

**ORDINANCE NO. 1080**

**AN ORDINANCE OF THE CITY OF DAVENPORT, FLORIDA; REPLACING & REVISING CHAPTER 18, ARTICLE IV, CODE OF ORDINANCES, CITY OF DAVENPORT (“CODE”) WITH A NEW ARTICLE IV ENTITLED “YEAR-ROUND CONSERVATION MEASURES”; PROVIDING FOR NEW WATER RESTRICTIONS; PROVIDING FOR ADDITIONAL PERSONNEL TO ENSURE COMPLIANCE, ESTABLISHING NEW PER CAPITA WATER USE GOALS; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Davenport, Florida (“City”) owns and operates a water and wastewater system within an exclusive water and wastewater service area; and,

**WHEREAS**, it is the intent and purpose of the City to protect water resources and the local water supplies of the city from inefficient use at all times and overutilization during periods of water shortage by assisting the Southwest Florida Water Management District (“District”) in the implementation of its year-round water conservation measures and water shortage plan; and,

**WHEREAS**, the City has a current per capita daily water use of 153 gallons per person per day; and,

**WHEREAS**, The Central Florida Water Initiative Area Supplemental Handbook was recently incorporated as reference material in rules 62-41.302 and 62-41.305, F.A.C.; and,

**WHEREAS**, the Central Florida Water Initiative Area Supplemental Handbook section CFWI – 2.7.3 “Public Supply Use Type Annual Conservation Goal” has the following requirements Public supply permittees with an annual average daily quantity of 100,000 gpd or greater and whose commercial water use is less than 30 percent of its total water use, shall meet the requirements of the annual conservation goal by demonstrating yearly progress toward a gross per capita daily water use rate of no greater than 115 gpd or a functional per capita daily water use rate of no greater than 100 gpd; and,

**WHEREAS**, the City deems it necessary to meet these goals in order to secure water use for public supply for future generations; and,

**WHEREAS**, The City intends to expand the resources to include all personnel trained in the issuance of the citations and violations in this division and shall be authorized to enforce the provisions of this division; and,

**WHEREAS**, no water service shall be furnished to any person by a public or private utility unless such person agrees to accept and comply with this ordinance.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF DAVENPORT:

**Section 1. Findings.** The City Commission hereby adopts and incorporates the above stated Recitals as legislative findings that support and form the basis for the adoption of this ordinance.

**Section 2. Repeal and Revision of Article IV, Chapter 18, Code of Ordinances, City of Davenport, Florida.** The current version of Article IV, Chapter 18, Code of Ordinances, City of Davenport ("Code"), is hereby repealed. A revised Article IV, Chapter 18 of the Code is hereby created and adopted to read as follows:

**"ARTICLE IV. YEAR-ROUND CONSERVATION MEASURES.**

**Sec. 18-91. - Intent and purpose.**

It is the intent and purpose of this article to protect water resources and the local water supplies of the city from inefficient use at all times and overutilization during periods of water shortage by assisting the Southwest Florida Water Management District in the implementation of its year-round water conservation measures and water shortage plan.

**Sec. 18-92. - Definitions.**

For the purpose of this article the following terms, phrases, words and their derivatives shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

*District* is the Southwest Florida Water Management District.

*CFWI* is the Central Florida Water Initiative.

*Person* is any person, firm, partnership, association, corporation, company, or organization of any kind.

*Water resource* means any and all water on or beneath the surface of the ground, including natural or artificial water courses, lakes, ponds, catchments or diffused surface water, and water percolating, standing, or flowing beneath the surface of the ground, specifically including water withdrawn from wells, but excluding seawater.

*Water shortage* is a drought or other situation when sufficient water is not available to meet present or anticipated needs of persons using the water resource, or when conditions are such as to require temporary reduction in total water usage within a particular area to protect the water resource from serious harm. A district-declared water shortage is that situation in which its governing board has determined a water shortage

exists and needs to be addressed with the powers which can be exercised under part II of Florida Administrative Code Chapter 40D-21.

*Water shortage emergency* means that situation in which the powers which can be exercised under part II of Chapter 40D-21, Florida Administrative Code, are not sufficient to protect the public health, safety, or welfare, or the health of animals, fish or aquatic life, or a public water supply, or commercial, industrial, agricultural, recreational or other reasonable uses. A district-declared water shortage emergency is that situation in which its governing board, executive director or designee has determined a water shortage emergency exists and needs to be addressed with the powers that can be exercised under part III of Florida Administrative Code Chapter 40D-21.

All other phrases, words and their derivatives are defined as provided for in Florida Administrative Code Chapters 40D-21 and Chapter 40D-22.

