrigation system, only the individual
195 new plantings are eligible for additional irrigation. Targeted
196 watering may be accomplished by low volume hand watering, as
197 defined in Section 52-18, or any appropriate method which
198 isolates and waters only the new landscaping.
- 199 (4) Any water shortage, as defined in Section 52-18, restrictions or other
200 measures declared pursuant to Chapter 40E-21, F.A.C., or related District
201 Governing Board or Executive Director orders which are more restrictive
202 than a measure contained within this Article, shall supersede this Article for
203 the duration of the applicable water shortage declaration.

204 Section 52-21. – Exceptions to the Landscape Irrigation Schedules

205 Landscape irrigation scheduling shall be subject to the following exceptions:

- 206 (1) Landscape irrigations systems may be operated during restricted days
207 and/or times for cleaning, maintenance, and repair purposes with an
208 attendant on site in the area being tested. Landscape irrigation systems
209 may routinely be operated for such purposes no more than once per week,
210 and the run time for any one (1) test should not exceed ten (10) minutes per
211 zone.

- 212 (2) Landscape irrigation for the purpose of watering-in fertilizers, insecticides,
213 pesticides, fungicides and the herbicides, where such watering-in is
214 recommended by the manufacturer, or by federal, state or local law, or best
215 management practices, shall be allowed under the following conditions:
- 216 (a) Such watering-in shall be limited to one (1) application, unless the
217 need for more than one (1) application is stated in the directions for
218 application specified by the manufacturer; and
- 219 (b) Such watering-in shall be accomplished during normally allowable
220 watering days and times set forth in Section 52-20(3)(a) and (b),
221 unless a professional licensed applicator has posted a temporary
222 sign containing the date of application and the date(s) of needed
223 water-in activity.
- 224 (3) Any plant material may be watered using low volume irrigation, micro-
225 irrigation, low volume hand watering method (as those terms are defined in
226 Section 52-18), rain barrels, cisterns, or other similar rain-harvesting
227 devices without regard to the watering days or times allowed pursuant to
228 this Section.

229 Section 52-22. – Additional Requirements

230 Any user who purchases and installs an automatic landscape irrigation system shall
231 property install, maintain, and operate technology that inhibits or interrupts operation of
232 the system during periods of sufficient moisture in accordance with Section 373.62, F.S.

233 Section 52-23. – Variances

- 234 (1) A variance from the specific day or days identified in Subsection 52-20(3)
235 may be granted by the Town, pursuant to the procedures in Article II,
236 Division 2, of Chapter 66 of the Town Code of Ordinances, if strict
237 application of the restrictions would lead to unreasonable or unfair result;
238 provided the applicant demonstrates with particularity that compliance with
239 the schedule will result in substantial economic, health, or other hardship
240 on the applicant or those served by the applicant. If granted, the applicant
241 shall be required to post a notice at each parcel to which the variance
242 pertains. Relief may be granted only upon a demonstration that such
243 hardship exists, is peculiar to the person or the affected property, is not self-
244 imposed, and further demonstrates that granting the variance would be
245 consistent with the general intent and purpose of this division.
- 246 (2) The Town recognizes all irrigation variances or waivers issued by the
247 District under Rule 40E-24.501, F.A.C.

248 Section 52-24. – Declaration of Water Shortage or Water Shortage Emergency.

249 Declaration of a water shortage condition and/or water shortage emergency as defined in
250 Section 52-18, within all or parts of the Town by the District's Governing Board or
251 Executive Director shall supersede this Article for the duration of the applicable water
252 shortage declaration.

253 Section 52-25. – Enforcement

254 (1) In the absence of a declaration of water shortage or water shortage
255 emergency within all or any part of the Town by the District, the listed
256 landscape irrigation restrictions pursuant to this Article shall be subject to
257 enforcement action according to the procedures in Chapter 2, Article II of
258 the Town Code of Ordinances titled "Code Compliance and Enforcement."

259 (2) Law enforcement officers and Code Enforcement Officers of the Town are
260 authorized to enforce the provisions of this Article. Violations shall be
261 subject to the penalties and procedures listed in Chapter 2, Article VI for
262 landscape-related code violations.

263 **Section 3. Severability.** That the provisions of this Ordinance are declared to
264 be severable and if any section, sentence, clause or phrase of this Ordinance shall for
265 any reason be held to be invalid or unconstitutional, such decision shall not affect the
266 validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but
267 they shall remain in effect, it being the legislative intent that this Ordinance shall stand
268 notwithstanding the invalidity of any part.

269 **Section 4. Codification.** That it is the intent of the Town Council that the
270 provisions of this ordinance shall become and be made a part of the Town's Code of
271 Ordinances, and that the sections of this Ordinance may be renumbered or relettered,
272 and the word "ordinance" may be changed to "section," "article," "regulation," or such
273 other appropriate word or phrase in order to accomplish such intentions.

274 **Section 5. Conflicts.** That all ordinances or parts of ordinances, resolutions or
275 parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

276 **Section 6. Effective Date.** That this Ordinance shall be in full force and take
277 effect immediately upon its passage and adoption.

278 The Motion to adopt the foregoing Ordinance was offered by Councilmember
279 Mendal, seconded by Vice Mayor Einstein, and on roll call the following vote ensued:

280 Mayor Glenn Singer Aye
281 Vice-Mayor Bernard Einstein Aye
282 Councilmember Judy Lusskin Aye
283 Councilmember Jaime Mendal Aye
284 Councilmember Kenneth Bernstein Aye

285
286 **PASSED AND ADOPTED** on first reading this 16th day of June, 2020.

287 The Motion to adopt the foregoing Ordinance was offered by Councilmember
288 Lusskin, seconded by Councilmember Mendal, and on roll call the following vote ensued:

289 Mayor Glenn Singer Aye
290 Vice-Mayor Bernard Einstein Aye
291 Councilmember Judy Lusskin Aye
292 Councilmember Jaime Mendal Aye
293 Councilmember Kenneth Bernstein Aye

294
295 **PASSED AND ADOPTED** on second reading this 8th day of September, 2020.

296

297

298

299 ATTEST:

300

301

302

303

304

305

306

307

308

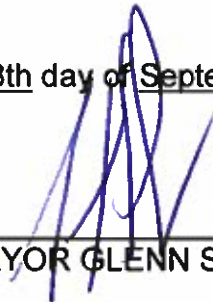
309

310

311

312

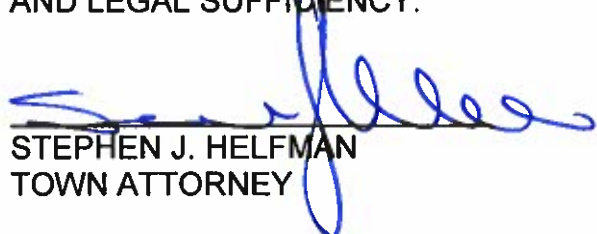
313



MAYOR GLENN SINGER



LISSETTE PEREZ
TOWN CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:


STEPHEN J. HELFMAN
TOWN ATTORNEY