

ORDINANCE NO. 3083

AN ORDINANCE OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE CITY CODE OF ORDINANCES (THE "CITY CODE") TO IMPLEMENT CERTAIN ELECTION RELATED PROVISIONS OF THE CITY CHARTER AS AMENDED AT THE MARCH 11, 2008 CHARTER AMENDMENT ELECTION, AND TO CONFORM EXISTING CITY CODE PROVISIONS CONCERNING ELECTIONS AND ELECTED OFFICIALS TO THE AMENDED CHARTER; AMENDING CHAPTER 2 "ADMINISTRATION" OF THE CITY CODE TO PROVIDE PROCEDURES FOR FILLING VACANCIES IN ELECTED CITY OFFICE; AMENDING CHAPTER 5 "ELECTIONS" OF THE CITY CODE TO REVISE CITY ELECTION DATES AND PROCEDURES TO CONFORM TO THE AMENDED CHARTER AND TO CONFIRM ADOPTION OF 83-498, LAWS OF FLORIDA (1983) CONCERNING UNIFORM ELECTION DATES; CONFIRMING APPLICATION OF STATE ELECTION LAWS AND ELECTORAL DUTIES OF CITY CLERK; REVISING CANDIDATE QUALIFYING PROCEDURES; PROVIDING PROCEDURE FOR FILLING ANY VACANCY IN CITY ELECTIVE OFFICE CANDIDACY; CONFIRMING DATE FOR COMMENCEMENT OF CITY ELECTIVE TERMS; PROVIDING FOR REPEAL OF ARTICLE II "INSPECTORS AND CLERKS" OF CHAPTER 5 "ELECTIONS" AS REDUNDANT TO EXISTING AUTHORITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR EFFECTIVE DATE.

WHEREAS, on March 11, 2008 the electors of the City of Riviera Beach ("City") approved an amended City Charter (the "City Charter") for the City of Riviera Beach, Florida, as authorized by Section 166.031, Florida Statutes, and City Ordinance No. 3037; and

WHEREAS, the City Council desires to amend the City's Code of Ordinances so as to update and make a portion of Chapter 2 "Administration", and Chapter 5 "Elections" and related provisions of the existing City Code fully conform with the City Charter provisions concerning elections and related matters.

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF
THE CITY OF RIVIERA BEACH, FLORIDA, AS FOLLOWS:¹**

Section 1. Recitals Adopted. That each of the above stated recitals is hereby adopted and confirmed.

Section 2. Chapter 2 of the City Code Amended. That the City Code of the City of Riviera Beach, Palm Beach County, Florida is hereby amended by revising the provisions of Article II "Mayor and City Council" of Chapter 2 "Administration" of the City Code to read as follows:

Sec. 2-26. - Mayor; council chairperson; powers and duties.

(a) The mayor shall be elected by the qualified voters of the city in the same manner as provided for ~~councilmembers~~ city council. The mayor shall be recognized as head of the city government for all ceremonial purposes, by the courts for the purpose of serving civil process and by the governor of the state for military purposes. In time of public danger or emergency, he /she may, with the consent of the city council, take command of the police and maintain order and enforce the laws. During the absence or disability of the mayor, his/her duties shall be performed by the council chairperson of the city.

(b) The mayor shall report to the city manager violations or neglect of duty on the part of employees of the city that may come to his/her knowledge. He/She may examine the condition of the books, records and papers of any department and the manner of conducting official business. He/She shall report to the city council all violations and neglect of duty of any official that may come to his/her knowledge. He/She may make recommendations about the business and the general welfare of the city to the council as he/she deems advisable. He/She may communicate from time to time to the council such information and make recommendations of the measures regarding the public service as he/she may deem proper. He/She shall have a voice at the city council meetings, but he/she shall vote only in the matter of the appointment of a ~~councilman~~ councilperson in case of a tie vote of the city council when a vacancy exists.

(c) The mayor shall have the power to suspend any officer or employee of the city except members of the city council for misconduct in office or neglect of duty, but shall report his/her action in writing to the city council with the reasons at the next regular meeting of the city council for its approval or disapproval. The officer or employee shall remain suspended only upon the approval by a majority vote of the city council. If the suspension is disapproved, he/she shall receive his/her compensation for the time during which he/she was suspended.

^{1/} Proposed deletions from existing City Code text are indicated by strike-through; proposed additions to existing City Code text are indicated by underline.

Sec. 2-27. – Councilmembers persons and mayor; qualifications; attendance at council meetings; removal from office; punishment.

- (a) Each candidate for the office of city council and mayor shall ~~reside within the then existing city limits for at least one year prior to~~ have resided continuously in the city for one year preceding the date of filing to qualifying for such office. Each candidate for the office of city council within districts 1, 2, 3 and 4 shall have been a resident of the respective district for one year immediately prior to qualifying for such office. If a person is elected in any such district and shall move out of the respective district but remain a resident of the city, such person shall be allowed to fulfill the remainder of the then-current term in office. If a city councilmember person should move out of the city limits during a term in office, such move shall automatically forfeit the office.
- (b) No member of the council shall be absent from three consecutive regular meetings of the council without excusable cause and without first notifying the council chairperson and city clerk.
- (c) Any member of the city council who is absent from four consecutive meetings shall automatically forfeit his/her office.
- (d) Any member of the city council who is absent from six or more regular meetings within a one-year period shall forfeit his/her office.
- (e) If a councilmember person is absent because he/she is away on official city business or attending a convention involving municipalities, the councilmember person shall not be considered an absentee within the meaning of this section.
- (f) ~~Any councilmember who is convicted of a crime involving moral turpitude shall forfeit his office. The council may punish its members for disorderly behavior and may remove any member of the council and declare his office vacant, provided no member shall be expelled unless notified of the charges against him and given an opportunity to be heard in his own defense. Pursuant to Article II, Government, Section 1(a) of the City Charter,~~ any council person or mayor who is convicted of a felony while in office, shall immediately forfeit his or her office. A council person or mayor who is convicted of lesser crimes while in office shall be subject to appropriate penalties as determined by the city council at a hearing following the provision of notice and an opportunity to be heard. The penalties imposed by the city council may include reprimand, censure or temporary suspension from office.

Sec. 2-28. – Regular meetings; and calling special meetings.

~~The mayor shall communicate from time to time in writing to the city council such information and recommendations as he may deem proper and shall call special meetings of the city council whenever in his judgment the welfare of the city requires it. Regular and special meetings of the council shall be held as provided by Article II, Section 9 of the City Charter.~~

Sec. 2-29. - Reserved.

~~Sec. 2-30. Vacancy in office of mayor.~~

~~If the office of mayor shall become vacant, the vacancy shall be filled until the next general election by a vote of a majority of the members of the legislative body present at any regular meeting or any meeting called for that purpose. At the next general election, such vacancy shall be filled for the unexpired term in the same manner as provided for the election of mayor for a full term.~~

Sec. 2-30. Vacancy in elective office.

