

1 **WHEREAS**, the Village of Estero relies upon the guidance and regulations issued by the
2 District in the drafting, adopting, and implementing this Ordinance; and

3
4 **WHEREAS**, it is the desire of the Village Council of the Village of Estero to adopt this
5 Ordinance in accordance with Rules 40E-24.201 and 40E-24.301, F.A.C.; and

6
7 **WHEREAS**, the Village Council finds and declares that the adoption of this Ordinance is
8 appropriate, and in the public interest of this community.

9
10 **NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE**
11 **VILLAGE OF ESTERO, FLORIDA:**

12
13 **Section 1.** **Recitals.**

14
15 Each and all of the foregoing recitals are hereby incorporated into this Ordinance as if
16 specifically set forth herein.

17
18
19 **Section 2.** **Intent and Purpose.**

20
21 It is the intent and purpose of this Ordinance to implement procedures that promote water
22 conservation through the efficient use of landscape irrigation.

23
24 **Section 3.** **Definitions.**

25
26 For the purpose of this Ordinance, the following terms, phrases, words, and their
27 derivatives shall have the meaning listed below. When not inconsistent with the context, words
28 used in the present tense include the future, words in the plural include the singular, and words in
29 the singular include the plural.

- 30
31 (1) “Address” means the “house number” (a numeric or alphanumeric designation)
32 that, together with the street name, describes the physical location of a specific
33 property. This includes “rural route” numbers, but excludes post office box
34 numbers. If a lot number in a mobile home park or similar community is used by
35 the U.S. Postal Service to determine a delivery location, the lot number shall be the
36 property’s address. If a lot number in a mobile home park or similar residential
37 community is not used by the U.S. Postal Service (e.g., the park manager sorts
38 incoming mail delivered to the community’s address), then the community’s main
39 address shall be the property’s address. If a property has no address, it shall be
40 considered “even-numbered.”
41
42 (2) “Athletic Play Area” means all golf course fairways, tees, roughs, greens, and other
43 athletic play surfaces; including, football, baseball, soccer, polo, tennis, and lawn
44 bowling fields, and rodeo, equestrian, and livestock arenas.
45
46 (3) “Consumptive Use Permit” (CUP) means a permit issued pursuant to Chapter 40E-

1 2, F.A.C., authorizing the consumptive use of water.
2

- 3 (4) “District” means the South Florida Water Management District, a government
4 entity created under Chapter 373, F.S.
5
- 6 (5) “Even Numbered Address” means an address ending in the numbers 0, 2, 4, 6, 8,
7 or rights-of-way or other locations with no address, or the letters A-M.
8
- 9 (6) “Existing landscaping” means any landscaping which has been planted and in the
10 ground for more than ninety (90) days.
11
- 12 (7) “Landscaping” means shrubbery, trees, lawns, sod, grass, ground covers, plants,
13 vines, ornamental gardens, and such other flora not intended for resale, which are
14 situated in such diverse locations as residential landscapes, recreation areas,
15 cemeteries, public, commercial, and industrial establishments, public medians, and
16 rights-of-way, except athletic play areas, as defined in Section 2(2).
17
- 18 (8) “Landscape Irrigation” means the outside watering of shrubbery, trees, lawns, sod,
19 grass, ground covers, plants, vines, ornamental gardens, and such other flora not
20 intended for resale, which are planted and situated in such diverse locations as
21 residential landscapes, recreation areas, cemeteries, public, commercial, and
22 industrial establishments, public medians, and rights-of-way, except athletic play
23 areas.
24
- 25 (9) “Law Enforcement Officials” means designated code inspectors and code
26 enforcement officers of the Village.
27
- 28 (10) “Low Volume Hand Watering” means the watering of landscape by one (1) person,
29 with one (1) hose, fitted with a self-canceling or automatic shutoff nozzle.
30
- 31 (11) “Low Volume Irrigation” means the use of equipment and devices specifically
32 designed to allow the volume of water delivered to be limited to a level consistent
33 with the water requirement of the plant being irrigated, and to allow that water to
34 be placed with a high degree of efficiency in the root zone of the plant. The term
35 also includes water used in mist houses and similar establishments for plant
36 propagation. Overhead irrigation and flood irrigation are not included.
37
- 38 (12) “Micro-irrigation” means the application of small quantities of water on or below
39 the soil surface as drops or tiny streams of spray through emitter or applicators
40 placed along a water delivery line. Micro-irrigation includes a number of methods
41 or concepts, such as bubbler, drip, trickle, mist or microspray, and subsurface
42 irrigation.
43
- 44 (13) “New landscaping” means any landscaping which has been planted in the ground
45 for ninety (90) days or less.
46

