

AN ORDINANCE OF THE CITY OF TAMPA, FLORIDA, PERTAINING TO UTILITIES; AMENDING CITY OF TAMPA CODE OF ORDINANCES, CHAPTER 26 - UTILITIES, ARTICLE II - WATER, SECTION 26-97 – WATER CONSERVATION; PROVIDING FOR ONE DAY PER WEEK IRRIGATION; PROVIDING FOR ENFORCEMENT AND PENALTIES FOR VIOLATIONS; PROVIDING FOR PROTECTION FROM PENALTIES FOR COMPLIANCE; PROVIDING FOR DEFINITIONS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, there is a continuing need to protect and conserve potable water throughout the region and within the City of Tampa ("City"); and

WHEREAS, pursuant to Section 373.228, Florida Statutes, the Florida Legislature found that landscape irrigation comprises a significant portion of water use; and

WHEREAS, pursuant to Section 166.048, Florida Statutes, the Florida Legislature found that Florida-friendly landscaping, as defined by Ch. 373.185(1)(b), Florida Statutes, contributes to the conservation, preservation and restoration of water; and

WHEREAS, to increase water conservation, encourage the use of drought tolerant landscaping and discourage wasteful irrigation practices, the City desires to amend Chapter 26, Article II, Section 26-97 of the City's Code of Ordinances to reduce the allowable frequency of landscape and lawn irrigation to one day per week.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL
OF THE CITY OF TAMPA, FLORIDA:

Section 1. RECITALS. The Recitals set forth above are hereby adopted and incorporated into the body of this Ordinance as if fully set forth herein.

Section 2. That "**Sec. 26-97. - Water conservation.**" is hereby amended by adding the underlined language and deleting the stricken language as follows:

Sec. 26-97. - Water conservation.

- (a) Application. The provisions of this section shall apply to all water sources as provided herein and all Users as defined herein engaged in irrigation, including those not subject to permitting pursuant to Chapter 40D-2 of the

1 Florida Administrative Code (F.A.C.), Water Use Permits within City of
2 Tampa limits. This also includes, but is not limited to, customers of the City
3 of Tampa Waterworks System and Reclaimed Waterworks System, within
4 the corporate limits of the city and to customers outside the corporate
5 limits of the city, to the extent permitted by law, including any inter-local
6 agreement or contract.

- 7
8 (b) Definitions. Except as defined hereunder, the definitions found in Chapter
9 40D-21, F.A.C., Water Shortage Plan, and Florida Administrative Code
10 (FAC), Chapter 40D-22, F.A.C., Year-Round Water Conservation Measures,
11 amended, are hereby adopted and made applicable to this section:

12
13 Director means the Director of the City of Tampa Water Department.

14
15 ~~District~~District means the Southwest Florida Water Management
16 ~~District~~District.

17
18 ~~Manager~~ means the ~~manager of the water conservation~~
19 ~~program~~individual designated by the Director to enforce the provisions of
20 this section.

21
22 Landscape means a section of ground adorned or improved by flowering
23 plants (whether annual or perennial), vines, shrubs, palms, trees, ferns,
24 ornamental grasses and groundcover other than Lawn.

25
26 Lawn means a plot of Turfgrass, usually tended or mowed, surrounding
27 homes, commercial or industrial buildings, government or other non-
28 commercial buildings, parks, recreational areas, Cemeteries, and public or
29 private right-of-ways and medians, but excludes Athletic Play Areas,
30 whether such areas are free-standing or within a park or other setting.

31
32 Micro-irrigation means any irrigation device that distributes water near or
33 within the root zone through equipment and devices that apply less than
34 thirty (30) gallons per hour per emitter. Examples of micro-irrigation
35 devices include drip, line source, microspray, microsprinkler, bubbler, and
36 similar types of soaker hoses. The term also includes water use in mist
37 houses and similar establishments for plant propagation and production,
38 but excludes any form of turf irrigation other than in a sod production
39 ("turf farming") setting.

40
41
42 User means property owner of record.
43

Water or water resource means any and all water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, as well as all coastal waters within the jurisdiction of the state.

(c) *Water use restrictions.* The following provisions shall be observed, followed, and enforced in the city:

- (1) Low volume irrigation and 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.
- (2) The use of reclaimed water for irrigation is not restricted; however, its use must not be wasteful and unnecessary.
- (3) Irrigation of established lawns and landscaping shall be permitted as follows:
 - a. At addresses ending where the specific portion of the address ends in 0, [or] 1, 2, [or] 3 on Mondays ~~and/or Thursdays~~;
 - b. At addresses where the specific portion of the address endsending in 2 or 3 on Tuesdays;
 - c. At addresses where the specific portion of the address endsending in 4 or 5 on Wednesdays;
 - d. At addresses where the specific portion of the address endsending in 4, 5, or 6 or 7 on Tuesdays Thursdaysand/or Fridays;
 - e. At addresses where the specific portion of the address endsending in 8 or 9 on Fridays;
 - e.f. ~~f. At~~ At addresses locations where the specific portion of the address ends in 7, 8, or 9 and at locations with no address and locations with mixed addresses, on Wednesdays and/or SaturdaysFridays.
- (4) All irrigation is prohibited from 8:00 a.m. to 6:00 p.m. unless otherwise provided herein.
- (5) Irrigation for the purpose of chemigation, fertigation or watering-in of applied fertilizers, insecticides, fungicides, and herbicides where such watering-in is required by the manufacturer, or by

federal, state or local law or by applicable best management practices shall not be restricted when applied by a licensed professional who is in the business of such application for remuneration, with two (2) exceptions when associated with lawn or landscape.