(a) Whenever a vacancy shall occur in any elective office of the city (whether a mayoral or council office) then such vacancy shall be filled by appointment by the city council. The mayor shall vote on the matter only in case of a tie vote. The appointment shall be made within thirty (30) business days of the occurrence of the vacancy. The vacancy shall be filled by appointing a resident who possesses the qualifications of being a bona fide resident of Riviera Beach who has continuously resided in the vacant district for one (1) year immediately prior to the appointment. If such vacancy occurs in the mayoral seat or city council district 5 seat, the appointment shall be done in the same manner, except the person shall be appointed without regard to district residency. Unless otherwise specified by council resolution for a specific vacancy, the procedure to fill a vacancy shall be substantially as follows:

1. Within seven (7) days following the occurrence of a vacancy in an office of the mayor or councilperson, the city clerk shall publish an announcement advising of the vacancy and stating that persons meeting the residency and registered elector qualifications for the particular council or mayoral office are invited to submit an application (the "Application") in the form of a resume and statement of interest, outlining their qualifications to serve on the council or as mayor.
2. The announcement shall invite Applications to be submitted on or before a date which is not less than five (5) days and not more than fifteen (15) days after the date of publication of the announcement.
3. Copies of all Applications timely received shall be provided by the city clerk to the mayor and councilpersons within two (2) days after the Application closing date.
4. Within ten (10) days after the Application closing date, the council shall make an appointment, in writing, of the applicant whom the council deems to be the most qualified. The council may first interview individual applicants, if desired. In the event that the council is not satisfied that any applicant is qualified, the council shall advise the city clerk to repeat the Application solicitation process.

The city council may, by resolution, provide for additional procedures for the filling of council and mayoral vacancies.

(b) The term of such appointment shall be only until the next scheduled general municipal election, at which election the unexpired term, if any, shall be filled by the electors from among candidates who qualify as provided by law. The item shall appear on the ballot as a special election to complete the unexpired portion of the term of office.

Section 3. Chapter 5 of City Code Amended. That Chapter 5 "Elections" of the City Code of the City of Riviera Beach, Florida is hereby amended by amending Article I "In General", to read as follows:

Sec. 5-1. - Designation of voting districts.

- (a) The boundaries of voting districts numbers 1, 2, 3 and 4 are hereby redefined as follows:
- (1) Voting District Number 1. Bordered on the west by the western corporate limits of the City of Riviera Beach, Florida; bordered on the north by the northern corporate limits of the City of Riviera Beach, Florida; bordered on the east by the east property line of Lot 1, Block 34, Plat No. 2, Park Manor as recorded in the Public Records of Palm Beach County, Florida, in Plat Book 26, Pages 126 and 127 to the point of intersection with the south property line of said Lot 1, Block 34, Plat No. 2, Park Manor; thence westerly along said south property line to its point of intersection with the east property line of Lot 2, Block 34, Plat No. 2, Park Manor; thence southwesterly along the south property line of Lot 2, Block 34, Plat No. 2, Park Manor, to its point of intersection with the prolongation of the centerline of right-of-way of drainage canal RC-4; thence south along said centerline of drainage canal RC-4 to its point of intersection with the centerline of Blue Heron Boulevard as laid out and now in use; and bordered on the south by the centerline of Blue Heron Boulevard as laid out and now in use.
 - (2) Voting District Number 2. Bordered on the west by the east property line of Lot 1, Block 34, Plat No. 2, Park Manor as recorded in the Public Records of Palm Beach County, Florida, in Plat Book 26, Pages 126 and 127, to the point of intersection with the south property line of said Lot 1, Block 34, Plat No. 2, Park Manor; thence westerly along said south property line to its point of intersection with the east property line of Lot 2, Block 34, Plat No. 2, Park Manor; thence southwesterly along the south property line of Lot 2, Block 34, Plat No. 2, Park Manor, to its point of intersection with the prolongation of the centerline of right-of-way of drainage canal RC-4; thence south along said centerline of drainage canal RC-4 to its point of intersection with the center line of Blue Heron Boulevard as laid out and now in use; thence westerly along said centerline of Blue Heron Boulevard to the point of intersection with the centerline of the

Florida East Coast Railroad right-of-way as laid out and now in use; thence following said centerline of railroad right-of-way southerly to the south corporate limits of the City of Riviera Beach, Florida; bordered on the north by the northern corporate limits of the City of Riviera Beach, Florida, to the point of intersection with the western shoreline of Lake Worth; bordered on the east by the western shoreline of Lake Worth, and bordered on the south by the southern corporate limits of the City of Riviera Beach, Florida.

- (3) Voting District Number 3. Bordered on the west by the westerly corporate limits of the City of Riviera Beach, Florida; bordered on the north by the centerline of Blue Heron Boulevard; bordered on the east by the centerline of the Florida East Coast Railroad right-of-way; and bordered on the south by the southern corporate limits of Riviera Beach, Florida.
- (4) Voting District Number 4. Bordered on the west by the eastern shoreline of Lake Worth; bordered on the north by the northern corporate limits of Riviera Beach, Florida; bordered on the east by the western shoreline of the Atlantic Ocean; and bordered on the south by the southern corporate limits of the City of Riviera Beach, Florida.
- (5) Council voting district 5 consists of the entire city and comprises districts 1, 2, 3, and 4 taken together for purposes of indicating the permissible residency of the person elected to that office.

- (b) Made a part of this section by reference is a voting district map as redefined by this section which is on file in the city clerk's office.

~~Sec. 5 2. Filing and qualification of candidates for mayor and council by districts and groups; when elections to be held; residency requirement.~~

- ~~(a) The mayor and each councilmember shall be elected by a vote of the registered and qualified electors from the entire city at large.~~
- ~~(b) The districts are defined and designated in section 5-1 for the sole purpose of districts from which candidates shall file and qualify by selecting the district in which such candidate resides. The mayor and candidates selecting group 5 shall be elected at large without regard to the district wherein they reside.~~
- ~~(c) Elections shall be held for districts 2 and 4 on the first Tuesday in April, 1976, and biennially thereafter. The candidates for the two offices of councilmember to be elected, shall file and qualify by selecting the district in which such candidates reside.~~
- ~~(d) Elections shall be held for districts 1 and 3 and group 5 and the mayor on the first Tuesday in April, 1977, and biennially thereafter. The candidates for districts 1 and 3~~

shall file and qualify by selecting the district in which such candidates reside.

- ~~(e) The mayor and candidates in group 5 shall file and qualify without regard to the district wherein they reside.~~
- ~~(f) If a councilmember elected in districts 1, 2, 3 or 4 ceases to reside in the district that he filed, qualified and resided in at the time he was elected, he shall forthwith forfeit his office.~~

Section 5-2 Filing and qualification of candidates for Mayoral and Council.

(a) Candidates for mayoral and city council shall file such papers and pay such fees as may be required by law, including the filing fee required by city charter Article II, Section 3, during the qualifying period with the city clerk no earlier than noon on the last Tuesday in January and no later than noon on the second Tuesday in February of the calendar year in which the mayoral or city council election is to be held. The names of all candidates and the offices for which they have filed shall be received by the Palm Beach County Supervisor of Elections from the city clerk by 5:00 p.m. on the first Friday after the close of the above described qualifying period.

(b) Qualification Procedures.

(i) For elections, as provided by paragraph (a) above, it shall be the duty of any person desiring to become a candidate for election to the office of mayor or councilperson to file a written notice of candidacy, in the form set forth in paragraph (iv) below, accompanied by the filing fee required by paragraph (iii)(a) or (b) below, the additional election assessment imposed by Section 99.093(1) Florida Statutes, as described in paragraph (iii)(c) below, and the statutory oath of candidate. Further, all candidates shall timely file all other qualification papers required by law.

