

**ORDINANCE NO. 816**

**AN ORDINANCE AMENDING THE CODE OF THE CITY OF BROOKSVILLE, FLORIDA, CHAPTER 90, "WATER RESOURCES," AMENDING ARTICLE I AND ARTICLE II; PROVIDING FOR CODIFICATION, CONFLICTS, REPEALING, SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Brooksville, Florida is vested with home rule authority pursuant to Article VII, Section 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes, to enact ordinances; and,

**WHEREAS**, the City Council has previously adopted Ordinance No. 539 relating to water resources and water restrictions; and,

**WHEREAS**, the City adopted Resolution No. 2007-03 establishing water restrictions; and,

**WHEREAS**, the City Council of the City of Brooksville, Florida desires to amend its Code of Ordinances, relating to water resources and restrictions.

**NOW THEREFORE BE IT ORDAINED BY THE COUNCIL MEMBERS OF THE CITY OF BROOKSVILLE, AS FOLLOWS:**

**SECTION 1. AMENDMENT TO CHAPTER 90 ARTICLE I and II.** The Code of the City of Brooksville, Florida, Chapter 90, "Water Resources", Article I "In General" and Article II "Water Shortages" is hereby amended and restated as to read as follows:

**Article I. In General** Sections 90-1--90-30. Reserved.

**Article II. Water Shortages**

**Sec. 90-31. Definitions.** The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

*District* means the Southwest Florida Water Management District.

*Existing lawn or landscape* means, as such term is defined in Chapter 40D-22, Florida Administrative Code, as amended for time to time, any lawn or landscape, or portion thereof, which has been in existence in the same location for a period of 60 days or more,

*Persons* means any person, firm, partnership, corporation, company, association or organization of any kind.

*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 condition* is when sufficient water is not available to meet present or anticipated needs of persons using the water resource, or when conditions are such as to require a 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.

**Sec. 90-32. Declaration of water shortage; water shortage emergency; or year round water conservation measures.** The declaration of a water shortage, water shortage emergency, or year-round water conservation measures affecting all or any part of the city by the governing board or the executive director of the District shall invoke the provisions of this article. Upon notice of such declaration, water use restrictions or other measures adopted by the District pursuant to Chapter 40D-21, or 40D-22, Florida Administrative Code, applicable to the City, or any portion thereof, shall be subject to enforcement by the City pursuant this Section 90-36 of this article. Any violation of the provisions of Chapter 40D-21 or Chapter 40D-22, Florida Administrative Code, as amended or renumbered from time to time, or any order issued pursuant thereto shall be a violation of this Section.

**Sec. 90-33. Irrigation Uses.** Unless the District's declaration is more restrictive, the following requirements shall apply to all lawn and landscape irrigation.

(a) The irrigation of existing lawns and landscaping is allowed only as follows: properties under two acres may water from 12:01 a.m. to 8:00 a.m. or after 6:00 p.m. to 11:59 p.m.; properties with two acres or more may water from 12:01 a.m. to 10:00 a.m. or after 4:00 p.m. to 11:59 p.m. on each allowable watering day. A user may irrigate existing lawns and landscaping during only one of the specified time periods on any allowable watering day as established in Sub-section (b) below.

(b) Irrigation of existing lawns and landscaping shall be limited to once per week as follows: at addresses ending in the number 0 or 1, only on Mondays; at addresses ending in the number 2 or 3, only on Tuesdays; at addresses ending in the number 4 or 5, only on Wednesdays; at addresses ending in the number 6 or 7, only on Thursdays; at addresses ending in the number 8 or 9 or locations with no addresses, only on Fridays. Users are prohibited from irrigating established lawns and landscaping when rain has occurred on the applicable property within the last twenty-four (24) hours.

**Sec. 90-34. Application of article.** The provisions of this article shall apply to all persons using the water resource, whether from publicly or privately owned water utility systems, private wells or private connections with surface water bodies. This article shall not apply to persons using treated effluent or saltwater.

**Sec. 90-35. Water users to accept provisions of article.** No water service shall be furnished to any person or utility unless such person or utility agrees to accept all the provisions

of this article. The acceptance of water service or the withdrawal of water from a private source shall be in itself the acceptance of the provisions in this article.

**Sec. 90-36. Enforcement.** Every code enforcement officer or law enforcement officer with jurisdictional authority within the city shall be authorized to enforce the provisions of this article.

**Sec. 90-37. Warnings.** Code enforcement officers, law enforcement officials, and other designated city officials may provide violators with warnings as provided for under Chapter 40D-21, or 40D-22, Florida Administrative Code, as amended from time to time, prior to the assessment of the penalties set forth in Section 90-38 of this article. In circumstances not addressed by Chapter 40D-21, or 40D-22, Florida Administrative Code, code enforcement or law enforcement officials may provide violators with not more than one written warning prior to the assessment of the penalties set forth in Section 90-38 of this article.

**Sec. 90-38. Penalties.**

(a) Violations of the provisions of this article shall subject violators to the following penalties:

1. For a first violation, a fine not to exceed \$250.00.
2. For a second violation, a fine not to exceed \$500.00
3. For a third violation, depending on the gravity of the violation, any actions taken by the violator to correct the violation; and any prior violations committed by the violator, a fine not to exceed \$5000.00.

(b) Each day in violation of this article shall constitute a separate offense.

**SECTION 2. CONFLICTS AND REPEALER.** All ordinances, or parts thereof, and resolutions in conflict with this ordinance are hereby repealed to the extent of such conflict.

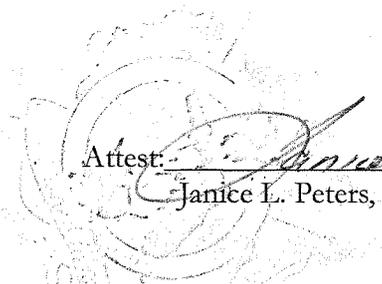
**SECTION 3. AMENDMENT TO CODE.** This Ordinance shall be and become a part of the Code of the City of Brooksville, Florida, to amend and supplement Chapter 90 "Water Resources" as directed herein.

**SECTION 4. CODIFICATION.** It is the intention of the City Council of the City of Brooksville that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the City of Brooksville, Florida and the word "ordinance," or similar words may be changed to "section," "article," or other appropriate word or phrase and the sections of the ordinance may be renumbered or re-lettered to accomplish such intention; provided, however, that Sections 2, 3, 4 and 5 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

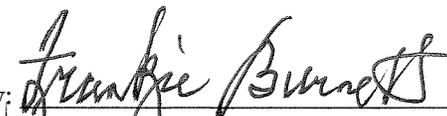
**SECTION 5. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its adoption by the Brooksville City Council.

CITY OF BROOKSVILLE

Attest:

  
  
Janice L. Peters, CMC, City Clerk

By:

  
Frankie Burnett, Mayor

PASSED on First Reading February 7, 2011

NOTICE Published on February 25, 2011

PASSED on Second & Final Reading March 7, 2011

APPROVED AS TO FORM FOR THE RELIANCE  
OF THE CITY OF BROOKSVILLE ONLY:

VOTE OF COUNCIL:

Bernardini	<u>AYE</u>
Bradburn	<u>AYE</u>
Burnett	<u>AYE</u>
Johnston	<u>AYE</u>
Pierce	<u>AYE</u>

  
Thomas S. Hogan, The Hogan Law Firm, LLC  
City Attorney