

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 14 OF THE CODE OF ORDINANCES ENTITLED "BUILDINGS AND BUILDING REGULATIONS" BY AMENDING SECTION 14-35 ENTITLED "AMENDMENTS TO BUILDING CODE" TO REDUCE MAXIMUM FLOW RATES AND ADD NEW APPLIANCES WITHIN SECTION 604.4 AND P2903.2; AND AMENDING CHAPTER 74 ENTITLED "UTILITIES", ARTICLE III ENTITLED "WATER AND WATER MANAGEMENT", DIVISION 2 ENTITLED "CONSERVATION", SUBDIVISION II ENTITLED "PERMANENT WATER CONSERVATION MEASURES", BY AMENDING SECTIONS 74-295, 74-296, 74-297, 74-299, AND 74-300; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in order for the City's Comprehensive Plan to remain consistent with State, Regional and County plans, and fulfill legislative requirements, the Comprehensive Plan must be updated from time to time; and

WHEREAS, the adopted and effective City of Key West Comprehensive Plan of 2013 contains the Water Supply Work Plan required by Florida Statutes 163, Part II.; and

WHEREAS, this statute requires local governments to update their Water Supply Work Plans every five years, following updates to the Lower East Coast Regional Water Supply Plan (LECWSP) from the South Florida Water Management District; and

WHEREAS, the State of Florida requires that Water Supply Facilities Work Plans address the development of traditional and alternative water supplies and management strategies, including conservation and reuse; and

WHEREAS, the data and analyses, including population projections, water demand and service areas must cover at least a 10-year planning period and be consistent to the LECWSP and the updated comprehensive plan amendments; and

WHEREAS, the City of Key West relies entirely on the Florida Keys Aqueduct Authority (FKAA) for all water production and distribution, FKAA projections of water supply, water demand and management strategies; and

WHEREAS, changing fixture flow is more successful in conserving water than behavioral change; and

WHEREAS, changing our irrigation rules to twice a week is mandated by the South Florida Water Management District; and

WHEREAS, the aforementioned matters form the basis of the amendments to the City's General Ordinances; and

WHEREAS, these amendments to the City of Key West's General Ordinances will increase the long-term adaptation and resilience of the citizens and visitors of the City of Key West; and

WHEREAS, the City Commission for the City of Key West finds that all aforementioned changes to referenced General Ordinances serve the City's interests in promoting the health, safety and welfare of its residents, property owners and visitors alike.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: That the General Ordinances are hereby amended as follows*:

SUBPART A - GENERAL ORDINANCES

{ . . . }

CHAPTER 14 - BUILDINGS AND BUILDING REGULATIONS

{ . . . }

ARTICLE II. - BUILDING CODES

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Section 14-35. - Amendments to Building Code.

The Florida Building Code adopted by the provisions of section 14-31 is amended in the following respects:

{ . . . }

Sec. 604.4, Florida Building Code, Plumbing

Amend Sec. 604.4 as follows:

604.4 Maximum flow and water consumption.

The maximum water consumption flow rates and quantities for all plumbing fixtures, ~~and~~ fixture fittings and appliances shall be in

accordance with Table 604.4. Effective September 1, 2023, permit applications for all residential and commercial new construction and renovations shall include high efficiency plumbing fixtures, fixture fittings and appliances as provided in Table 604.4. Such high efficiency plumbing fixtures, fixture fittings and appliances shall comply with the specifications in Table 604.4 or have received the U.S. Environmental Protection Agency (EPA) WaterSense or EnergyStar Certification labels.

Exceptions:

1. Blowout design water closets [3.5 gallons (13L) per flushing cycle].
2. Vegetable sprays.
3. Clinical sinks [4.5 gallons (17 L) per flushing cycle].
4. Service sinks.
5. Emergency showers.