(ii) The place of qualification shall be at the office of the city clerk and the hours and dates of qualifying shall be the applicable time period set forth in paragraph (a) of this Section.

(iii) Filing fee.

a. Pursuant to city charter Sec. 3 of Article II, the filing fee is 5% of the annual salary of the office sought. Accordingly, the filing fee for a mayoral candidate shall be 5% of the annual mayoral salary as computed by the city clerk; and

b. The filing fee for a councilperson candidate shall be 5% of the annual councilperson salary as computed by the city clerk.

c. The statutory election assessment under Section 99.093(1), Fla. Stat., shall be computed as 1% of the annual mayoral or council salary, respectively, as said salary is specified in Section 10 of Article II of the city charter.

d. Any person desiring to obtain an election packet for candidates, as prepared by the city clerk, shall pay a non-refundable fee to the City for the cost of preparation of such packet, in accordance with Section 119.07, F.S.

(iv) Notice of candidacy. The form of notice of candidacy shall be substantially as follows:

"Notice of Candidacy

I, the undersigned, an elector of the City of Riviera Beach (the "City"), who resides and has resided continuously in:

(check if applicable) - the specific District # _____ of the City from which I seek to be elected,

(check if applicable) - within any district of the City as allowed for District # 5 office or for the mayoral office.

for (1) year immediately preceding the date of filing of this Notice of Candidacy, whose residence is _____ in the City, hereby announce my candidacy for the office of:

(check applicable) - Council District _____;

(check applicable) - Mayor;

to be voted for at the City election to be held on the _____ day of _____, _____ and I hereby agree to serve as _____ if elected. (indicate Mayor or Council District # _____, as applicable)

/s/ _____
Signature of Candidate

DATE AND HOUR OF FILING:

RECEIVED BY:

/s/ _____
CITY CLERK/ELECTION OFFICIAL

- (c) Elections for council districts 2 and 4 shall be held on the second Tuesday in March of each even numbered year. Elections for council districts 1, and 3 and 5 and the mayor shall be held on the second Tuesday in March of each odd numbered year. The regular term of office for the mayor and each councilperson is two (2) years.
- (d) Candidates for council districts 1, 2, 3 and 4 shall file and qualify by indicating the district in which such candidates resided continuously for one (1) year preceding the date of filing for office. Candidates for mayoral office and candidates for council district 5 must have continuously resided within the city's municipal boundaries for one (1) year preceding the date of filing for office. Upon expiration of the qualifying period for the mayoral or council position, a candidate shall not switch from one district to another district or from mayor to a district or from district to mayor.
- (e) The mayor and each councilperson shall be elected by vote of the registered and qualified electors from the entire city at large.
- (f) The districts are defined and designated in Section 5-1 for the sole purpose of districts from which candidates shall file and qualify by selecting the district in which such candidate resides. The mayor and candidates selecting district 5 shall be elected at large without regard to the district of the city wherein they reside.
- (g) If a councilperson elected in districts 1, 2, 3 or 4 ceases to reside in the district for which he filed, qualified and resided in at the time he was elected, he shall forthwith forfeit his office in accordance with and subject to the exception to forfeiture recognized in City Code Section 2-27.

Sec. 5-3. - Exemption from Adoption of county uniform election date, etc., procedures.

The city has adopted and shall follow ~~exempts itself from~~ the provisions of Laws of Florida, chapter 83-498 regarding uniform election dates in the county. The City reserves the right to revise election dates pursuant to Sec.100.3605(2), Florida Statutes.

Sec. 5-4. - Date of election; run-off elections.

The names of the person qualified shall appear as candidates on the ballot for an election to be held on the second Tuesday in March of each election year. ~~first Tuesday in April of each year.~~ If in the event that one candidate for any office shall receive a majority of the votes of the registered and qualified electors of the city actually voting for said office at such election, such person shall be deemed elected to such office. In the event that as to any office ~~If as to any office~~ no candidate receives such a majority, then the two who received the highest vote shall continue to be voted upon at an election to be held on the ~~third Tuesday of April~~ fourth Tuesday of March and the one who then obtains a majority of the votes cast by the registered and qualified electors of the City for said office shall be deemed elected to such office.

Sec. 5-5. - Notice of mayoral and/or council election.

The city clerk shall cause to be published once each week for two weeks preceding any election in a newspaper of general circulation published in the municipality a notice stating the date of such election, the offices to be filled, and the time and place where such election shall be held. ~~If there are any propositions to be voted upon, the notice shall state in substance the character of the propositions to be voted upon.~~ If no such newspaper is published in the city, then such notice shall be given by posting a copy thereof in at least three public and conspicuous places in the city, one of which shall be upon the bulletin board in the city hall.

Sec. 5-6. - Notice of special election or referendum.

As required by Sec. 100.342, Florida Statutes, in ~~In~~ any special election or referendum not otherwise provided for, there shall be at least 30 days' notice of the election or referendum by publication in a newspaper of general circulation in the city. The publication shall be made at least twice, once in the fifth week and once in the third week prior to the week in which the election or referendum is to be held. If there is no newspaper of general circulation in the city, the notice shall be posted in no less than five places within the territorial limits of the city.

Sec. 5-7. - Purposes of special election.

Special elections shall be held for such purposes as may be required and as provided for by law.

Sec. 5-8. - Polling places—Designation.

Those polling places designated, from time to time, by the ~~county commissioners~~ city clerk within the city are hereby adopted. The city clerk shall coordinate with the Palm Beach County supervisor of elections for such purpose and shall obtain any necessary assistance from the County to the extent required by law as necessary.

Sec. 5-9. - Same—Police attending.

The chief of police shall designate one police officer for each polling place, who shall be required to be present during the time the polls are open and until the election is completed. He shall be subject to all lawful commands of the precinct clerk inspectors and shall see that there is no interruption of good order. Such police officer shall have the power to maintain peace and to summon a posse from among the bystanders to aid him in maintaining the peace and good order at the polls. Police attendance shall be solely for public safety and election security purposes.

Sec. 5-10. - Preparation of ballots.

Immediately upon the expiration of the time for the filing of notice of candidacy for any election, the ~~city council~~ city clerk shall determine the names which should appear upon the ballot and the city clerk shall arrange for the preparation of the ballots. The ballots used in any council or mayoral election held under the authority of the charter or this code or other ordinances of the city shall be without party mark or designation and without any insignia or mark of any association thereon and shall be substantially in the same form as the election ballot used in all non-partisan general state elections.

Sec. 5-11. - Canvassing: Certification of election.

(a) The city clerk, the deputy city clerk and one councilperson who is not up for re-election shall constitute the canvassing board. The councilperson requested to serve on the canvassing board shall be designated by the city clerk.

(b) The city clerk shall give to each person who shall be elected to office a certificate of his/her election, administer the oath of office for the elected position and arrange an orientation for any newly elected official. and the county supervisor of elections shall give to any person desiring a copy of such returns from the records a certified copy thereof, or such part thereof as may be desired, upon payment to him of the customary fees for copying and certifying papers in the office of the clerk of the circuit court. The city clerk shall present a certification of election results to the city council at the first regular meeting of the council following the election.

Sec. 5-12. - State law controlling.

