

ORDINANCE 2009-15
WATER CONSERVATION POLICY

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA RELATING TO AMENDING CHAPTER 24 WATER CONSERVATION POLICY OF THE *CODE OF ORDINANCES OF THE CITY OF PALM COAST*; PROVIDING FOR LOCAL IMPLEMENTATION OF THE WATER CONSERVATION RULE FOR LANDSCAPE IRRIGATION OF THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT; PROVIDING DEFINITIONS; PROVIDING FOR DECLARATIONS OF EXCESS DEMAND AND WATER SUPPLY EMERGENCIES; PROVIDING THE LANDSCAPE IRRIGATION SCHEDULES; PROVIDING EXCEPTIONS TO THE LANDSCAPE IRRIGATION SCHEDULES; PROVIDING FOR VARIANCES FROM THE SPECIFIC DAY OF THE WEEK LIMITATIONS; PROVIDING FOR APPLICABILITY OF THE ORDINANCE; PROVIDING FOR ENFORCEMENT OF THE ORDINANCE; PROVIDING FOR PENALTIES FOR VIOLATION OF THE ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Palm Coast has determined by means of the enactment of Ordinance Number 2008-07 that this ordinance is in the public interest for the benefit of the public health, safety and welfare of the residents of the City of Palm Coast; and

WHEREAS, the St. Johns River Water Management District has responsibility and exclusive authority under Chapter 373, *Florida Statutes*, for regulating the consumptive use of water; and

WHEREAS, the St. Johns River Water Management District has amended Rule 40C-2.042, *F.A.C.*, its General Consumptive Use Permit by Rule that regulates small irrigation uses below consumptive use permit thresholds in Rule 40C-2.041(1), *F.A.C.*; and

WHEREAS, Rule 40C-2.042(2)(a), *F.A.C.*, grants a general permit to each person located within the District to use, withdraw or divert water for such small landscape irrigation uses, provided the irrigation occurs in accordance with Sections 6 and 8, subject to the exceptions as set forth in Section 7 below; and

WHEREAS, Rule 40C-2.042(2), *F.A.C.*, applies to landscape irrigation regardless of whether the water comes from ground or surface water, from a private well or pump, or from a

public or private utility; and

WHEREAS, Rule 40C-2.042(2)(b), *F.A.C.*, strongly encourages a local government to adopt an ordinance to enforce Rule 40C-2.042(2)(a), *F.A.C.*, within its jurisdiction by adopting a landscape irrigation ordinance that incorporates each of the provisions set forth in Rule 40-C2.042(2)(a), *F.A.C.*; and

WHEREAS, it is the desire of the City of Palm Coast of Flagler County to adopt such an ordinance in accordance with 40C-2.042(2)(a) and (b); and

WHEREAS, the City of Palm Coast of Flagler County hereby finds and declares that the adoption of this ordinance is appropriate, and in the public interest of the citizens of this community; and

WHEREAS, the City Council of the City of Palm Coast finds and determines that it is necessary and desirable to amend the provisions of Ordinance Number 2008-07 as set forth herein.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM COAST THE FOLLOWING:

SECTION 1. LEGISLATIVE AND ADMINISTRATIVE FINDINGS. The above recitals (whereas clauses) are hereby adopted as the legislative and administrative findings of the City Council.

SECTION 2. INTENT AND PURPOSE It is the intent and purpose of this Ordinance to implement procedures that promote water conservation through the more efficient use of landscape irrigation.

SECTION 3. AMENDMENT TO ARTICLE V- WATER CONSERVATION POLICY, SECTIONS 24-181 THROUGH 24-185 CODE OF ORDINANCES. Sections 24-181, 24-182, 24-183, 24-184 and 24-185 of the Code of Ordinances of the City of Palm Coast are amended as follows:

Section 24-181 DEFINITIONS.

For the purpose of this Ordinance, the following terms, phrases, words and their derivatives

shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural.

(a) **“Address”** means the house number of a physical location of a specific property. This includes “rural route” numbers, but excludes post office box numbers. If a lot number in a mobile home park or similar community is used by the U.S. Postal Service to determine a delivery location, the lot number shall be the property’s address. An “even numbered address” means an address ending in the numbers 0, 2, 4, 6, 8, or the letters A-M. An “odd numbered address” means an address ending in the numbers 1, 3, 5, 7, 9, or the letters N-Z.

(b) **“District”** means the St. Johns River Water Management District.

