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ORDINANCE  
NUMBER 2020- 045

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA; AMENDING CHAPTER 3-8 OF THE CODE OF LAWS AND ORDINANCES OF CHARLOTTE COUNTY, FLORIDA ENTITLED "WATERS AND SEWERS," ARTICLE III, "YEAR-ROUND AND SHORTAGE / EMERGENCY WATER CONSERVATION MEASURES," TO DELETE OBSOLETE AND UNNECESSARY PROVISIONS, TO UPDATE THE CODE TO COMPLY WITH SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT YEAR-ROUND WATER CONSERVATION MEASURES AND TO ADD WATER SHORTAGE PLAN PROVISIONS DISTINGUISHING BETWEEN DISTRICTS IN CHARLOTTE COUNTY; PROVIDING FOR INCLUSION IN THE CHARLOTTE COUNTY CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

CHARLOTTE COUNTY CLERK OF CIRCUIT COURT  
OR BOOK: 4668 PAGE 1471 PAGE: 1 OF 9  
INSTR # 2877288 Doc Type: GOV  
Recorded: 11/30/2020 at 10:55 AM  
Rec. Fee: RECORDING \$78.00  
Cashier By: JOANC

RECITALS

**WHEREAS**, Charlotte County includes lands located in both the Southwest Florida Water Management District and the South Florida Water Management District; and

**WHEREAS**, year-round water conservation measures are an integral component of long-term efforts to preserve and protect water supplies and water resources; and,

**WHEREAS**, a water shortage or water shortage emergency may be declared from time to time by either Southwest Florida Water Management District and/or the South Florida Water Management District, which affects users in their respective districts located in Charlotte County; and

**WHEREAS**, the South Florida Water Management District's rules allow for local governments with a jurisdiction divided between the South Florida Water Management

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35 District and the Southwest Florida Water Management District to enact an ordinance  
36 providing for alternative water year-round conservation measures as necessary for the  
37 County to achieve a uniform schedule within its jurisdiction that is in accordance with at  
38 least one of the involved water management districts.

39 **WHEREAS**, the majority of the public water supplies and domestic wells that  
40 serve the population of Charlotte County are currently located within the Southwest  
41 Florida Water Management District, indicating that the most logical set of year-round  
42 water conservation regulations to follow would be those of the Southwest Florida Water  
43 Management District; and

44 **WHEREAS**, both the Southwest Florida Water Management District and South  
45 Florida Water Management District have primary responsibility under Chapter 373,  
46 Florida Statutes, for regulating water use and allocating available water supplies during  
47 periods of water shortage or water shortage emergency in Charlotte County; and

48 **WHEREAS**, both the Southwest Florida Water Management District and the  
49 South Florida Water Management District have adopted "Water Shortage Plans",  
50 codified in the Florida Administrative Code, for the purpose of allocating and conserving  
51 water resources during periods of water shortage or water shortage emergency;

52 **WHEREAS**, South Florida Water Management District has requested the  
53 assistance of Charlotte County in the enforcement of the provisions its Water Shortage  
54 Plan for properties located in the portions of unincorporated Charlotte County within  
55 South Florida Water Management District's boundaries; and

56 **WHEREAS**, Section 373.609, Florida Statutes, provides that it shall be the duty  
57 of county/municipal governmental and law enforcement officials to assist a Water

58 Management District in the enforcement of Chapter 373, Florida Statutes, and any rules  
59 adopted thereunder, upon request by the Water Management District; and

60 **WHEREAS**, the Board of County Commissioners of Charlotte County, Florida  
61 hereby finds and declares that adoption of this ordinance to amend the Charlotte  
62 County Code is necessary, appropriate, and in the public interest of citizens of this  
63 community; now therefore:

64 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD COUNTY COMMISSIONERS  
65 OF CHARLOTTE COUNTY, FLORIDA: Section 3-8-76 through of the Code of Laws and  
66 Ordinances of Charlotte County, Florida, is hereby amended to read as follows: (Words  
67 that are ~~stricken~~ out are deletions; words that are underlined are additions.)