For the purpose of providing for any contingency not covered by this chapter, the provisions of the general laws of the state relating to electors and elections, so far as the law may be applicable, and are adopted as a part hereof. All general laws of the state relating to elections and to the registration of persons qualified to vote therein which are not inconsistent or in conflict with the provisions of this chapter or of the city charter are hereby adopted as a part hereof. The city clerk is authorized to take any action which is necessary to comply with this section. The city clerk is hereby appointed supervisor of elections for the city and is hereby assigned all appurtenant duties thereto. The city clerk is authorized to obtain any necessary assistance from the Palm Beach County Supervisor of Elections office or successor agency and to coordinate the selection, training and hiring of poll workers for city elections. City electors shall be given a preference for hiring as poll workers in city elections.

Sec. 5-13. Canvassing board.

~~The city council may constitute the canvassing board or they may appoint the city clerk, the deputy city clerk and at least one councilmember as the canvassing board. On the same day the election officials have certified their returns, the city council shall canvass the returns and the absentee ballots, if any, and officially proclaim the results of the election by appropriate resolution.~~

Section 5-13. Manner of Conducting Generally.

All elections, whether general or special, conducted in the city shall be held and conducted in like manner as general state elections are conducted, unless otherwise provided in the applicable provisions of the city code or charter.

Section 5-14. Filling a Vacancy in Candidacy.

- (a) If the death, withdrawal or removal from the ballot of a qualified candidate following the end of the qualifying period results in only one (1) candidate remaining on the ballot for that mayoral or council office, the remaining candidate shall be declared elected and no election for that office shall be required.
- (b) If the death, withdrawal or removal from the ballot of a qualified candidate following the end of the qualifying period results in there being no candidate remaining on the ballot for that mayoral or council office, the vacancy in office shall be filled pursuant to Section 2-30 of the city code.

Section 5-15. Commencement of Term of Elected Officials.

For elections occurring after the effective date of this Section, the term of office for the mayor and councilpersons shall commence upon certification of the election results for such mayoral and council positions, pursuant to Section 5-11 above.

Section 5-16. City Charter Amendments.

- (a) Purpose.

This Code Section shall prescribe the method of proposing charter amendments to the City's electors in a manner consistent with the provisions of Section 166.031, Florida Statutes. Those limited charter amendments that are expressly authorized by Section 166.031(5), Florida Statutes to be accomplished without electoral approval shall not be subject to this Section 5-16.

- (b) Charter Amendment proposed by City Council.

The city council may propose amendments to the charter to the electors by ordinance. The council ordinance shall provide the full text of the proposed Charter amendment, the proposed ballot question(s), the form for publication of the notice of election, and shall call the election for a date certain. The council ordinance shall be drafted by the city attorney in the same manner in which the city attorney drafts other council ordinances.

(c) Charter Amendment Proposed by Electors.

Electors of the City may propose amendments to the city charter by petition, as authorized by Section 166.031, Florida Statutes. To the extent authorized by law, each petition proposing amendments to the charter shall be commenced, in the form, filed, certified as to its sufficiency and/or withdrawn in the same manner as an ordinance proposed by initiative pursuant to Article IV of the city charter, except that the percentage of electors required for a charter amendment petition shall be the percentage provided by Section 166.031, Florida Statutes, and any withdrawal must be made at least 45 days before the election. A charter amendment proposed by petition of electors which is legally sufficient and meets the requirements of that statute shall be submitted to the electors of the City pursuant to council resolution. The council resolution shall be adopted no later than the date necessary in order to meet the time requirements for submission of the measure to the electorate in accordance with Section 166.031, Florida Statutes. The council resolution shall also set forth the ballot question(s) in accordance with Section 101.161, Fla. Stat., provide for notice of election in accordance with Section 100.342, Fla. Stat., and shall direct the placement of the ballot question(s) on the appropriate election ballot.

Section 5-17. Initiative and Referendum Petition Procedures.

The detailed provisions which are set forth in Article IV of the city charter shall control the procedure for the initiative process by which the adoption of ordinances are proposed by the electors and the procedure for the referendum process by which the repeal of existing ordinances are proposed by the electors.

Section 4. Repeal. That Article II "Inspectors and Clerks" of Chapter 5 "Elections" of the City Code is hereby repealed, as follows:

Sec. 5-31. Appointment.

~~For the purpose of carrying on and conducting of general and special elections, it shall be the duty of the city council at least 20 days prior to the holding of any election in the city to appoint at least three intelligent, discreet, fair-minded, qualified inspectors and one clerk of the election for each polling place, all of whom shall be residents and registered, qualified electors of the city. The city council shall cause the names of each inspector and clerk of the election to be published in a newspaper published in the city if there is a newspaper~~

~~published, and if not, by posting such notice on the bulletin board of the city hall for a period of not less than 15 days next preceding such general or special election. Only the names of the inspectors and clerks selected by the city council shall be required to be published for the 15-day period prescribed.~~

~~Sec. 5-32. Appointment of additional inspectors.~~

~~If, due to a heavy voter turnout at an election, it becomes apparent that the number of inspectors appointed is insufficient to efficiently handle the conduct of the election and the proper operation of voting machines, then the city council may during the time period between elections appoint additional inspectors as necessary. If additional inspectors are appointed by the city council, the city council shall cause the names of each of the inspectors to be published in a newspaper or posted in accordance with the provisions of section 5-10, but the 15-day time period provided in section 5-31 is hereby waived.~~

~~Sec. 5-33. Oath.~~

~~The inspectors and clerks of election shall before entering upon the duties of their offices take and subscribe an oath or affirmation to the effect that they will perform the duties of inspector and clerk of the election respectively according to law and endeavor to prevent any fraud, deceit or abuse in conducting the election. Such oath may be taken before the city clerk or any officer authorized to administer oaths and shall be filed with the county supervisor of elections.~~

~~Sec. 5-34. Vacancies.~~

~~In the case of absence or refusal to act of any inspector or clerk of the election appointed by the city council, the city clerk may fill all vacancies from the registered and qualified electors of the city, and provided that the city council shall not have filled such vacancy prior to the date of holding any such election.~~

~~Sec. 5-35. Instructions.~~

~~The county supervisor of elections or the city clerk shall, prior to each election, give such instruction as necessary to the clerk of the election and inspectors concerning their duties for the proper conducting of the election and for the proper operation of voting machines. Such instruction shall be given not more than ten days prior to the date of the election and as near to each election as practicable. This shall not be construed to mean that instruction is required to be given to each clerk of the election and inspectors before each election, but to provide for instruction of clerk of the election and inspectors needing instruction in order to properly perform their duties.~~

~~Sec. 5-36. Compensation.~~

~~The inspectors and clerk of any election shall be paid for their services by the city in such sum as may be determined from time to time by the city council.~~

~~**Sec. 5-37. -- Authority to maintain order.**~~

~~The clerk and inspectors of election shall have full authority to maintain order at the polls and enforce obedience to their lawful commands during an election and during the canvass and estimate of the votes.~~

~~**Sec. 5-38. -- Duties of clerk of election.**~~

~~The clerk of election shall be in charge of and responsible for seeing that everyone carries out his duties and responsibilities.~~

Section 5. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. Inclusion in the Code. That it is the intention of the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Code of the City of Riviera Beach; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 7. Effective Date. That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED and APPROVED on first reading this ____ day of _____, 2010.

PASSED and ADOPTED on second and final reading this ____ day of _____,
2010.