a. In the absence of specific alternative instructions from the manufacturer, such watering-in shall be limited to one (1) application of one-quarter ($\frac{1}{4}$) inch within twenty-four (24) hours of the application; and

b. Such watering-in shall be accomplished during allowable watering hours unless a professional applicator has posted a temporary sign containing the date of application and date(s) of needed watering-in activity, ~~and also has~~ provided written instructions listing the chemicals used, and ~~stating~~ that the watering-in must occur immediately rather than during allowable watering hours.

c. Watering-in of such products applied by someone other than a licensed professional as herein specified shall be restricted to the designated days and times for that address.

(6) User shall curtail irrigation when rain has occurred within the last 24 hours

(7) All other water use restrictions, not included in subsections (c)(1), (c)(2), (c)(3), (c)(4), ~~and (c)(5)~~ and (c)(6) above, contained within F.A.C. Chapter 40D-22, F.A.C., Year-Round Water Conservation Measures, and Chapter 40D-21, F.A.C., titled "Water Shortage Plan", and any Southwest Florida Water Management District Water Shortage Order(s) that may be in effect for the City of Tampa, are adopted and incorporated by reference.

(78) Any water use restrictions subsequently adopted and imposed by the ~~d~~District which are more stringent than those referenced in this section, except with regard to the use of reclaimed water, shall supersede such restrictions herein and shall be incorporated as part of this section and enforceable by the city.

(89) Properties which cannot meet the conditions of this section, due to any of the following conditions:

a. Properties which have irrigation systems with one (1) or more irrigation zones which water multiple addresses at the same time;

- 1
- 2 b. Two (2) or more properties which share a common source
- 3 of water which, due to source limitations (e.g. a single well),
- 4 cannot meet the irrigation requirements of all properties
- 5 served by this source within the day/hours specified by this
- 6 section; and
- 7
- 8 c. Properties of five (5) or more irrigable acres which, because
- 9 of the amount of irrigated area, cannot efficiently irrigate
- 10 all zones within the days/hours specified in this section;
- 11

12 shall develop and submit to the manager for review and approval,

13 alternative irrigation schedules, which allow no additional watering

14 days or times as that provided by the restrictions herein. Such

15 schedules shall be comprised of, at a minimum, a site map

16 depicting all irrigation zones and a written description of the days

17 upon which each zone may be operated. Each zone may be

18 operated no more frequently than ~~twice~~once per week. All

19 irrigation is prohibited between 8:00 a.m. to [and] 6:00 p.m.

20 Persons responsible for the control of such irrigation systems shall

21 maintain said plan and shall submit such plan to the manager. Such

22 plan must be dated and signed by the person responsible for the

23 control of the irrigation system.

24

25 (~~9~~10) All individual users and groups of users of water located within the

26 city shall fully comply with all restrictions or other conservation

27 measures enforced by the city.

28

29 (~~11~~10) Users of the water resource may request relief from the applicable

30 provisions of this section or any applicable City Code, ordinance,

31 rules or regulations by filing a petition for variance with the city

32 from subsections (c)(1), (c)(2), (c)(3), (c)(4), ~~and~~ (c)(5) and (c)(6)

33 herein.

34

35 (~~12~~1) The rules, regulations, and orders promulgated from time to time

36 by the ~~district~~District which are more stringent than the provisions

37 of this section are hereby adopted by reference and made part

38 hereof and shall be subject to the same enforcement and penalty

39 provisions of this section. In the case of the more stringent rules, a

40 petition for variance shall be filed with the ~~district~~District.

41

42 (~~13~~2) The ~~D~~director shall have the authority to promulgate rules and

43 regulations pertaining to water use restrictions not less restrictive than

44 those promulgated by the ~~district~~District or with the provisions of

Chapter 40D-21, F.A.C., and/or Chapter 40D-22, F.A.C., as now or hereafter amended. Any user who violates such rules or regulations or who refuses to comply with a directive from an officer enforcing such rules and regulations shall be deemed to have violated this section.

(d) *Variances from water use restrictions.*

(1) *General.* These provisions shall apply to petitions for variances filed with the city.