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71 **ARTICLE III. YEAR-ROUND CONSERVATION AND WATER SHORTAGE MEASURES**

72 ~~Sec. 3-8-79. Year round or shortage/emergency water conservation measures.~~

73 ~~The year round water conservation and shortage/emergency measures set forth by~~  
74 ~~SWFWMD are hereby adopted by the Charlotte County Board of County~~  
75 ~~Commissioners and are applicable to all users.~~

76 ~~Any restrictions or other measures declared pursuant to FAC Chapters 40D-21,~~  
77 ~~40D-22, or related Board or Executive Director Orders which are more restrictive than a~~  
78 ~~measure contained within SWFWMD rules (FAC Chapters 40D-21 or 40D-22), shall~~  
79 ~~supersede that rule for the duration of the applicable declaration.~~

80 ~~It shall be the duty of each water user to keep informed as to the year round or~~  
81 ~~shortage/emergency conservation measures required by SWFWMD in FAC Chapters~~  
82 ~~40D-21 and 40D-22, and any further declarations, which affect each particular water~~  
83 ~~use.~~

84 ~~In addition to the specific measures enumerated in FAC Chapters 40D-21 and 40D-~~  
85 ~~22, all wasteful and unnecessary water use is prohibited.~~

86 ~~FAC Chapters 40D-21 and 40D-22, as the same may be amended from time to~~  
87 ~~time, are incorporated herein by reference as a part of this article.~~

88 (~~Ord. No. 2010-016, § 1, 3-23-10~~)

~~Sec. 3-8-80. Declaration of year round water conservation or water~~  
~~shortage/emergency measures—Violations declared unlawful.~~

~~The declaration of year round water conservation or water shortage/emergency measures, within all or any part of the county, and any restrictions on water use, by the board of county commissioners or by the governing board or the executive director of SWFWMD applicable to Charlotte County, or any portion thereof, shall be subject to enforcement action, including unauthorized use warnings and charges, and service disconnection, pursuant to this article. It shall be unlawful for any user to violate the provisions of any declared year round water conservation or water shortage/emergency measures by the board of county commissioners, or any provisions of FAC Chapters 40D-21 or 40D-22, or any order or declaration or issued pursuant thereto.~~

~~Sec. 3-8-81. Enforcement.~~

- ~~(a) Every police officer or sheriff having jurisdiction in the area governed by this article shall, in connection with all other duties imposed by law, diligently enforce the provisions of this article.~~
- ~~(b) In addition, the county administrator may also delegate enforcement responsibility for this article to agencies and departments of county government in the service areas governed by this article, in accordance with state and local law.~~
- ~~(c) Any violation of or failure to comply with this article shall also be grounds for progressive action by each water utility that provides service within its own certificated area, to include warnings, unauthorized use charges, and disconnection of violator's water service.~~

~~Sec. 3-8-82. Penalties.~~

- ~~(a) Violation of any provision of this article shall be subject to the following penalties:
  - ~~(1) When written warnings are not prohibited by SWFWMD:
    - ~~a. First offense: Written warning~~
    - ~~b. Second offense: \$200.00 fine~~
    - ~~c. Third and subsequent offense: \$300.00 fine~~~~
  - ~~(2) When written warnings are prohibited by SWFWMD:
    - ~~a. First offense: \$100.00 fine~~
    - ~~b. Second offense: \$200.00 fine~~
    - ~~c. Third and subsequent offense: \$300.00 fine~~~~~~
- ~~(b) Each day a user is in violation of this article shall constitute a separate offense. Law enforcement officials may provide violators with no more than one (1) written warning. The county, in addition to the criminal 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.~~

1 ~~Sec. 3-8-83. Water users to accept provisions of this article.~~

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

5  
6 ARTICLE III. YEAR-ROUND CONSERVATION AND WATER SHORTAGE MEASURES

7 Sec. 3-8-76. - Intent and purpose.

8 It is the intent and purpose of this article to protect the water resources of Charlotte  
9 County from the harmful effects of wasteful and unnecessary use of water by assisting  
10 the state water management districts and the Florida Department of Environmental  
11 Protection through year-round water conservation and during declared water  
12 shortage/emergency conditions.

13 Sec. 3-8-77. - Definitions.

14 FAC means the Florida Administrative Code.

15 Irrigation means the application of water to plants for the purpose of sustaining plant  
16 life, promoting plant growth or to facilitate crop production.