TABLE 604.4 MAXIMUM FLOW RATES AND CONSUMPTION FOR PLUMBING FIXTURES, AND FIXTURE FITTINGS AND APPLIANCES

PLUMBING FIXTURE OR FIXTURE FITTING	MAXIMUM FLOW RATE OR QUANTITY ^(b)
Lavatory, private	<u>WaterSense Certified (1.5 gpm at 60 psi)</u> 2.2 gpm at 60psi
Lavatory, public, (metering)	0.25 gallon per metering cycle
Lavatory, public (other than metering)	0.5 gpm at 60 psi
Shower head ^(a)	<u>WaterSense Certified (1.5 gpm at 80 psi)</u> 2.5 gpm at 80psi
Sink & <u>Kitchen</u> faucet	<u>WaterSense Certified (1.5 gpm at 60 psi)</u> 2.2 gpm at 60psi
Urinal	<u>WaterSense Certified (Waterless or 0.5 gallon per flushing cycle)</u> 1.0 gallon per flushing cycle

Water closet	<u>WaterSense Certified (1.28 gallons per flushing cycle)</u> 1.6 gallon per flushing cycle
<u>Dishwasher (residential)</u>	<u>Energy Star Certified (3.5 gallons per cycle)</u>
<u>Dishwasher (commercial)</u>	<u>Less than 1.2 gallons per rack for fill and dump machines and less than 0.9 gallons per rack for all other types of machines</u>
<u>Dishwasher (under the counter machines)</u>	<u>1.0 gallon or less per rack for high-temperature machines and 1.7 gallons per rack for low-temperature machines</u>
<u>Washing machine</u>	<u>EnergyStar Certified (4.3 Water Factor) ^(c)</u>

For SI:

1 gallon = 3.785 L

1 gallon per minute = 3.785 L/m

1 pound per square inch = 6.895 kPa.

(a) A hand-held shower spray is a shower head.

(b) Consumption tolerances shall be determined from referenced standards.

(c) Water Factor in gallons per cycle per cubic foot.

{ . . . }

P2903.2, Florida Building Code, Residential

Amend P2903.2 as follows:

P2903.2 Maximum flow and water consumption.

The maximum water consumption flow rates and quantities for all plumbing fixtures, and fixture fittings and appliances shall be in accordance with Table P2903.2. Effective September 1, 2023, permit

applications for all residential and commercial new construction and renovations shall include high efficiency plumbing fixtures, fixture fittings and appliances as provided in Table P2903.2. Such high efficiency plumbing fixtures, fixture fittings and appliances shall comply with the specifications in Table P2903.2 or have received the U.S. Environmental Protection Agency (EPA) WaterSense or EnergyStar Certification labels.

TABLE P2903.2

MAXIMUM FLOW RATES AND CONSUMPTION FOR PLUMBING FIXTURES, FIXTURE FITTINGS AND APPLIANCES ^(b)

PLUMBING FIXTURE OR FITTING	FIXTURE	MAXIMUM FLOW RATE OR QUANTITY
Lavatory faucet		<u>WaterSense® Certified (1.5 gpm at 60 psi)</u> 2.2 gpm at 60psi
Shower head ^(a)		<u>WaterSense® Certified (1.5 gpm at 80 psi)</u> 2.5 gpm at 80psi
Sink faucet		<u>WaterSense® Certified (1.5 gpm at 60 psi)</u> 2.2 gpm at 60psi
Water closet		<u>WaterSense® Certified (1.28 gallons per flushing cycle)</u> 1.6 gallons per flushing cycle
<u>Dishwasher</u>		<u>EnergyStar® Certified (3.5 gallons per cycle)</u>
<u>Washing machine</u>		<u>Energy Star® Certified (4.3 Water Factor) ^(c)</u>

For SI:

- 1 gallon = 3.785 L
- 1 gallon per minute = 3.785 L/m
- 1 pound per square inch = 6.895 kPa.

(a) A handheld shower spray shall be considered a shower head.

(b) Consumption tolerances shall be determined from referenced standards.

(c) Water factor in gallons per cycle per cubic foot.

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Chapter 74 - UTILITIES

{ . . . }

ARTICLE III - WATER AND WATER MANAGEMENT

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Division 2. - CONSERVATION

{ . . . }

Subdivision II. Permanent Water Conservation Measures

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Sec 74-295. - Title; purpose

- (a) This subdivision shall be known as the "City of Key West's Water and Irrigation Conservation Ordinance."
- (b) This subdivision sets restrictions, constraints and prohibitions on persons in Key West in order to enhance the city's water resources and provides a permanent water conservation measure. Unless otherwise provided, nothing in this subdivision shall be construed to relieve any person from compliance with any applicable regulations enacted by the city or any other political subdivision of the state.
- (c) The purpose of this subdivision is to establish a regulatory framework to ensure that water and landscape irrigation conservation will be consistent throughout the city and with the South Florida Water Management District's (District) mandatory year-round landscape irrigation conservation measures.