APPROVED:

Thomas A. Masters
THOMAS A. MASTERS
MAYOR

Dawn S. Pardo
DAWN S. PARDO
CHAIRPERSON

ATTEST:

C. E. Ward
CARRIE E. WARD,
MASTER MUNICIPAL CLERK
CITY CLERK

Judy L. Davis
JUDY L. DAVIS
CHAIR PRO TEM

Billie E. Brooks
BILLIE E. BROOKS
COUNCILPERSON

Cedrick A. Thomas
CEDRICK A. THOMAS
COUNCILPERSON

Shelby L. Lowe
SHELBY L. LOWE
COUNCILPERSON

1ST READING

MOTIONED BY: C. THOMAS

SECONDED BY: J. DAVIS

Billie E. Brooks ABSENT

Judy L. Davis AYE

Cedrick A. Thomas AYE

Dawn S. Pardo AYE

Shelby L. Lowe AYE

2ND & FINAL READING

MOTIONED BY: Davis

SECONDED BY: Brooks

Billie E. Brooks Aye

Judy L. Davis Aye

Cedrick A. Thomas Aye

Dawn S. Pardo Aye

Shelby L. Lowe Aye

Reviewed as to Legal Sufficiency

Pamala H. Ryan
PAMALA H. RYAN, CITY ATTORNEY

DATE: 9/22/2010

David M. Wolpin
David M. Wolpin
Special Legal Counsel to City Clerk

K:\DOCS\1503\001\30T4969.DOC

ORDINANCE NO. 3084

AN ORDINANCE OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 22, ENTITLED "BUILDINGS AND BUILDING REGULATIONS," BY ADOPTING A NEW ARTICLE V, ENTITLED "BOARDING OF VACANT BUILDINGS OR STRUCTURES;" PROVIDING FOR REGULATIONS AND ENFORCEMENT; PROVIDING FOR SEVERABILITY, CONFLICTS, AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 166, Florida Statutes, empowers municipalities to provide for the public health, safety and general welfare; and

WHEREAS, the City Council of the City of Riviera Beach finds that buildings and structures within the City that remain vacant and unoccupied create unsafe and unsanitary conditions; and

WHEREAS, the City wishes to enact a procedure for requiring property owners to board and seal unoccupied buildings and structures; and

WHEREAS, the City Council expressly determines that the adoption of this Ordinance is in furtherance of the City's municipal home rule powers and serves a proper municipal purpose in accordance with Chapter 166, Florida Statutes, and Section 2, Article VIII of the Florida Constitution.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, FLORIDA, as follows:

SECTION 1. That Chapter 22, of the City Code of Ordinances is amended to provide for a new Article V to read as follows (additional language is underlined):

ARTICLE V. BOARDING OF VACANT BUILDINGS OR STRUCTURES.

Section 1. Findings and purpose.

(a) Findings. The city finds, determines, and declares that buildings which remain vacant and unoccupied for any significant period of time become:

- (1) An attractive nuisance or dangerous condition to children;**
- (2) A harborage for insects, rodents, vermin, or other pests;**
- (3) An invitation to criminals as a temporary abode and as a place to conduct illegal activities, frequently including illegal drug-related activities; and**

(4) An increased fire hazard.

(b) Purpose. The purpose of this article is to protect the health, safety and welfare of the residents and citizens of the city by establishing and enforcing a means by which such nuisance conditions may be prevented and abated.

Section 2. 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:

Building means any structure that is enclosing a space used for sheltering any occupancy. The term "building" shall include commercial buildings, single or multi-family dwellings and vacant structures, whether occupied or not.

Owner means any person, firm, corporation or other legal entity who, individually or jointly or severally with others, holds legal or beneficial title to any building or premises subject to the provisions of this article.

Vacant building or structure means any building or structure without a lawful tenant or lawful occupant or without a valid certificate of occupancy issued by the City.

Section 3. Provisions supplemental.

The provisions of this article shall be supplementary and complementary to all of the provisions of this code, state law, and any law cognizable in common law or in equity, and nothing in this article shall be read, interpreted, or construed in any manner so as to limit any existing right or power of the city to abate any and all nuisances.

Section 4. Responsibility for property maintenance.

Every owner of real property within the city is required to maintain such property in a manner so as to not violate the provisions of this article, and such owner remains liable for violations thereof regardless of any contract or agreement with any third party regarding such property. It is declared unlawful and a public

Section 5. Nuisance declared.

nuisance for any owner of any real property in the City to maintain such property or to permit such property to be maintained in such a manner that either of the following conditions are found to exist on the property:

(1) Any vacant building or structure whose doors, windows, roof, or other openings are broken or missing, so as to allow access to the interior of the building; or

(2) Any vacant building or structure whose doors, windows, roof, or other openings are not secured in compliance with each of the requirements of this article.

Section 6. Boarding certificates.

(a) All boarded buildings shall require a boarding certificate issued by the City. The fee for the boarding certificate shall be established by the city council.

(b) No person shall erect, install, place or maintain boards over the doors, windows or other openings of any building or structure or otherwise secure such openings by a means other than the conventional method used in the original construction and design of the building or structure without first applying for and, within thirty (30) days, completing all steps necessary for the issuance of a boarding certificate and thereafter having a valid and current boarding certificate therefore from the building official.

(c) The Building Official shall issue a boarding certificate required by subsection (a) upon the submission of a written application and two (2) copies of detailed boarding plan by the property owner or the property owner's authorized representative or contractor; upon the payment of the required fee; and upon confirmation through inspection by a City Inspector that the building or structure has been secured as required by this article.

(d) The boarding certificate issued pursuant to this section shall authorize the boarding or securing of a building or structure for a period of no longer than one (1) year from the date of issuance. The boarding certificate may be renewed for an additional one (1) year period provided that:

(1) The property owner submits a written application for extension no later than ten (10) days prior to expiration of the original certificate and pays the fee for such extension established by the City Council; and

(2) The City confirms through inspection that the building or structure has been secured as required by this article.

(e) The City's renewal of a boarding certificate beyond the original one (1) year period shall be subject to each of the following conditions:

(1) The property owner or the property owner's authorized representative or contractor shall submit to the Building Official two (2) copies of detailed plan for correction, repair, or rehabilitation of violations of state or local building and housing standards and for the securing of the doors, windows, roof and other openings by the conventional method used in the original construction and design of the building or structure or, alternatively, a detailed plan for sale of the property to another person or entity with provision in the sale for correction, repair, or rehabilitation;

(2) The property owner or the property owner's authorized representative shall submit a time line for applying for appropriate permits for such work and for completing such work prior to the expiration of the renewal certificate, or, alternatively, a time line for the sale of the property; and

(3) The city may revoke the renewal certificate by written notice of the Building Official if the owner fails to comply with the plan for such work or fails to comport to the time line submitted.

(f) A boarding certificate may not be extended beyond the renewal period except upon demonstration that good cause for the extension exists. Good cause shall require a showing by the property owner that the certificate extension is made necessary by conditions or events beyond the owner's control, such as inability to obtain financing for repair or rehabilitation, inability to locate a suitable buyer, unanticipated delays in construction or rehabilitation, or unanticipated damage to the property. In addition, where appropriate, good cause shall also require a showing by the property owner that he/she has exercised reasonable and due diligence in attempting to complete the needed correction, repair, or rehabilitation, or is attempting to sell the property. If the Building Official determines that there exists good cause to extend the certificate, the Building Official may

extend the certificate for a period of up to, but not more than, an additional six (6) months subject to all of the same conditions imposed on the original renewal certificate including the payment of all applicable fees.