17 SWFWMD means the Southwest Florida Water Management District, a government  
18 entity created under Chapter 373, Florida Statutes, that regulates water management in  
19 portions of Charlotte County.

20 SFWMD means the South Florida Water Management District, a government entity  
21 created under Chapter 373, Florida Statutes, that regulates water management in  
22 portions of Charlotte County.

23 User means any person, individual, firm, association, organization, partnership,  
24 business trust, corporation, company, agent, employee or other legal entity, the United  
25 States of America, and the state and all political subdivisions, regions, districts,  
26 municipalities, and public agencies thereof, which directly or indirectly takes water from  
27 the water resource, including but not limited to uses from groundwater wells and private  
28 or public utility systems, uses under water use permits issued by either SWFWMD or  
29 SFWMD, or uses from individual wells or pumps.

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

34 Water shortage means a drought or other situation within all or part of a District, for  
35 which the Governing Board has determined that there is insufficient water to meet the  
36 present and anticipated needs of users, or conditions are such that there is a need to  
37 require temporary reduction in water use within a particular area to protect to protect the  
38 water resource from serious harm. Charlotte County recognizes the declaration of a  
39 Water Shortage by either SWFWMD or SFWMD for properties located within the  
40 District's respective jurisdictions.

41 Water Shortage Emergency means a Water Shortage for which a determination has  
42 been made that the powers exercised by either SWFWMD or SFWMD are not sufficient  
43 to protect the public health, safety, or welfare; the health of livestock and other animals,  
44 fish or aquatic life; or other Essential Uses. Charlotte County recognizes the declaration  
45 of a Water Shortage Emergency by either SWFWMD or SFWMD for properties located  
46 within the respective jurisdictions.

47 Sec. 3-8-78. - Application.

48 The provisions of this article shall apply to all users in unincorporated Charlotte  
49 County, whether from public or privately-owned water utility systems, private wells, or  
50 private connections with surface water bodies. This article shall not apply to users using  
51 treated reclaimed water or saltwater.

52 Sec. 3-8-79.

53 (a) Year-Round Water Conservation Measures.

54 (1) The Year-Round Water Conservation Measures set forth by SWFWMD in  
55 FAC 40D-22, as amended from time to time, are applicable to all users in  
56 unincorporated Charlotte County.

57 (2) Any violation of the Year-Round Water Conservation Measures promulgated  
58 by SWFWMD shall be a violation of this Code.

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60 (b) Declarations of Water Shortage or Water Shortage Emergency.

61 (1) SWFWMD Water Shortage Plan. Upon such declaration of a Water Shortage  
62 or a Water Shortage Emergency by SWFWMD, all water use restrictions  
63 for users within the jurisdiction of SWFWMD, and any other measures  
64 adopted by the SWFWMD, pursuant to FAC 40D-21, applicable to users  
65 within the jurisdiction of SWFWMD, or any portion thereof, shall be subject  
66 to enforcement action. Water shortage or water shortage emergency  
67 measures adopted by SWFWMD and enforced by Charlotte County shall  
68 supersede mandatory year-round water conservation measures until the  
69 more restrictive measure is rescinded by SWFWMD.

70 (2) SFWMD Water Shortage Plan. Upon such declaration of a Water Shortage or  
71 a Water Shortage Emergency by SFWMD, all water use restrictions for  
72 users within the jurisdiction of SFWMD, and any other measures adopted  
73 by the SFWMD, pursuant to FAC 40E-21, applicable to users within the  
74 jurisdiction of SFWMD, or any portion thereof, shall be subject to  
75 enforcement action. Water shortage or water shortage emergency  
76 measures adopted by SFWMD and enforced by Charlotte County shall  
77 supersede mandatory year-round water conservation measures until the  
78 more restrictive measure is rescinded by SFWMD.

79 (3) Any violation of the water use restrictions or other adopted measures  
80 pursuant to a Water Shortage or Water Shortage Emergency declared by

81 either SWFWMD or SFWMD by users within the respective jurisdictions  
82 shall be a violation of this Code.

83 Sec. 3-8-81. - Enforcement.

84 (a) Every law enforcement official having jurisdiction in unincorporated Charlotte  
85 County shall, in connection with all other duties imposed by law, diligently  
86 enforce the provisions of this Code by issuance of a citation, summons, or notice  
87 to appear in county court, or by filing an action in civil court for injunctive relief.