Sec. 74-296. - Definitions.

The following definitions shall apply:

Address means 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."

Agriculture means the growing of farm products including, but not limited to, vegetables, citrus and other fruits, sod or nursery stock including, but not limited to, ornamental foliage and greenhouse plants.

Athletic Play Area means all golf course fairways, tees, roughs, greens, and other athletic play surfaces, including, football, baseball, soccer, polo, tennis, lawn bowling fields, and rodeo, equestrian and livestock arenas.

Consumptive Use Permit (CUP) means a permit issued pursuant to Chapter 40E-2, F.A.C., authorizing the consumptive use of water.

District means the South Florida Water Management District, a government entity created under Chapter 373, Florida Statutes.

Even-Numbered Addresses means an address ending in the number 0, 2, 4, 6 or 8; rights-of-way or other locations with no address; or the letters A-M.

Existing Landscaping means any landscaping which has been planted in the ground for more than ninety (90) days.

Impervious means land surfaces that do not allow the penetration of water, including paved roads, sidewalks, driveways, parking lots and highly compacted areas such as shell or clay.

Irrigation means the direct application of water by means other than precipitation.

Irrigation systems means equipment and devices that deliver water to plants being irrigated including, but not limited to pipelines, control structures, pipes and ditches, pumping stations, emitters,

valves and fittings. This does not include the transfer of water through water management systems from one location to another.

Landscaping means shrubbery, trees, lawns, sod, grass, ground covers, plants, vines, ornamental gardens, and such other flora not intended for resale, which are 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.

Landscape Irrigation means 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, except athletic play areas.

Law Enforcement Official(s) means city/county/village/town should include a definition of a law enforcement, code enforcement, or any local government employee who may be responsible for enforcing this Ordinance.

Low Volume Hand Watering means the watering of landscape by one (1) person, with one (1) hose, fitted with a self-canceling or automatic shutoff nozzle.

Low Volume Irrigation means 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.

Micro-irrigation means the application of small quantities of water on or below the soil surface as drops or tiny streams of spray through emitter or applicators placed along a water delivery line. Micro-irrigation includes a number of methods or concepts such as bubbler, drip, trickle, mist or micro-spray, and subsurface irrigation.

New Landscaping means any landscaping which has been planted and established for ninety (90) days or less.

Odd-Numbered Address means an address ending in the number 1, 3, 5, 7 or 9; or the letters N-Z.

Person includes any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer or any other entity whatsoever, or any combination of such, jointly or severally.

Reclaimed Water means wastewater that has received at least secondary treatment, and basic disinfection and is reused after flowing out of a wastewater treatment facility as defined by Rule 62-40.210, F.A.C.

User means 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 uses from private or public utility systems, uses under water use permits issued pursuant to Chapter 40E-2, F.A.C., or uses from individual wells or pumps.

Wasteful and unnecessary means 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; or allowing water flow through a broken or malfunctioning water delivery or landscape irrigation system.

Water Resource means any and all water on or beneath the surface of the ground, including natural or artificial watercourses, lakes, ponds, or diffused surface water, and water percolating, standing, or flowing beneath the surface of the ground.

Water Shortage means when the District determines 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 due to drought.

Water Shortage Emergency means when the District 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.

Sec. 74-297. - Restrictions.

- (a) Irrigation of any residential, commercial, institutional, governmental or industrial landscape areas shall be restricted to the hours of 5:00 p.m. to 9:00 a.m.
- (b) It shall be unlawful to operate or cause the operation of any irrigation system or device in a manner causing potable water to be wasted. Such unlawful operations shall include, but not be limited to, unnecessary watering of impervious areas, other than that which may occur incidental to the proper operation of the primary irrigation system.
- (c) Upon the effective date of Ordinance [No. 02-28, January 1, 2003,] new installations of automatic irrigation systems shall be equipped with a water sensing device that shall automatically discontinue irrigation during periods of rainfall.
- (d) Effective September 1, 2023, Irrigation of existing landscaping shall comply with the following provisions:
 - (1) Even-Numbered Addresses and rights-of-way, or other locations without an address, may accomplish necessary landscape irrigation only on Thursdays, and/or Sundays.
 - (2) Odd-Numbered Addresses may accomplish necessary landscape irrigation only on Wednesdays, and/or Saturdays.
- (e) Irrigation of new landscaping shall comply with the following provisions:
 - (1) New Landscaping may be irrigated once on the day it is installed without regard to the listed watering days and times. Irrigation of the soil immediately prior to the installation of the new landscaping is allowed without regard to the listed watering days and times.
 - (2) 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.