Section 7. Standards for securing buildings and structures.

(a) Specifications. The boarding of the doors, windows, roof or openings of any building or structure, or any means of securing such openings, other than by the conventional method used in the original construction and design of the building or structure, shall comply with the following minimum standards:

(1) Securing by boarding

a. Windows and similar openings shall be boarded with exterior grade plywood of minimum thickness of five-eighths (5/8th) inch nominal or its equivalent. Vent holes may be required, as deemed necessary by the city. The plywood shall be secured in place by two (2) inches by four (4) inches or four (4) inches by four (4) inches crossmembers, secured to the plywood by three-eighths (3/8th) inch plated carriage bolts with large washers at each end and with the crossmember turned so that the carriage bolt goes through the larger dimension. Bolts used to secure the crossmember shall be threaded to the correct length. A minimum of two (2) crossmembers shall be used on each window and, depending on the size of the opening, additional crossmembers may be required. Each crossmember shall be a continuous piece of lumber, and each must extend at least one (1) foot past the window opening in each direction. Bolts and nuts used to secure the crossmembers to the plywood must be tightened enough to slightly deflect the wood. Bolt heads must fit tightly against the wood and will not allow for access by pliers or pry bars.

b. Exterior doors shall be boarded with exterior grade plywood of a minimum thickness of five-eighths (5/8th) inch nominal or its equivalent, fitted to the entry door jamb with maximum one-eighth (1/8th)

inch clearance for each edge. The existing door should be removed and stored inside the building. The plywood shall be attached to three (3) horizontal two (2) inches by four (4) inches wooden crossbars each with two (2) three-eighths (3/8th) inch carriage bolts and matching hardware. The plywood shall be attached to the door entry with three (3) case-hardened strap hinges of the type specified by the building official and the plywood shall be secured by a case-hardened steel hasp and minimum two-inch case-hardened padlock also of a type specified by the City.

(2) *Painting of boarded openings:* All boarded openings shall be painted with a minimum of one coat of exterior paint that is of a color compatible with the exterior color of the building or structure.

(3) *Alternate methods.* Upon application for a boarding certificate, the Building Official may approve alternate methods of securing an unoccupied and vacant building or structure. In making the determination to approve any alternate method, the City shall consider the aesthetic and other impacts of such method on the immediate neighborhood and the extent to which such method provides adequate and long-term security against unauthorized entry to the property.

(b) *Additional requirements.* In connection with the boarding of the doors, windows, or other openings of any building or structure, or any means of securing such openings, other than by the conventional method used in the original construction and design of the building or structure, the owner shall also comply with all of the following requirements:

(1) All utility service to the building or structure shall be terminated by removal of the meters and termination of electric power at the pole. Compliance with this subsection may be waived in writing by the City as to the electric utility service if electricity is needed to power exterior security lighting, an alarm system, or equipment to be used in connection with the rehabilitation of the building or structure for which there is an active and current building permit.

3084

(2) The sewer shall be capped in a manner approved by the City so as to prevent the accumulation of methane gas in the building or structure.

(3) The interior of the building or structure shall be cleaned of all trash, junk, garbage, debris, and solid waste, and personal possessions shall be removed from the interior of the building or structure, so as to eliminate any fire or health hazard and to prevent hindrance to firefighting equipment or personnel in the event of a fire.

Section 8. Exceptions.

A boarding certificate shall not be required for:

(1) Temporary emergency situations, including, but not limited to, hurricane preparation and damage caused by weather.

(2) City-owned property, provided, however, that such property shall be secured in accordance with the requirements of this article.

Section 9. Violations; enforcement; demolition.

Violations of this article shall be enforced pursuant to any of the following provisions:

(1) Chapter 2, article VI of the City Code (code enforcement).

(2) Section 1-11 of the City Code.

(3) By injunction issued by a court of competent jurisdiction upon a suit brought by the City.

(4) Demolition. If the property is vandalized or becomes unsecure; becomes a location for criminal activity; or remains boarded for longer than one (1) year and otherwise qualifies as an unsafe building; the City may declare the building unsafe and demolish the structure in accordance with Section 22-35 of the City Code.

(4) All other legal or equitable remedies and penalties available to the City under this Code, federal law, state law or common law.

SECTION 2. It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Riviera Beach. The sections of this Ordinance may be

ORDINANCE NO. 3084
PAGE -8-

renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

SECTION 3. If any word, phrase, clause, subsection or section of this Ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

SECTION 4. That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to extent of such conflict.

SECTION 5. Specific authority is hereby granted to codify this Ordinance.

SECTION 6. This Ordinance shall take effect upon its adoption by the City Council.

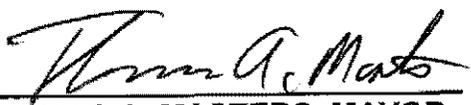
PASSED and APPROVED on first reading this _____ day of _____, 2010.

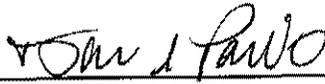
PASSED and ADOPTED on second and final reading this 20 day of October 2010.

[The Remainder of this Page Intentionally Left Blank]

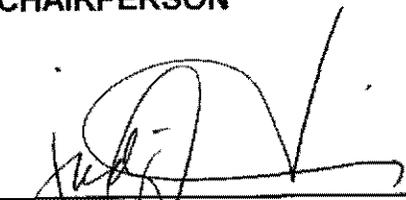
ORDINANCE NO. 3084
PAGE -9-

APPROVED:


THOMAS A. MASTERS, MAYOR


DAWN S. PARDO
CHAIRPERSON

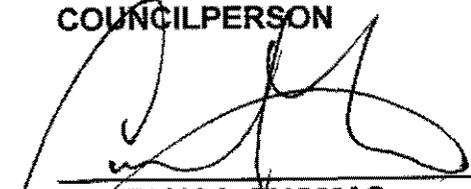
(MUNICIPAL SEAL)

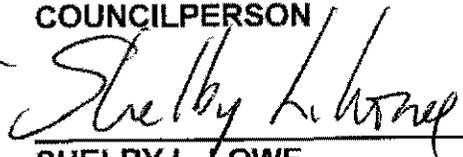

JUDY L. DAVIS
CHAIR PRO TEM

ATTEST:

CARRIE E. WARD,
MASTER MUNICIPAL CLERK
CITY CLERK


BILLIE E. BROOKS
COUNCILPERSON


CEDRICK A. THOMAS
COUNCILPERSON


SHELBY L. LOWE
COUNCILPERSON

ORDINANCE NO. 3084
PAGE -10-

1ST READING

MOTIONED BY: C. THOMAS

SECONDED BY: S. LOWE

D. PARDO AYE

J. DAVIS AYE

B. BROOKS AYE

C. THOMAS AYE

S. LOWE AYE

2ND & FINAL READING

MOTIONED BY: Davis

SECONDED BY: Brooks

D. PARDO Aye

J. DAVIS Aye

B. BROOKS Aye

C. THOMAS Aye

S. LOWE Aye

REVIEWED AS TO LEGAL SUFFICIENCY

Rebael Johnson for
PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 9/23/00