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89 (b) The County Administrator may also delegate enforcement responsibility for this  
90 Article of the Code to agencies and departments of county government in the  
91 service areas governed by this Article, in accordance with this code state and  
92 local law.

93 Sec. 3-8-82. - Penalties.

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

95 (1) When written warnings are not prohibited by the Management District:

96 a. First offense: Written warning

97 b. Second offense: \$200.00 fine

98 c. Third and subsequent offense: \$300.00 fine

99 (2) When written warnings are prohibited by the Management District:

100 a. First offense: \$100.00 fine

101 b. Second offense: \$200.00 fine

102 c. Third and subsequent offense: \$300.00 fine

103 (b) Each day a user is in violation of this article shall constitute a separate offense. Law  
104 enforcement officials may provide violators with no more than one (1) written  
105 warning. The county, in addition to the criminal sanctions contained herein, may  
106 take any other appropriate legal action, including but not limited to emergency  
107 injunctive action, to enforce the provisions of this article.

108 Sec. 3-8-83 Additional Measures

109 Any user who purchases and installs an automatic landscape irrigation system shall  
110 properly install, maintain, and operate technology that inhibits or interrupts operation of  
111 the system during periods of sufficient moisture in accordance with Section 373.62,  
112 Florida Statutes

113 **2. CODIFICATION.** It is the intention of the Board of County Commissioners of  
114 Charlotte County, Florida, and it is hereby provided that the provisions of this  
115 Ordinance shall become and be made a part of the Charlotte County, Florida, Code  
116 of Ordinances that the sections of this Ordinance may be renumbered or lettered to  
117 accomplish such intention, and that the word "Ordinance" may be changed to  
118 "Section" or "Article" or other appropriate designation.

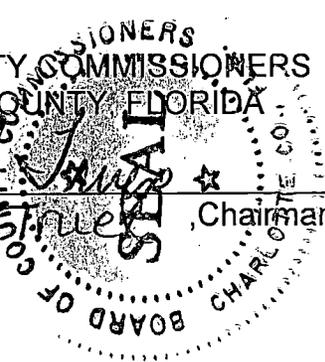
119  
120 **3. SEVERABILITY.** If any portion of the foregoing conflicts with any other Charlotte  
121 County Code or other applicable law, the more restrictive shall apply. If any  
122 subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason  
123 held invalid or unconstitutional by any court of competent jurisdiction, such portion  
124 shall be deemed a separate, distinct, and independent provision and such holding  
125 shall not affect the validity of the remainder of this Ordinance.  
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127 **4. EFFECTIVE DATE.** The effective date shall be as provided by law.  
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130 PASSED AND DULY ADOPTED this 24th day of November, 2020.

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BOARD OF COUNTY COMMISSIONERS  
OF CHARLOTTE COUNTY, FLORIDA  
By: William G. Gattuso Chairman  
William Gattuso



ATTEST:  
Roger D. Eaton, Clerk of the  
Circuit Court and Ex-officio Clerk of  
the Board of County Commissioners

By: Michelle D. Berardino  
Deputy Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

By: Janette S. Knowlton  
Janette S. Knowlton, County Attorney  
LR 2020-0347 

## ECONOMIC IMPACT STATEMENT

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA; AMENDING CHAPTER 3-8 OF THE CODE OF LAWS AND ORDINANCES OF CHARLOTTE COUNTY, FLORIDA ENTITLED "WATERS AND SEWERS," ARTICLE III, "YEAR-ROUND AND SHORTAGE / EMERGENCY WATER CONSERVATION MEASURES," TO DELETE OBSOLETE AND UNNECESSARY PROVISIONS, TO UPDATE THE CODE TO COMPLY WITH SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT YEAR-ROUND WATER CONSERVATION MEASURES AND TO ADD WATER SHORTAGE PLAN PROVISIONS DISTINGUISHING BETWEEN DISTRICTS IN CHARLOTTE COUNTY; PROVIDING FOR INCLUSION IN THE CHARLOTTE COUNTY CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**PURPOSE:** To establish to comply with Southwest Florida Water Management District year-round water conservation measures and to add water shortage plan provisions distinguishing between water management districts in Charlotte County.