(2) *Criteria for issuance.* No petition for variance shall be granted unless the petitioner affirmatively demonstrates that one (1) or more of the following circumstances exists:

- a. The variance is essential to protect public health or safety;
- b. Compliance with this section will require measures which, because their extent or cost impose undue hardship, cannot be accomplished within the anticipated duration of the shortage or will not ensure equitable distribution;
- c. Alternative restrictions, which achieve the same level of demand reduction as the restrictions from which a variance is sought, are available and are binding and enforceable.

(3) *Petitions for variance.* The petition shall contain the following:

- a. The petitioner's name, address and telephone number;
- b. The specific section of the Code, ordinance, rules or regulations from which the petitioner is requesting relief;
- c. A detailed statement of the facts which the petitioner believes demonstrates that the request qualifies for a variance, which may include reports by qualified technical experts;
- d. A description of the relief desired;
- e. The period of time for which the variance is sought, including the reasons and facts in support thereof;
- f. The damage or harm resulting or which may result to petitioner from compliance with the Code, ordinance, rules or regulations;
- g. The restrictions which petitioner can meet and the date when petitioner can comply with such restrictions;
- h. A short-term water use reduction plan, describing any and all alternative reductions implemented in lieu of the restrictions for which variance is sought, if applicable;

- 1 i. The steps the petitioner is taking to meet the Code, ordinance,
2 rules, regulations or specific restrictions from which the
3 variance is sought and when compliance will be achieved; and
4 j. Any other information the petitioner believes is material.
5

6 (4) *Review.* Any person who wishes to have the decision of the director
7 regarding the decision on a petition for a variance from Tampa from
8 the provisions of subsections (c)(1), (c)(2), (c)(3), (c)(4), and (c)(5), and
9 (c)(6) herein reviewed, shall file a request to review the
10 ~~director~~Director's official decision in accordance with section 1-19 of
11 the City Code.
12

13 (e) *Enforcement of water use restrictions.*
14

15 (1) A violation of this section is a municipal infraction punishable by a
16 maximum civil penalty not to exceed five hundred dollars (\$500.00)
17 and shall be enforced under the city of Tampa Supplemental
18 Enforcement Procedures Ordinance (chapter 23.5 of this Code). Each
19 and every violation of this section shall constitute a separate offense.
20

21 (2) Mandatory court appearances are required for third and subsequent
22 violations of this section; except if a user has not violated the
23 provisions stated in this section for three (3) consecutive years from
24 the date of the previous violation, the next violation will be considered
25 that user's first offense. The citation shall clearly inform the user of the
26 mandatory court appearance. Users required to appear in court do not
27 have the option of paying the penalty instead of appearing in court.
28

29 (3) In addition, the city may enforce this section by any action at law and
30 in equity, including actions for injunctive relief and, if the city prevails
31 in any such action, the city shall be entitled to its costs and reasonable
32 attorneys' fees.
33

34 (4) The ~~director~~Director shall have all powers, duties, and responsibilities
35 to administer and enforce all provisions of this section and shall be
36 deemed to be an officer for the purpose of enforcing the provisions of
37 this section under authority provided in chapter 2 of this Code. Any
38 action to be taken by the ~~director~~Director pursuant to the enforcement
39 of any section herein shall be considered cumulative and in addition to
40 penalties and to other remedies provided elsewhere by ordinance or
41 law.
42

43 (f) *Water conservation fund.* To the extent permitted by law, all funds collected
44 from penalties paid for violations of this section shall be remitted to Tampa's

1 ~~Director~~Director of Revenue and Finance and deposited in the water
2 department's water conservation fund. All monies in the water conservation
3 fund shall be used only for water conservation and water resources education
4 activities of the water department.
5

6 (g) Protection from penalties. Users complying with this section shall not be
7 penalized, by fine, lien or any other form, for the presence of unwatered or
8 dry-appearing turfgrass on their property by the city or any other entity.
9

10 **Section 3.** Should a court of competent jurisdiction declare any part of this
11 Ordinance invalid, the remaining parts hereof shall be severed and remain in effect and
12 shall not be affected by such determination as to the invalid part.
13

14 **Section 4.** That all ordinances or parts of ordinances in conflict herewith are
15 hereby repealed to the extent of any conflict.
16

17 **Section 5.** That this Ordinance shall take effect immediately upon becoming a
18 law.
19

20 PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF TAMPA, FLORIDA,
21 ON AUG 01 2024.
22

23
24
25
26 _____
27 CHAIRMAN/CHAIRMAN PRO-TEM CITY COUNCIL

28 ATTEST:

29
30 Shirley Jay-Knowles
31 CITY CLERK/DEPUTY CITY CLERK
32

33 APPROVED BY ME ON 8/6/24
34
35
36 Jane Castor
37 JANE CASTOR, MAYOR

38 PREPARED AND APPROVED
39 AS TO LEGAL SUFFICIENCY BY:
40
41 McLane Evans
42 McLANE EVANS
43 ASSISTANT CITY ATTORNEY