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 20 OF THE CODE OF ORDINANCES ENTITLED "UTILITIES" BY AMENDING ARTICLE III ENTITLED "WATER" BY INCLUDING A NEW DIVISION ENTITLED "WATER CONSERVATION", AND AMENDING CHAPTER 22 OF THE CODE OF ORDINANCES ENTITLED "BUILDINGS AND BUILDING REGULATIONS" BY AMENDING ARTICLE II ENTITLED "BUILDING AND TECHNICAL CODES" BY PROVIDING FOR REDUCED PLUMBING FLOW RATES AND OTHER REGULATIONS; PROVIDING FOR SEVERABILITY, CODIFICATION AND CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Riviera Beach Code of Ordinances controls and directs the use of water within the municipal limits of the City, and those customers of the City of Riviera Beach Utility District outside the municipal limits of the City, to the extent permitted by law; and

WHEREAS, the South Florida Water Management District has amended Chapter 40E-24, F.A.C., requiring year-round water conservation for landscape irrigation; and

WHEREAS, the South Florida Water Management District requires local governments adopt an ordinance concerning the mandatory use of automatic landscape irrigation system interrupters on all new landscape irrigation systems; and

WHEREAS, the South Florida Water Management District requires local governments adopt an ordinance mandating the use of ultra-low volume fixtures and appliances in all new construction; and

WHEREAS, it is the desire of the City Council of the City of Riviera Beach to adopt an ordinance to comply with the South Florida Water Management District's water conservation requirements; and,

WHEREAS, on October 14, 2010, the Planning and Zoning Board recommended approval of this language to the City Council; and,

WHEREAS, the City Council of the City of Riviera Beach hereby finds and declares that the adoption of this ordinance is appropriate, and in the public interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, THAT:

SECTION 1. That Chapter 20 "Utilities", Article III, "Water", is amended by adding the following Division entitled "Water Conservation", as follows:

WATER CONSERVATION

Intent and Purpose

The intent and purpose of this division is to establish water conservation measures intended to reduce the per capita usage of the City's valuable water resources by implementing date-time water restrictions and requiring the use of rain sensing devices on all new irrigation systems.

Definitions

The following words, terms and phrases, when used in this division, shall have the meaning ascribed to them in this section, except where the context indicates a different meaning:

Irrigation means the application of water by means other than natural precipitation.

Irrigation systems means equipment and devices which deliver water to landscape being irrigated including, but not limited to, pumping stations, controls, main and sub-main pipelines, lateral pipelines, emitters, valves, fittings and safety devices.

Landscape means all residential, commercial, institutional, industrial or governmental areas which are ornamentally planted, including, but not limited to, turf, ground covers, flowers, shrubs, trees, mulch, hedges, and similar plant materials.

Low-volume irrigation means the use of equipment and devices specifically designed to allow the volume of water delivered to be limited to a level consistent with the water requirement of the plant being irrigated and to allow that water to be placed with a high degree of efficiency in the root zone of the plant, including, but not limited to, water use in mist houses and similar establishments for plant propagation.

Low volume hand watering means watering by one (1) hose attended by one (1) person, fitted with a self-cancelling or automatic shutoff nozzle.

Micro-irrigation means delivering small amounts of water on or below the soil surface. Drops or tiny streams of water spray through emitters or applicators placed along a water delivery line. This includes bubbler, drip, trickle, mist or microspray, and subsurface irrigation methods.

Rainwater harvesting means the collection and storing of rainwater for irrigation or other non-potable uses. In typical residential applications, roof catchment systems channel rainwater into onsite storage (usually cisterns or rain barrels) via the home's system of gutters and pipes.

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.

Applicability

The provisions of this division shall apply to all customers of the City of Riviera Beach's Utility District (Utility District), both within the corporate limits of the City and to customers outside the corporate limits of the City, to the extent permitted by law, including any inter-local agreement or contract.

Water use restrictions

The following provisions shall be observed, followed and enforced in the City, and on those customers of the Utility District not subject to municipal regulation in this area:

- (a) It shall be unlawful for any person to irrigate, or to cause, let, permit, allow or suffer the irrigation of any residential, commercial, institutional, governmental or industrial landscape areas between the hours of 10:00 a.m. to 4:00 p.m. daily, unless otherwise provided herein.
- (b) Irrigation of established lawns and landscaping shall be permitted as follows:
 - 1. Residents and businesses with an odd-numbered street address may water lawns and landscapes on Mondays, Wednesdays and/or Saturdays;
 - 2. Residents and businesses with an even-numbered street address, no street address or those that irrigate both even and odd addresses within the same zones, which may include multi-family units and homeowners associations, may water lawns and landscapes on Tuesdays, Thursdays and/or Sundays.
- (c) Landscape irrigation for the purpose of watering newly planted grass and foliage for the first ninety (90) days after initial installation shall be permitted, pursuant to the following conditions:
 - 1. On the day new landscaping is installed, new plantings and the soil may be irrigated once without regard to the normally allowable watering days and times. Soil irrigation is also allowed immediately prior to planting.

2. New plantings that have been in place for 30 days or less may be watered on Mondays, Tuesdays, Wednesdays, Thursdays, Saturdays and/or Sundays, only before 10 a.m. and/or after 4 p.m.
 3. New plantings that have been in place from 31 to 90 days may be watered on Mondays, Wednesdays, Thursdays and/or Saturdays, only before 10 a.m. and/or after 4 p.m.
 4. Irrigation is limited to the areas containing new landscaping only. An entire irrigation zone may be watered only if new landscaping is planted on at least 50 percent of that zone. If new landscaping is planted on less than 50 percent of an irrigation zone, only the new plantings may be watered.
- (d) Landscape irrigation for the purpose of water-in fertilizers, insecticides, pesticides, fungicides and herbicides, where such watering-in is recommended by the manufacturer, or by federal, state or local law, or best management practices, shall be allowed under the following conditions:
1. Such watering-in shall be limited to one application unless the need for more than one application is stated in the directions for application specified by the manufacturer; and
 2. Such watering-in shall be accomplished during normally allowable watering days and times set forth in subsections (b) 1. and 2. unless a professional licensed applicator has posted a temporary sign containing the date of application and the date(s) of needed watering in activity.
- (e) The following shall be exempt from the requirements of subsections (a) and (b) of this section:
1. Low-volume irrigation, micro-irrigation, and irrigation with water from a rain barrel, cistern or other rain-harvesting device is allowed at any time;
 2. Low volume hand watering of new and established landscaping shall not be restricted. Hand watering of lawn areas shall be with a hose fitted with an automatic shut-off nozzle and is restricted to the designated days and times for that address. However, a voluntary reduction in use is encouraged, and landscape irrigation conducted by hand watering should not produce water runoff.
 3. The use of reclaimed water for irrigation is not restricted; however, its use must not be wasteful and unnecessary.

4. Irrigation with treated reclaimed wastewater effluent, in accordance with applicable federal, state, and local water quality standards, or the use of saltwater.
5. The operation of irrigation systems for installation, cleaning, repairs, and maintenance purposes by a licensed irrigation contractor or the property owner(s).
6. Agricultural irrigation where the use of water is permitted by a consumptive or water use permit issued by the South Florida Water Management District.

Automatic water irrigation systems

All new automatic water irrigation systems shall be equipped with a properly installed rain sensing device or switch. The rain sensing device or switch shall be maintained in fully operational condition at all times by the owner or operator of the irrigation system.

Maintenance of Irrigation System

Owners and operators of automatic water irrigation systems must properly maintain the irrigation system. This obligation includes the timely repair and replacement of any broken, missing or misdirected sprinkler heads within seven (7) days.

Administrative waiver

- (a) Any person affected by the provisions of this division may petition the Utility District Director, or designee, for a waiver if compliance would impose a unique, unnecessary and inequitable hardship on such person. Relief may be granted only upon a demonstration that such hardship is peculiar to the person or the affected property and is not self-imposed, and that the grant of the waiver will be consistent with the general intent and purpose of this article. The duration of the waiver shall be determined on a case-by-case basis and for as long as is reasonably necessary. Any application for waiver or appeal shall be sent by certified mail, return receipt requested.
- (b) Upon receiving a petition for administrative waiver, the Utility District Director, or designee, shall render a decision on the waiver within ten (10) working days. Denials of an administrative waiver may be appealed to the Utility District Board within twenty (20) days of such person's receipt of the notice of denial. The Utility District Board shall make all final decisions concerning waivers from the provisions of this division.

- (c) A petition for a waiver, and/or the granting of a waiver, shall operate prospectively, and shall not affect any pending enforcement action against the property owner pursuant to the provisions of this division.
- (d) The City hereby recognizes any and all variances issued by the South Florida Water Management District to those users who operate and maintain smart irrigation systems which meet the requirements of Section 373.62(7), Florida Statutes.

Penalties

Violations of any provision of this division shall be enforced under Chapter 2, Article VI, and with the following penalties:

- a. *First violation:* A written notice of violation will be issued.
- b. *Second violation:* A fine of \$50.00.
- c. *Third and subsequent violations:* A fine of \$100, and the Utility District Director designee, shall have the authority to order the immediate discontinuance of water service, if necessary. When water service is discontinued hereunder, the person aggrieved shall have the right to appeal the decision of discontinuance to the Utility District Board, who shall have the authority to reverse or modify the discontinuance.
- d. Each day in violation of this section shall constitute a separate offense.
- e. The provisions of this article are not the exclusive remedy or means for enforcement of the Code of the City and do not precluded any other remedies available by law.

Upon determination by the City Code Enforcement Division that an owner/occupant is in violation of the provisions of this division, the City Code Enforcement Administrator shall notify, in writing, the owner/occupant of the nature of the violation and provide notice of a hearing before the special magistrate pursuant to section 2-335, Enforcement Procedures. The conduct of such hearing shall be in conformance with section 2-336, Conduct of Hearing. The special magistrate's findings and order shall constitute the final administrative action of the City for purposes of judicial review under state law.

SECTION 2. That Chapter 22 "Buildings and Building Regulations", Article II, "Building and Technical Codes", is amended by adding the following:

Requirements for plumbing fixtures, fixture fittings and appliances

(a) Intent - To require reduced flow rates and consumption for plumbing fixtures, fixture fittings, and appliances installed within the City. Such ultra-low volume plumbing fixtures, fixture fittings, and appliances shall comply with the specifications below or with the United States Environmental Protection Agency (EPA) WaterSense Program, where applicable.

(b) Requirements for plumbing fixtures

(1) The maximum water consumption flow rates and quantities for all new plumbing fixtures and fixture fittings shall be in accordance with Table A. Permit applications for new residential and commercial structures shall include ultra-low volume plumbing fixtures, fixture fittings and appliances as provided in Table A. Such ultra-low volume plumbing fixtures, fixture fittings and appliances shall comply with the specifications in Table A or have received the EPA WaterSense Label.

(2) Exceptions:

1. Blowout design water closets having a maximum water consumption of 3.5 gallons (13 L) per flushing cycle.
2. Vegetable sprays.
3. Clinical sinks having a maximum water consumption of 4.5 gallons (17 L) per flushing cycle.
4. Service sinks.
5. Emergency showers.

TABLE - A

Maximum Flow Rates and Consumption for Plumbing Fixtures and Fixture Fittings

<u>Plumbing Fixture or Fixture Fitting</u>	<u>Maximum Flow Rate or Quantity</u>
Toilet	1.28 gallons per flush with at least 350 gram waste removal
Showerhead ^(a)	1.5 gpm at 80 psi
Bathroom faucet	1.5 gpm at 60 psi
Urinal	Waterless or 0.5 gallon per flushing cycle or less
Dishwasher, Residential (standard)	5.0 gallons per cycle or less (Energy Star/Water Sense Certified)
Dishwasher, Residential (compact)	3.5 gallons per cycle or less (Energy Star/Water Sense Certified)
Washing machine, Residential	Water factor of 6 or lower (Energy Star/Water Sense Certified) ^(b) or 25.2 gallons per load

gpm: gallons per minute

psi: pounds per square inch

(a) A handheld shower spray is a showerhead.

(b) Water Factor in gallons per cycle per cubic foot.

SECTION 3. If any word, phrase, clause, subsection or section of this Ordinance is for any reason held invalid, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

SECTION 4. It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Riviera Beach, and the sections of this Ordinance may be renumbered to accomplish such intentions.

SECTION 5. That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

SECTION 6. Specific authority is hereby granted to codify this Ordinance.

*******THE REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY*******

ORDINANCE NO. 3085

PAGE 10

1ST READING

MOTIONED BY: B. BROOKS

SECONDED BY: D. THOMAS

D. PARDO AYE

J. DAVIS AYE

B. BROOKS AYE

C. THOMAS AYE

S. LOWE AYE

2ND & FINAL READING

MOTIONED BY: J. DAVIS

SECONDED BY: B. BROOKS

D. PARDO AYE

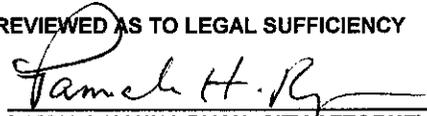
J. DAVIS AYE

D. BROOKS AYE

C. THOMAS AYE

S. LOWE AYE

REVIEWED AS TO LEGAL SUFFICIENCY


PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 10/26/10

ORDINANCE NO. 3085

PAGE 9

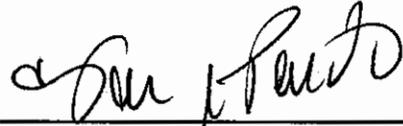
PASSED AND APPROVED on the first reading this 3RD day of NOVEMBER
2010.

PASSED AND ADOPTED on second and final reading this 17TH day of
NOVEMBER, 2010.

APPROVED:



THOMAS A. MASTERS
MAYOR



DAWN S. PARDO
CHAIRPERSON

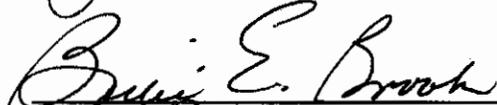
ATTEST:



CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK



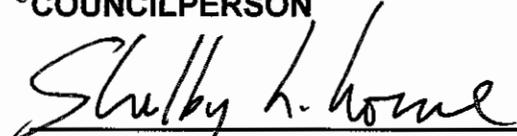
JUDY L. DAVIS
CHAIR PRO TEM



BILLIE E. BROOKS
COUNCILPERSON



CEDRICK A. THOMAS
COUNCILPERSON



SHELBY L. LOWE
COUNCILPERSON