(c) **“Landscape Irrigation”** means the outside watering of plants in a landscape such as shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens and other such flora that are situated in such diverse locations as residential areas, ~~cemeteries~~, public, commercial, and industrial establishments, and public medians and rights of way. “Landscape irrigation” does not include agricultural crops, nursery plants, cemeteries, golf course greens, tees, fairways, primary roughs, and vegetation associated with ~~intensive~~ recreational areas such as, ~~but not limited to,~~ playgrounds, and football, baseball and soccer fields.

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

(e) **“Residential landscape irrigation”** means the irrigation of landscape associated with any housing unit having sanitary and kitchen facilities designed to accommodate one or more residents, including multiple housing units and mobile homes.

(f) **“Non-residential landscape irrigation”** means the irrigation of landscape not included within the definition of “residential landscape irrigation,” such as that associated with public, commercial and industrial property, including commercial or transient housing units, hotel and motel units, and public medians and rights-of-way.

(g) **“Reclaimed water”** means the water that meets the current state Department of Environmental Protection standards for reuse after flowing out of any treatment plant or works.

(h) **“Excess demand”** means the situation as declared by the City where infrastructure to process or deliver water to the City’s water customers for landscape irrigation uses is not available to meet the demand of such uses, so as to require temporary reduction in water customer use within a particular area to protect the City’s water supply infrastructure, or public health and safety from serious harm.

(i) **“Water supply emergency”** means a situation that occurs when the City experiences a sudden and catastrophic loss of its water supply infrastructure.

(j) **“Water supply infrastructure”** means the water supply wells, treatment plants, storage tanks, and pumps and pipes comprising the water delivery system.

(k) **“Micro-irrigation”** means the frequent application of small quantities of water on or below the soil surface as drops or tiny streams of spray through emitters or applicators placed along a water delivery line. Micro-irrigation includes a number of methods or concepts such as bubbler, drip, trickle, mist or micro-spray, and subsurface irrigation.

Section 24-182 DECLARATION OF EXCESS DEMAND, OR WATER SUPPLY EMERGENCY.

(a) The City acknowledges that determinations of water shortage conditions within the jurisdictional boundaries of the St. Johns River Water Management District are solely within the purview and jurisdiction of the St. Johns River Water Management District. However, the City’s delivery of processed water to its customers requires that its water supply infrastructure is functioning properly, and has the capacity to meet demand.

(b) The City Council may declare a situation of excess demand, or a water supply emergency, as described above and may limit the use of water supplied by the City to its water customers in order to protect the City’s water supply infrastructure or the public health, safety and welfare.

(c) In the event the St. Johns River Water Management District declares a water shortage pursuant to Chapter 40C-21, *Florida Administrative Code*, the provisions of the District’s water shortage order shall take precedence over the provisions of this ordinance that are inconsistent with

the water shortage order. At such time as any District water shortage order is rescinded, then all provisions of this ordinance shall again become effective and enforceable.

Section 24-183 LANDSCAPE IRRIGATION SCHEDULES.

1. When Daylight Savings Time is in effect, landscape irrigation shall occur only in accordance with the following irrigation schedule:

(a) Residential landscape irrigation at odd numbered addresses ~~or no address must~~ may occur only on Wednesday and Saturday and ~~must~~ shall not occur between 10:00 a.m. and 4:00 p.m.; ~~daily~~ and

(b) Residential landscape irrigation at even numbered addresses ~~must~~ may ~~only~~ occur only on Thursday and Sunday and ~~must~~ shall not occur between 10:00 a.m. and 4:00 p.m. ~~daily~~ and

(c) Non-residential landscape irrigation, ~~such as public medians and rights of way, must~~ only may occur only on Tuesday and Friday and ~~must~~ shall not occur between 10:00 a.m. and 4:00 p.m. ~~daily~~ and

(d) No more than ¾ inch of water may be applied per irrigation zone on each day that irrigation occurs, and in no event shall irrigation occur for more than 1 hour per irrigation zone on each day that irrigation occurs.

~~2. Landscape irrigation at even numbered addresses or no address must only occur on Thursday and Sunday and must not occur between 10:00 a.m. and 4:00 p.m. daily.~~ When Eastern Standard Time is in effect, landscape irrigation shall occur only in accordance the following irrigation schedule:

(a) Residential landscape irrigation at odd numbered addresses or no address may occur only on Saturday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

(b) Residential landscape irrigation at even numbered addresses may occur only on Sunday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

(c) Non-residential landscape irrigation may occur only on Tuesday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

(d) No more than ¾ inch of water may be applied per irrigation zone on each day that irrigation occurs, and in no event shall irrigation occur for more than 1 hour per irrigation zone on each day that irrigation occurs.