- 1 (14) “Odd Numbered Address” means an address ending in the numbers 1, 3, 5, 7, 9, or
 2 the letters N-Z.
 3
- 4 (15) “Reclaimed Water” means wastewater that has received at least secondary
 5 treatment and basic disinfection, and is reused after flowing out of a wastewater
 6 treatment facility as defined by Rule 62-40.210, F.A.C.
 7
- 8 (16) “User” means any person, individual, firm, association, organization, partnership,
 9 business trust, corporation, company, agent, employee, or other legal entity whether
 10 natural or artificial, the United States of America, and the State and all political
 11 subdivisions, regions, districts, municipalities, and public agencies thereof, which
 12 directly or indirectly takes water from the water resource, including uses from
 13 private or public utility systems, uses under water use permits issued pursuant to
 14 Chapter 40E-2, F.A.C., or uses from individual wells or pumps.
 15
- 16 (17) “Wasteful and Unnecessary” means allowing water to be dispersed without any
 17 practical purpose to the water use; for example, excessive landscape irrigation,
 18 leaving an unattended hose on a driveway with water flowing, allowing water to be
 19 dispersed in a grossly inefficient manner regardless of the type of water use; for
 20 example, allowing landscape irrigation water to unnecessarily fall onto pavement,
 21 sidewalks, and other impervious surfaces; or allowing water flow through a broken
 22 or malfunctioning water delivery or landscape irrigation system.
 23
- 24 (18) “Water Resource” means any and all water on or beneath the surface of the ground,
 25 including natural or artificial watercourses, lakes, ponds, or diffused surface water,
 26 and water percolating, standing, or flowing beneath the surface of the ground.
 27
- 28 (19) “Water Shortage” means when the District determines there is the possibility that
 29 insufficient water will be available to meet the present and anticipated needs of the
 30 users, or when conditions are such as to require a temporary reduction in total use
 31 within a particular area to protect water resources from serious harm. A water
 32 shortage usually occurs due to drought.
 33
- 34 (20) “Water Shortage Emergency” means when the District determines the provisions
 35 listed in Part II of Chapter 40E-21, F.A.C., are not sufficient to protect the public
 36 health, safety, or welfare, the health of animals, fish, or aquatic life, a public water
 37 supply, or commercial, industrial, agricultural, recreational, or other reasonable-
 38 beneficial uses.
 39

40 **Section 4. Applicability.**

41
 42 The provisions of this Ordinance shall apply to each user, as defined in Section 2(16),
 43 providing landscape irrigation from all water resources within the boundaries of the Village with
 44 the following exceptions:
 45

- 46 (1) The use of reclaimed water, which may or may not be supplemented from another
 47 source;

- (2) Irrigation at agricultural and nursery operations; and
- (3) Irrigation of athletic play areas.

Section 5. Year-Round Landscape Irrigation Conservation Measures.