- (3) Irrigation of new landscaping which has been in place for thirty (30) days or less may be accomplished on Monday, Tuesday, Wednesday, Thursday, Saturday, and/or Sunday.
 - (4) Irrigation of new landscaping which has been in place for thirty-one (31) to ninety (90) days may be accomplished on Monday, Wednesday, Thursday, and/or Saturday.
 - (5) Irrigation of the new landscaping is limited to areas containing only the new landscaping. An entire zone of an irrigation system shall only be utilized for landscape irrigation under this Code 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 in 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, or any appropriate method which isolates and waters only the new landscaping.
- (f) 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.
- (g) 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:
- (1) Such watering-in shall be limited to one (1) application in the absence of specific alternative instructions from the manufacturer; and
 - (2) Such watering-in shall be accomplished during normal watering days and times listed above unless a professional

licensed applicator has posted a temporary sign containing the date of application and the date(s) of needed watering-in activity.

- (h) Any plant material may be watered using low volume irrigation, micro-irrigation, low volume hand watering methods, rain barrels, cisterns, or other similar rain-harvesting devices without regard to the listed watering days or times.
- (i) In addition to the specific listed measures, all wasteful and unnecessary water use is prohibited.
- (j) In the event the District 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.
- (k) It shall be the duty of each user to keep informed as to the landscape irrigation conservation measures within this Code, which affect each particular water use.

Sec. 74-299. - Enforcement.

- (a) A violation of this article is subject to enforcement either pursuant to section 1-15, which provides for a fine of not more than \$500.00, or a term of imprisonment not to exceed 60 days or both a fine and term of imprisonment, or pursuant to the code enforcement authority of the special master in sections 2-633 and 2-634.
- ~~(a)~~ (b) A failure to comply with the requirements of this subdivision shall constitute a violation, punishable as provided in section 2-680. Each day a person is in violation of a provision of this subdivision shall constitute a separate offense.
- ~~(b)~~ (c) In addition to the penalties contained herein, the city may take appropriate action, including but not limited to, administrative action and requests for temporary and permanent injunctions, to enforce the provisions hereof.

Sec. 74-300. - Variance relief.

- (a) Any person affected by the provisions of this subdivision may make written application to the city manager for a

variance, if compliance would impose a unique, unnecessary and inequitable hardship on such person. Relief may be granted only upon a demonstration that such hardship is peculiar to the person or the affected property and is not self-imposed, and that the grant of the variance will be consistent with the general intent and purpose of this subdivision.

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

(1) Two (2) or more properties which share a common source of water;

(2) A public or private water system experiencing or anticipating distribution problems;

(3) A user maintains an irrigation system that uses soil moisture sensors or weather-based irrigation controllers; or

(4) Where a contiguous property is divided into different zones, a variance may be granted so that each zone may be irrigated on days different than other zones of the property; or

(5) Where a user maintains, manages, or owns a non-residential property, such as a house of worship or weekly 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) Upon receipt of an application for variance, the city manager shall render a decision on the variance within ten working days. The decision of the city manager shall constitute final administrative action.

(d) An application for a variance, and/or the granting of a variance, shall operate prospectively, and shall not affect any pending enforcement action against the property owner pursuant to the provisions of this subdivision.

Section 3: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional

for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 4: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 5: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission and approval by the Florida Department of Economic Opportunity, pursuant to Chapter 380, Florida Statutes.

Read and passed on first reading at a regular meeting held this _____ day of _____, 2023.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2023.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of _____, 2023.

Filed with the Clerk _____, 2023.

Mayor Teri Johnston _____

Vice Mayor Sam Kaufman _____
Commissioner Lisette Carey _____
Commissioner Mary Lou Hoover _____
Commissioner Clayton Lopez _____
Commissioner Billy Wardlow _____
Commissioner Jimmy Weekley _____

TERI JOHNSTON, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK