

CITY OF GAINESVILLE
Office of the City Attorney

Memorandum
Box No. 46; 334-5011

TO: Mayor and Members of the
City Commission

DATE: February 12, 2001

FIRST READING

FROM: Marion J. Radson
City Attorney

"Correct"

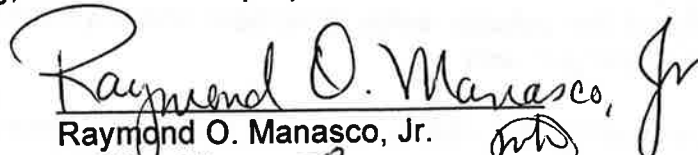
SUBJECT: Ordinance 0-01-09
AN ORDINANCE OF THE CITY OF GAINESVILLE AMENDING SECTION 2-67 OF THE CODE OF ORDINANCES BY CREATING SUBSECTION 2-67(b) AUTHORIZING THE MAYOR TO DECLARE A WATER EMERGENCY AND IMPOSE WATER USE RESTRICTIONS; PROVIDING FOR THE DEFINITION OF NON-ESSENTIAL USES, ENFORCEMENT BY CODE ENFORCEMENT OFFICERS OF THE CITY, RELIEF FROM WATER USE RESTRICTIONS UNDER CERTAIN CIRCUMSTANCES, AND DIRECTING THE GENERAL MANAGER FOR UTILITIES TO ADOPT RULES FOR DISCONTINUING WATER SERVICE TO PERSONS VIOLATING WATER USE RESTRICTIONS; PROVIDING PENALTIES; AMENDING SECTION 2-339 BY ADDING VIOLATIONS OF EMERGENCY WATER USE RESTRICTIONS TO THE LIST OF ORDINANCES ENFORCEABLE BY CIVIL CITATION; A REPEALING CLAUSE AND AN EFFECTIVE DATE.

Recommendation: The City Commission adopt the proposed ordinance.

Background:

In the spring of 2000, the City of Gainesville experienced a severe drought, necessitating temporary water use restrictions. As a drought is a naturally occurring event, it is possible that similar conditions may be encountered in the future. Considering that timely issuance of water use restrictions is a critical factor in successfully managing such situations, staff believes that an ordinance enabling immediate action by the Mayor is a prudent contingency to enact at this time. Additionally, appropriate enforcement mechanisms need to be established to ensure the effectiveness of implemented water use restrictions. Staff believes allowing provisions for civil citations would assist in water use restriction enforcement. Accordingly, staff recommended, and the Commission at its January 22, 2001 meeting, authorized the preparation and advertising of the subject ordinance.

Prepared by:


Raymond O. Manasco, Jr.
Utilities Attorney

Submitted by:


Marion J. Radson
City Attorney

DRAFT

1/30/01

ORDINANCE NO. _____
O-01-09

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AN ORDINANCE OF THE CITY OF GAINESVILLE AMENDING SECTION 2-67 OF THE CODE OF ORDINANCES BY CREATING SUBSECTION 2-67(b) AUTHORIZING THE MAYOR TO DECLARE A WATER EMERGENCY AND IMPOSE WATER USE RESTRICTIONS; PROVIDING FOR THE DEFINITION OF NON-ESSENTIAL USES, ENFORCEMENT BY CODE ENFORCEMENT OFFICERS OF THE CITY, RELIEF FROM WATER USE RESTRICTIONS UNDER CERTAIN CIRCUMSTANCES, AND DIRECTING THE GENERAL MANAGER FOR UTILITIES TO ADOPT RULES FOR DISCONTINUING WATER SERVICE TO PERSONS VIOLATING WATER USE RESTRICTIONS; PROVIDING PENALTIES; AMENDING SECTION 2-339 BY ADDING VIOLATIONS OF EMERGENCY WATER USE RESTRICTIONS TO THE LIST OF ORDINANCES ENFORCEABLE BY CIVIL CITATION; A REPEALING CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, the City of Gainesville owns and operates a potable water treatment and distribution system providing potable water to over 130,000 citizens of Gainesville and surrounding areas of Alachua County, Florida; and

