

ORDINANCE NO. 2007-9

AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AMENDING SECTION 6.6 OF THE VILLAGE CODE OF ORDINANCES ENTITLED "WATER EMERGENCY" BY REPEALING EXISTING SECTION 6.6.1 ENTITLED "WATER EMERGENCY RESTRICTIONS" IN ITS ENTIRETY AND CREATING NEW SECTION 6.6.1; PROVIDING FOR CONFLICTS; PROVIDING FOR INCLUSION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the South Florida Water Management District encourages municipalities to develop their own water restriction ordinances; and

WHEREAS, the Village Commission of the Village of Biscayne Park is desirous of protecting the water resources of Miami-Dade County and, specifically, the Village of Biscayne Park, from the harmful effects of over-utilization of water during periods of water shortages;

NOW, THEREFORE BE IT ORDAINED BY THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA:

Section 1. Each and all the foregoing Whereas clauses are true and correct and are incorporated herein.

Section 2. Existing Section 6.6.1 of the Village of Biscayne Park Code of Ordinances, entitled "Water Emergency Restrictions" shall be repealed in its entirety and new Section 6.6.1 shall be created to read as follows:

6.6 WATER EMERGENCY

Sec. 6.6.1 Water Emergency Restrictions.

(a) **Intent and Purpose.** It is the intent and purpose of this section to protect the water resources of the Village of Biscayne Park from the harmful effects of over-utilization during periods of water shortage and allocate available water supplies by assisting the South Florida Water Management District in the implementation of its water shortage plan.

(b) **Definitions.** For the purpose of this section, 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.

(1) *District* means the South Florida Water Management District.

(2) *Person* means any person, firm, partnership, association, corporation, company or organization of any kind.

(3) *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.

(4) *Water shortage condition* means that situation when sufficient water is not available to meet the 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 water shortage usually occurs due to drought.

(5) *Water shortage emergency* means that situation when the powers which can be exercised under Part II of Chapter 40E-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.

(c) **Application of section** The provisions of this section shall apply to all persons using the water resource within the geographical areas subject to the water shortage condition or water shortage emergency, as determined by the District, whether from publicly or privately owned water utility systems, private wells, or private connections with surface water bodies. This section shall not apply to persons using treated effluent or saltwater.

(d) **Adoption of water shortage plan.** Chapter 40E-21, Florida Administrative Code, as same may be amended from time to time, is incorporated herein by reference as part of the Village of Biscayne Park Code of Ordinances.

(e) **Declaration of water shortage condition; water shortage emergency.** The declaration of a water shortage condition or water shortage emergency within all or any part of the Village of Biscayne Park by the Village Commission or the Executive Director of the District shall invoke the provisions of this section. During such water shortage emergency or water shortage condition, all water use restrictions or other measures adopted by the District applicable to the Village of Biscayne Park shall be subject to enforcement action pursuant to this section. Any violation of the provisions of Chapter 40E-21, Florida Administrative Code, or any order issued pursuant thereto, shall be a violation of this section.

(f) **Prohibited Acts.** Notwithstanding any provisions of this Code, the following shall be prohibited in the Village of Biscayne Park upon declaration of a water shortage condition or water shortage emergency by the Village Commission or the Executive Director of the District:

(1) Operation of outdoor fountains or outside aesthetic facilities whose purpose is strictly ornamental or decorative.

(2) Pressure cleaning of impervious surfaces, except for the preparation of surfaces for painting, sealing or waterproofing, or for safety, sanitation, health or medical purposes.

These restrictions shall remain in effect for the duration of the declared water shortage condition or water shortage emergency.

(g) **Enforcement.** Every police officer or code enforcement officer in the Village of Biscayne Park shall, in connection with all other duties imposed by law, diligently enforce the provisions of this section. In addition, the Village Manager may also delegate enforcement responsibility for this section to other departments or personnel as the need may arise.

(h) **Penalties.** Violation of any provision of this section shall be subject to the following penalties:

(1) First violation: Seventy-five dollar (\$75.00) fine;

(2) Second and subsequent violations: Fine not to exceed Five hundred dollars (\$500.00) and/or imprisonment in the County Jail, not to exceed sixty (60) days.

Section 3. Severability. Should any section, provision, paragraph, sentence, clause or word of this Ordinance or portion hereof be held or declared by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall be considered as eliminated and shall not affect the validity of the remaining portions or applications of this Ordinance.

Section 4. Codification. It is the intention of the Village Commission of the Village of Biscayne Park, that the provisions of this Ordinance shall become and made a part of the Code of Ordinances of the Village of Biscayne Park, Florida, and that the Sections of this Ordinance may be renumbered, re-lettered and the word "Ordinance" may

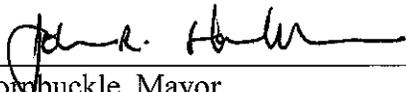
be changed to "Section," "Article" or other word or phrase in order to accomplish such intention.

Section 5. Conflicts. That all Ordinances or parts of Ordinances, Resolutions or parts thereof in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

Section 6. Effective Date. This Ordinance shall be effective upon adoption on second reading.

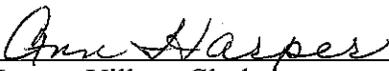
The foregoing Ordinance was offered by Commissioner WALKER, who moved its adoption. The motion was seconded by Comm. ANDERSON, and upon being put to a vote, the vote was as follows:

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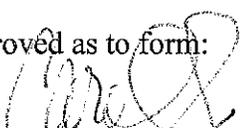
John Hornbuckle, Mayor

Attest:



Ann Harper, Village Clerk

Approved as to form:



John J. Hearn, Village Attorney

Mayor Hornbuckle: yes
Vice Mayor Walker: yes
Commissioner Mallette: yes
Commissioner Morris: yes
Commissioner Anderson: yes

1st reading – May 8, 2007
2nd reading – June 5, 2007