**IMPACT:**

- A. Cost of Implementation: None
- B. Source of Funds/Ultimate Burden of Costs: Not Applicable
- C. Effect on Competition and the Employment Market: None
- D. Benefits on Implementation: Updated ordinance will incorporate both South Florida Water Management District and Southwest Florida Water Management District policies concerning water use year around and during times of water shortage to aid in protecting water supplies and resources. Additionally, it updates language for declaration of water shortages or water shortage emergencies, enforcement, and penalties.



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

November 30, 2020

Mr. Roger D. Eaton  
Clerk of the Circuit Court  
County Comptroller  
Charlotte County  
18500 Murdock Circle, Room 416  
Port Charlotte, Florida 33948

Attention: Ms. Michelle DiBerardino

Dear Mr. Eaton:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Charlotte County Ordinance No. 2020-045, which was filed in this office on November 25, 2020.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb



PUBLISHER'S AFFIDAVIT OF PUBLICATION STATE OF FLORIDA COUNTY OF CHARLOTTE:

Before the undersigned authority personally appeared Melinda Prescott, who on oath says that she is the Legal Clerk of the Sun Newspapers, a newspaper published at Charlotte Harbor in Charlotte County, Florida; that the attached copy of advertisement, being a Legal Notice was published in said newspaper in the issues of:

11/13/2020

as well as being posted online at www.yoursun.com and www.floridapublicnotices.com.

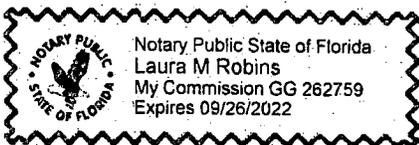
Affiant further says that the said newspaper is a newspaper published at Charlotte Harbor, in said Charlotte County, Florida, and that the said newspaper has heretofore been continuously published in said Charlotte County, Florida, Sarasota County, Florida and DeSoto County, Florida, each day and has been entered as periodicals matter at the post office in Punta Gorda, in said Charlotte County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Melinda Prescott (Signature of Affiant)

Sworn and subscribed before me this 13th day of November, 2020.

Laura M Robins (Signature of Notary Public)

Personally known X OR Produced Identification



The Board of County Commissioners of Charlotte County proposes to adopt the following ordinance:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA; AMENDING CHAPTER 3-8 OF THE CODE OF LAWS AND ORDINANCES OF CHARLOTTE COUNTY, FLORIDA ENTITLED "WATERS AND SEWERS," ARTICLE III, "YEAR-ROUND AND SHORTAGE / EMERGENCY WATER CONSERVATION MEASURES," TO DELETE OBSOLETE AND UNNECESSARY PROVISIONS, TO UPDATE THE CODE TO COMPLY WITH SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT YEAR-ROUND WATER CONSERVATION MEASURES AND TO ADD WATER SHORTAGE PLAN PROVISIONS DISTINGUISHING BETWEEN DISTRICTS IN CHARLOTTE COUNTY; PROVIDING FOR

INCLUSION IN THE CHARLOTTE COUNTY CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

A public hearing on this ordinance will be held at 10:00 AM, or as soon thereafter as it may be heard, on the 24th day of November, 2020, in Room 119 of the Charlotte County Administration Center, 18500 Murdock Circle, Port Charlotte, Florida.

Copies of the proposed ordinance and the economic impact estimate, if applicable, are available for inspection by the general public in the Charlotte County Attorney's Office, 18500 Murdock Circle, Port Charlotte, Florida.

Interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

Should any agency or person decide to appeal any decision made by the Board with respect to any matter considered at such meeting, he will need a record of the proceeding, and for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA

Charlotte County Board of County Commissioners does not discriminate on the basis of disability. This nondiscrimination policy involves every aspect of the County's functions, including access to and participation in meetings, programs and activities. FM Sound Enhancement Units for the Hearing Impaired are available at the Front Security Desk, Building A of the Murdock Administration Complex. Anyone needing other reasonable accommodation or auxiliary aids and services please contact our office at 941.743.1381, TDD/TTY 941.743.1234, or by email to David.Lyles@CharlotteCountyFla.gov.

Reference No: 112420 D
Publish: November 13, 2020
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CHARLOTTE COUNTY FLORIDA