The Village adopts the rules of the South Florida Water Management District, listed in Subsection 40E-24.201 (1)-(6), F.A.C., including subsequent additions or corrections which are set out as follows:

- (1) The year-round landscape irrigation conservation measures contained in this Ordinance are applicable to all users including permitted and exempt users under Chapter 40E-2, F.A.C., unless otherwise indicated. These conservation measures apply to all water resources, unless otherwise indicated. In addition to the requirements of this Section, all permitted users under Chapter 40E-2, F.A.C., are required to maintain compliance with all CUP conditions and terms, including requirements to implement water conservation practices.
- (2) It shall be the duty of each user to keep informed as to the landscape irrigation conservation measures within this Ordinance which affect each particular water use.
- (3) In addition to the specific conservation measures, all wasteful and unnecessary water use, as defined in Section 2(17), is prohibited.
- (4) The following requirements shall apply to all users, unless specified in Section 3 or Section 5.
 - (a) Landscape irrigation shall be prohibited between the hours of 10:00 a.m. and 4:00 p.m., except as otherwise provided.
 - (b) Irrigation of existing landscaping shall comply with the following provisions:
 - i. Even addresses, as defined in Section 2(5), installations with irrigation systems that irrigate both even and odd addresses within the same zones, such as multi-family units and homeowners' associations, and rights-of-way or other locations with no address shall have the opportunity to accomplish necessary landscape irrigation two (2) days a week, only on Thursday or Sunday, or both.
 - ii. Odd addresses, as defined in Section 2(14), shall have the opportunity to accomplish necessary landscape irrigation two (2) days a week, only on Wednesday or Saturday, or both.
 - (c) Irrigation of new landscaping shall comply with the following provisions:
 - i. 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 normal watering days and times.
 - ii. A ninety (90) day establishment period begins on the day the 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.

- 1 iii. Irrigation of new landscaping which has been in place for thirty (30)
2 days or less may be accomplished on any day of the week except
3 Friday.
4 iv. Irrigation of new landscaping which has been in place for thirty-one
5 (31) to ninety (90) days may be accomplished on any day of the week
6 except Tuesday, Friday or Sunday.
7 v. Irrigation of new landscaping is limited to areas only containing the
8 new landscaping. An entire zone of an irrigation system shall only be
9 utilized for landscape irrigation under this Subsection if the zone
10 contains at least 50% new landscaping. If a zone contains less than
11 50% new landscaping, or if the new landscaping is in an area that will
12 not typically be irrigated by an irrigation system, only the individual
13 new plantings are eligible for additional irrigation. Targeted watering
14 may be accomplished by low volume hand watering, as defined in
15 Section 2(10), or any appropriate method which isolates and waters
16 only the new landscaping.
17
18 (5) Any water shortage, as defined in Section 2(19), restrictions or other measures
19 declared pursuant to Chapter 40E-21, F.A.C., or related District Governing Board
20 or Executive Director orders which are more restrictive than a measure contained
21 within this Ordinance, shall supersede this Ordinance for the duration of the
22 applicable water shortage declaration.
23

24 **Section 6. Exceptions to the Landscaping Irrigation Schedules.**

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26 Landscape irrigation scheduling shall be subject to the following exceptions:
27

- 28 (1) Landscape irrigation systems may be operated during restricted days and times for
29 cleaning, maintenance, and repair purposes with an attendant on site in the area
30 being tested. Landscape irrigation systems may routinely be operated for such
31 purposes no more than once per week, and the run time for any one (1) test should
32 not exceed ten (10) minutes per zone.
33
34 (2) Landscape irrigation for the purpose of watering-in fertilizers, insecticides,
35 pesticides, fungicides and herbicides, where such watering-in is recommended by
36 the manufacturer, or by federal, state or local law, or best management practices,
37 shall be allowed under the following conditions:
38 (a) Such watering-in shall be limited to one (1) application, unless the need for
39 more than one (1) application is stated in the directions for application
40 specified by the manufacturer; and
41 (b) Such watering-in shall be accomplished during normally allowable watering
42 days and times set forth in Subsection 4(4)(a) and (b), unless a professional
43 licensed applicator has posted a temporary sign containing the date of
44 application and the date(s) of needed watering-in activity.
45

- 1 (3) Any plant material may be watered using low volume irrigation, as defined in
2 Section 2(11), micro-irrigation, as defined in Section 2(12), low volume hand
3 watering method, rain barrels, cisterns, or other similar rain-harvesting devices
4 without regard to the watering days or times allowed pursuant to this Section.
5