WHEREAS, the health and safety of many citizens is directly dependent on the integrity of the City of Gainesville potable water treatment and distribution system; and

WHEREAS, an extended period of lower than normal rainfall can adversely affect the City of Gainesville water supply; and

WHEREAS, the City of Gainesville has experienced severe water shortage, necessitating the issuance of water use restrictions; and

WHEREAS, drought conditions and lowered aquifer levels are prime contributors to water shortages and are natural occurring conditions that will occur again in the future; and

WHEREAS, timely issuance of water use restrictions is a critical factor in maintaining the integrity of the potable water treatment and distribution system during periods of water shortages; and

WHEREAS, empowering the mayor to issue water use restrictions will ensure timely implementation of such restrictions

CODE: Text underlined is added; text ~~stricken~~ is deleted.

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1/30/01

1 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
2 **CITY OF GAINESVILLE, FLORIDA:**

3
4 **Section 1.** Section 2-67 of the Code of Ordinances, City of Gainesville,
5 be and is hereby amended to read as follows:

6
7 **Sec. 2-67 – Mayor may declare state of emergency, water emergency.**

8
9 **(a) State of Emergency.** The mayor may declare a state of emergency
10 pursuant to F.S. §870.042 and exercise the powers granted therein.

11
12 **(b) Water Emergency**

13
14 **1. Declaration of Water Emergency.** Upon the recommendation of the
15 General Manager for Utilities or his/her designee, the Mayor may
16 declare a water emergency, and in consultation with the General
17 Manager, impose water use restrictions up to and including water
18 rationing by the City's water utility and the prohibition of any and all
19 uses as may be non-essential and make such other orders relating to
20 the potable water supply as may be necessary to protect the public
21 health, safety and welfare.

22
23 **2. Definition of Non-Essential Water Use.** For purposes of this ordinance,
24 non-essential water uses include those uses that are deemed by the
25 Mayor as not essential for the preservation of public health and safety.
26 The term "non-essential uses" may include but is not limited to water
27 used for the irrigation of vegetation.

28
29 **3. Special Relief.** Any Order issued under authority of this ordinance shall
30 include a provision whereunder consumers who believe they will suffer
31 undue hardship or believe their health and/or safety is jeopardized
32 under the provisions of the order may request that the General
33 Manager for Utilities or his/her designee grant special, administrative
34 relief from the water use restrictions and be afforded an opportunity to
35 be heard on such request.

36
37 **4. Enforcement.** Enforcement of the provisions of orders issued under
38 the authority of this ordinance shall be as provided under Sections 2-
39 336 – 2-339, Code of Ordinances. In addition to the foregoing, the
40 General Manager for Utilities or his/her designee is authorized to
41 discontinue water service to any consumer as necessary to enforce
42 such orders. The General Manager shall adopt rules regarding such
43 discontinuance to afford the consumer notice and an opportunity to be
44 heard.
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5. Penalties. Penalties for violation of orders issued under the authority of this ordinance shall be as provided under Chapter 2, Article V, Division 6, Code of Ordinances.

Section 2. The list of ordinances enforceable by civil citation set out in Section 2-339 of the Code of Ordinances, City of Gainesville, be and is hereby amended to include the following:

Sec. 2-339. Applicable codes and ordinances.

Section	Description	Class	Penalty
<u>2-67(b)</u>	<u>Declaration of water emergency imposing water use restrictions.</u>	!	<u>\$50.00</u>

Section 3. If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

Section 4. All ordinances, or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed.

Section 5. Effective Date. This ordinance shall be effective immediately upon adoption.

PASSED AND ADOPTED this ____ day of _____, 2001.

ATTEST:

Paula M. DeLaney
Mayor

Kurt M. Lannon
Clerk of the Commission

Approved as to form and legality.

Marion J. Radson
City Attorney

This Ordinance passed on first reading this ____ day of _____, 2001.

This Ordinance passed on second reading this ____ day of _____, 2001.