**Sec. 18-93. - Application of article.**

The provisions of this article shall apply to all persons utilizing the water resource for lawn and landscape irrigation as well as any other water use specified in either Florida Administrative Code Chapter 40D-22, or a water shortage order or emergency water shortage order issued by the district or the City Commission of the City of Davenport. These provisions shall apply whether the persons are supplied by public or privately owned water systems, private wells, or private connections with surface water bodies.

**Sec. 18-94. - District year-round water conservation measures and district water shortage plan.**

(a) The City commission adopts the provisions of SWFWMD Rule 40D-22, year-round water conservation measures, as part of this section with the following exceptions:

(1)The irrigation of established lawns and landscaping is allowed only as follows:

(i) properties under two acres may water from 12:01 a.m. to 6:00 a.m. or after 6:00 p.m. to 11:59 p.m.

(ii)properties with two acres and greater may water from 12:01 a.m. to 8:00 a.m. or after 6:00 p.m. to 11:50 p.m. on each allowable watering day.

A user may irrigate established lawns and landscaping during only one of the specified time periods on any allowable watering day.

(2)Irrigation of established lawns and landscaping shall be limited to once per week as follows:

(i)Irrigation is permitted at addresses ending in the number 0 or 1 only on Mondays.

(ii)Irrigation is permitted at addresses ending in the number 2 or 3, only on Tuesdays.

(iii)Irrigation is permitted at addresses ending in the number 4 or 5, only on Wednesdays.

(iv) Irrigation is permitted at addresses ending in 6 or 7, only on Thursdays.

(v) Irrigation is permitted at addresses ending in the number 8 or 9 or locations with no addresses, only on Fridays.

Users shall curtail irrigation when rain has occurred within the last 24 hours.

(3) New turf grass (sod, seed, plugs and sprigs) and new landscaping may be irrigated and are exempt from day of the week restrictions set forth in subsection (2) above only during the first 60 days after installation; however, such irrigation shall be limited to the minimum necessary, shall only be accomplished during the hours allowed above, and is limited to only new turf grass and new landscaping. Users shall curtail irrigation when rain has occurred in the past 12 hours.

(4) Reclaimed water supplies are also a limited water resource. At times, it may be necessary to limit a customer's use of reclaimed water. In order to provide reclaimed water to as many customers as possible, the City may in its sole discretion publish a reclaimed water lawn and landscape irrigation schedule which may be amended from time to time as necessary by the city.

(5) Low volume micro-irrigation (i.e., drip irrigation, misters, soaker hoses) or hand watering (using a hose with a self-canceling or shut-off nozzle, or both) of trees, shrubs, flowers and vegetable gardens shall not be restricted by days of the week; however, such low volume micro-irrigation or hand watering shall be limited to the minimum necessary and is permitted only during the hours set forth above.

(b) Irrigation for the purpose of applying insecticides, fungicides, and herbicides is restricted to designated days and times for that address. The City hereby permits applications including irrigation only by a professional who is in the business of applying such pesticide products for remuneration, but only so long as a chemical advisory marker specifying the day, month and year of each such application is posted on the landscape, and only where such irrigation is required by the manufacturers or by federal, state, or local law; Such irrigation shall be limited to the minimum necessary and shall only be accomplished during the hours specified above.

(c) The washing of automobiles, trucks, trailers, mobile homes, campers, boats, or any other type of motor vehicle or equipment (hereinafter collectively referred to as "vehicles") is permitted using low volume washing as that term is defined in Fla. Admin. Code Rule 40D-21.051(13), Low volume mobile equipment washing means the washing of mobile equipment with a "bucket" and "sponge" or a hose with a self-canceling or automatic shut-off nozzle or both. Unless a business enterprise established for such purpose is used, the washing of non-business, personal vehicles shall be conducted no more than one time per week.

(d) The hosing down of porches, sidewalks, driveways, and other hard surfaces, shall only be permitted with the use of a hose with a self-canceling or automatic shut-off nozzle

or both. Hosing-down a driveway or other impervious surface to remove grass clippings or other debris that can be removed with a broom or other dry methods is prohibited.

(e) Upon receipt of notice that the Southwest Florida Water Management District has adopted any additional irrigation restrictions that are more stringent, the city commission shall as soon as practicable draft and consider the adoption of amendments to this ordinance implementing such more stringent standards subject to the same enforcement and penalty provisions.

(f) Outdoor recreational and aesthetic uses of water, such as decorative water fountains and features, shall be limited to daylight hours unless such fountains or features provide a necessary aeration and/or water quality benefit. The operation of decorative water fountains or features using reclaimed water is not restricted; however, a sign stating "using reclaimed water" must be posted next to the water fountain or feature.

(g) Road construction servicing contractors (water tankers) shall use reclaimed water rather than potable water when reclaimed water is available within close proximity to the road construction project.