6 **Section 7. Additional Requirements.**
7

8 Any user who purchases and installs an automatic landscape irrigation system shall properly
9 install, maintain, and operate technology that inhibits or interrupts operation of the system during
10 periods of sufficient moisture in accordance with Section 373.62, F.S.
11

12 **Section 8. Variances.**
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- 14 (1) A variance from the specific day or days identified in Subsection 5(4)(b) may be
15 granted by the Village if strict application of the restrictions would lead to
16 unreasonable or unfair result; provided the applicant demonstrates with
17 particularity that compliance with the schedule will result in substantial economic,
18 health, or other hardship on the applicant or those served by the applicant. If
19 granted, the applicant shall be required to post a notice at each parcel to which the
20 variance pertains. Relief may be granted only upon a demonstration that such
21 hardship exists, is peculiar to the person or the affected property, is not self-
22 imposed, and further demonstrates that granting the variance would be consistent
23 with the general intent and purpose of this division.

- 24 (2) The Village shall recognize all irrigation variances or waivers issued by the District
25 under Rule 40E-24.501, F.A.C.
26

27 **Section 9. Declaration of Water Shortage or Water Shortage Emergency.**
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29 Declaration of a water shortage condition or water shortage emergency, as defined in Section
30 2(20), within all or parts of the Village by the District's Governing Board or Executive Director
31 shall supersede this Ordinance for the duration of the applicable water shortage declaration in
32 accordance with Ordinance No. 2021-06. A water shortage usually occurs due to drought.
33

34 **Section 10. Enforcement.**
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36 The Village authorizes law enforcement officials having jurisdiction within the Village to
37 enforce the provisions of this Ordinance. In addition, the Village may delegate this Ordinance's
38 enforcement responsibility to other agencies and departments within the Village government or
39 other governmental entities through interlocal agreement.
40

41 **Section 11. Penalties.**
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43 Violations of any provision of this Ordinance may be punished pursuant to Chapter 162,
44 Florida Statutes, however the Village may also take any other appropriate legal action, including
45 but not limited to injunctive action to enforce the provisions of this Ordinance.

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Section 12. Codification.

The Village Council intends that this Ordinance be made part of the Code of the Laws and Ordinances, of the Village of Estero, Florida; and that the sections of this Ordinance can be renumbered or re-lettered to the appropriate word or phrase to accomplish codification, and regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or re-lettered and typographical errors and clarification of ambiguous wording that do not affect the intent can be corrected with the authorization of the Village Manager without the need for a public hearing.

Section 13. Conflict.

All ordinances, resolutions, official determinations or parts thereof previously adopted or entered by the Village or any of its officials and in conflict with this Ordinance are hereby repealed to the extent inconsistent herewith.

Section 14. Severability.

In the event that any portion of this ordinance is for any reason 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 of this ordinance.

Section 15. Effective Date.

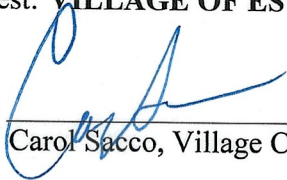
This Ordinance shall take effect immediately upon adoption.

[SIGNATURE PAGE FOLLOWS]

1
2 **PASSED** on first reading this 21st day of April 2021.

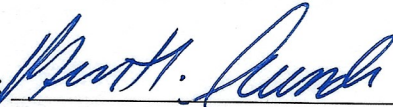
3
4 **PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero, Florida
5 this 5 day of May, 2021.

6
7 Attest: **VILLAGE OF ESTERO, FLORIDA**

8
9
10 By: 
11 Carol Sacco, Village Clerk

By: 
Katy Errington, Mayor

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14
15
16 Reviewed for legal sufficiency:

17
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19 By: 
20 Burt Saunders, Esq., Village Attorney

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22
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25

Vote:	AYE	NAY
27 Mayor Errington	<u>X</u>	___
28 Vice Mayor McLain	<u>X</u>	___
29 Councilmember Ribble	<u>X</u>	___
30 Councilmember Boesch	<u>X</u>	___
31 Councilmember Fiesel	<u>X</u>	___
32 Councilmember Ward	<u>X</u>	___
33 Councilmember Wilson	<u>X</u>	___