

ORDINANCE NO. 01 – 06

AN ORDINANCE TO AUTOMATICALLY INCORPORATE HEREIN ALL WATER SHORTAGE RESTRICTIONS CONTAINED IN EACH EMERGENCY WATER RESTRICTION ORDER DECLARED FROM TIME-TO-TIME BY THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT PURSUANT TO SECTION 373.175, FLORIDA STATUTES; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE OF LAWS AND ORDINANCE; DECLARING AN EMERGENCY AND PROVIDING A SPECIAL EFFECTIVE DATE.

WHEREAS, Section 373.175, Florida Statutes, authorizes the South Florida Water Management District to, from time-to-time, by order, declare that a water shortage exists in Collier County and the City of Marco Island, whereby restrictions regarding the use of water are thereby applied; and

WHEREAS, the South Florida Water Management District anticipates that water shortages will not be a temporary condition, and such orders will probably have to be issued from time-to-time into the indefinite future; and

WHEREAS, Section 373.609, Florida Statutes, requires every city, among others, upon request from the South Florida Water Management District, shall assist that District in enforcing its water use restriction orders; and

WHEREAS, as specified in Part VI of Chapter 373, Florida Statutes, the only penalty option is charging each and every alleged offender with a second degree misdemeanor; and

WHEREAS, the City of Marco Island shall assist the South Florida Water Management District in enforcing its declarations of water shortages as required by law, but the City of Marco Island desires to have more flexibility than being required in every instance to cite the alleged violator as having committed a second degree misdemeanor; and

WHEREAS, the City of Marco Island can assist the District in enforcing its water shortage orders by automatically incorporating each such water shortage order into this Ordinance, and thereby also have options to impose lesser penalties than the penalties that are automatically applicable to violations that constitute second degree misdemeanors; and

WHEREAS, the City Manager, has requested that the City Council for the City of Marco Island automatically incorporate into this Ordinance such water shortage regulations as may from time-to-time be imposed by issuance of

water shortage orders by the South Florida Water Management District and thereby have the discretion to apply to each violator various penalty provisions incorporated into the City of Marco Island Water Restriction Ordinance. This includes all phase II, III, IV, or I water restrictions when implemented by the South Florida Water Management District.

WHEREAS, there is a need to adopt this Ordinance to assist in the enforcement of the South Florida Water Management District's water shortage orders without being required to cite each alleged violator as having committed a second degree misdemeanor.

NOW THEREFORE, BE IT ORDAINED BY THE MARCO ISLAND CITY COUNCIL THAT:

SECTION ONE:

All water irrigation activities prohibited or restricted from time-to-time by emergency orders declared by the South Florida Water Management District and published in a newspaper of general circulation in Collier County pursuant to Section 373.175, Florida Statutes are hereby prohibited or restricted, as may be applicable. Each such order shall apply specifically to Marco Island, or such geographic area of Collier County as are specified in the respective order or, if not specified, as otherwise provided by law. Each such order shall be subject only to such exceptions as specified in the respective order, and if not specified herein, as otherwise provided by law.

SECTION TWO: PENALTIES

Marco Island Police Officers and Code Enforcement Officers shall be responsible for the enforcement of this ordinance and the use restrictions imposed by the South Florida Water Management District within the corporate limits of the City. Violators of this ordinance may be issued a written or verbal warning for the first violation. Persons who violate this Ordinance after receiving a warning or refuse to immediately comply with a warning issued by a Code Enforcement Officer or Police Officer shall be deemed to have committed a first offense in violation of this Ordinance and shall be issued a citation of \$100.00. Persons who commit repeat violations may also be punished pursuant to Chapter 162.21, Florida Statutes, as a civil infraction with a maximum civil penalty not to exceed \$500.00 per day. Each day the violation continues constitutes a separate offense.

SECTION THREE: CONFLICT AND SEVERABILITY

In the event that this Ordinance conflicts with any other Ordinance or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is 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.

SECTION FOUR: INCLUSION IN THE CODE OF LAWS AND ORDINANCES

This Ordinance shall be made a part of the Code of Laws and Ordinances of Marco Island, Florida. The sections of the Ordinance may be renumbered or relettered to accomplish such, and the word "Ordinance" may be changed to "Section", "Article", or any other appropriate word.

SECTION FIVE: EFFECTIVE DATE

This Ordinance shall become effective upon the date of its adoption.

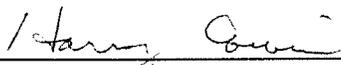
Passed in open and regular session through roll call vote by the City Council of the City Island of Marco Island, Florida this 19th day of March 2001.

Attest:

CITY OF MARCO ISLAND, FLORIDA

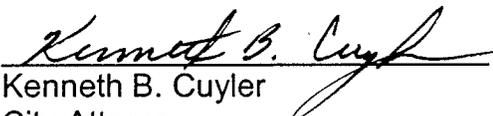


A. William Moss
City Manager/City Clerk

By: 

Harry Cowin, Chairman

Approved as to form and
Legal sufficiency:



Kenneth B. Cuyler
City Attorney