**Sec. 18-95. - Applicability of year-round water conservation measures.**

In the absence of a declaration of a water shortage or water shortage emergency within all or any part of the city by the district or the City Commission of the City of Davenport, all lawn and landscape irrigation and other year-round water conservation measures adopted by the district, and any district-approved local variation applicable to the city, shall be subject to enforcement action pursuant to this article. Any violation of the provisions of Florida Administrative Code Chapter 40D-22, or any local variation issued pursuant thereto, shall be a violation of this article.

**Sec. 18-96. - Applicability of water shortage restrictions.**

Upon the declaration of a water shortage or water shortage emergency within all or any part of the city by the district or the City Commission of the City of Davenport, all lawn and landscape irrigation and other restrictions imposed by a water shortage order or emergency water shortage order declared by the district, and any district-approved local variation to that order applicable to the city, shall be subject to enforcement action pursuant to this article. Any violation of the provisions of Chapter 40D-21, Florida Administrative Code, or any order or local variation issued pursuant thereto, shall be a violation of this article.

**Sec. 18-97. - Enforcement.**

Any law enforcement officer and any city personnel designated by the City Manager, or his designee, who have received training in the issuance of citations or notices of violation, shall be authorized to enforce the restrictions set forth in this division. Such personnel shall be known as code inspectors. Any person who violates the provisions of this division shall be subject to penalties outlined in section 18-98 and receive a notice of

violation or citation in writing via a door hanger or electronic notification with the date and time. A violation of this division shall be punishable by a fine in accordance with uniform fine schedule adopted by the board as amended by Ordinance No. 916 adopted on December 16, 2019. The city's code enforcement department as well as every police officer having jurisdiction in the area governed by this article shall enforce the provisions of this article.

**Sec. 18-98. - Penalties.**

(a) Violation of any provision of this article shall be subject to the following penalties:

- First violation .... Written warning
- Second violation .... \$100.00
- Third violation .... 200.00
- Fourth violation .... 300.00
- Fifth and subsequent violations .... Fine not to exceed \$500.00

A violation shall be considered a first violation if there are no violations recorded within the previous one hundred eighty (180) days for the entity or person receiving notice of violation. Each day in violation of this article shall constitute a separate offense. The city, in addition to the civil sanctions contained herein, may take any other appropriate legal action, including but not limited to emergency injunctive action, to enforce the provisions of this article.

(b) Any entity or person receiving the imposition of a fine for any violation of this article, shall remit full payment of the fine to the city within thirty (30) days of the date of a written notice forwarded to the last known address of said entity or person in accordance with code enforcement procedures of Chapter 2, Article VII of the Code. Failure to timely pay the fines shall result in a code enforcement action being brought by the city against the violator.

(c) Any entity or person who is assessed a fine may appeal said decision by requesting a hearing before the code enforcement special magistrate. A request for such a hearing must be submitted to the city within thirty (30) days of the date of the written notification. The special magistrate shall have the authority to affirm, modify or revoke any action after a finding of fact relative to the appeal.

**Sec. 18-99. - Water users to accept provisions of article.**

No water service shall be furnished to any person by a public or private utility unless such person agrees to accept all the provisions of this article. The acceptance of water service shall be in itself the acceptance of the provisions thereof.

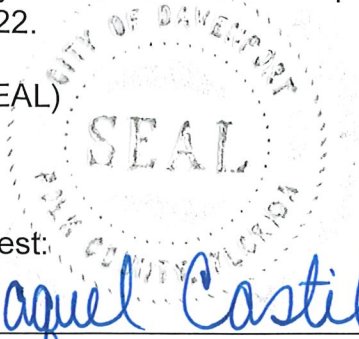
**Section 3. Severability.** If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

**Section 4. Conflicts.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 5. Effective Date.** This Ordinance shall take effect in accordance with state law.

**INTRODUCED, PASSED AND DULY ADOPTED ON FIRST READING** by the City Commission of Davenport, Florida, meeting in Regular Session this 16<sup>th</sup> day of May, 2022.

(SEAL)



**CITY COMMISSION OF DAVENPORT**

By: H.B. Robinson III  
H.B. Robinson III, Mayor

Attest:

Raquel Castillo  
Raquel Castillo, City Clerk

**INTRODUCED, PASSED AND ENACTED ON SECOND READING**, by the City Commission of the City of Davenport, Florida, meeting in Regular Session, this 6<sup>th</sup> day of June, 2022.

(SEAL)



**CITY COMMISSION OF DAVENPORT**

By: H.B. Robinson III  
H.B. Robinson, III, Mayor

Attest:

Raquel Castillo  
Raquel Castillo, City Clerk

APPROVED AS TO FORM:

Thomas Cloud  
Thomas Cloud, City Attorney