3. ~~Non-residential landscape irrigation, such as public medians and rights of way, must only occur on Tuesday and Friday and must not occur between 10:00a.m. and 4:00 p.m. daily.~~ All landscape irrigation shall be limited in amount to only that necessary to meet landscape needs.

Section 24-184 EXCEPTIONS TO LANDSCAPE IRRIGATION SCHEDULES.:

Landscape irrigation shall be subject to the following irrigation schedule exceptions:

1. Irrigation using a ~~micro-irrigation~~ micro-spray, micro-jet, drip or bubbler irrigation system is allowed anytime.

2. Irrigation of new landscape is allowed at any time of day on any day for the initial 30 days and every other day for the next 30 days for a total of one 60-day period, provided that the irrigation is limited to the minimum amount of water necessary for such landscape establishment.

3. Watering in of chemicals, including insecticides, pesticides, fertilizers, fungicides, and herbicides, when required by law, ~~recommended by~~ the manufacturer, or by best management practices, is allowed at any time of day on any day within 24 hours of application. Watering in of chemicals shall not exceed ¼ inch of water per application except as otherwise required by law, the manufacturer, or best management practices.

4. Irrigation systems may be operated any time of day on any day for maintenance and repair purposes not to exceed 20 minutes per hour per zone.

5. Irrigation using a hand-held hose equipped with an automatic shut-off nozzle is allowed at any time of day on any day.

6. Discharge of water from a water-to-air conditioning unit or other water-dependent cooling system is not limited.

7. The use of water from a reclaimed water system is allowed anytime. For the purpose of this paragraph, a reclaimed water system includes systems in which the primary source is reclaimed water, which may or may not be supplemented from another source during peak demand periods.

8. The use of recycled water from wet retention ~~retention~~ detention treatment ponds for irrigation is allowed anytime provided the ponds are not augmented from any ground or off-site surface water, or public supply sources.

~~9) The use of water to irrigate Agricultural Crops, Nursery Plants, Golf Courses and Recreational Areas is solely regulated and enforced by the St. John's River Water Management District and is not subject to regulation under this ordinance.~~

Excess Demand and Water Supply Emergencies

1. *Excess Demand Level 1:* When excess demand is determined, water pressure may be lowered, and the City's water supply customers ~~may~~ shall ~~not~~ only irrigate between the hours of 8 AM 12:00 Midnight and ~~6 PM~~ 10:00 a.m..

2. *Excess Demand Level 2:* When severe excess demand is determined, water pressure may be further lowered, and the City's water supply customers ~~may~~ shall only irrigate between the hours of 2 a.m. and 8 a.m..

3. *Water Supply Emergency:* When a water supply emergency is determined, all use of the City's water supply by the City's water supply customers beyond that necessary for maintenance of health and safety is prohibited in the affected area and no irrigation by the City's water supply customers is permitted.

Section 24-185 VARIANCES FROM SPECIFIC DAY OF THE WEEK LIMITATIONS OR FROM EXCESS DEMAND/WATER SUPPLY EMERGENCY PROVISIONS.

The City Council may grant variances to the Landscape Irrigation Schedule and the Excess Demand/Water Supply Emergency provisions set forth above in Sections 24-183 and 24-184, respectively, under the following conditions:

1. A variance from the specific landscape irrigation days or day set forth in Section 24-183 may be granted if strict application of the scheduled days or day would lead to unreasonable or unfair results in particular instances, provided that the applicant demonstrates with particularity that compliance with the schedule of days or day for landscape irrigation will result in a substantial economic, health or other hardship on the applicant requesting the variance or those served by the applicant. Where a contiguous property is divided into different zones, a variance may be granted

hereunder so that each zone may be irrigated on different days or day than other zones of the property. However, in no event shall a variance allow a single zone to be irrigated more than 2 days per week during Daylight Savings Time or more than one day per week during Eastern Standard Time.

2. When specified hours of customer irrigation during an Excess Demand or Water Supply Emergency would result in undue hardship for a specific customer.

3. All users or customers requesting a variance as set forth above shall file with the City Manager a petition for variance, but must conform to the greatest possible extent to the provisions of this ordinance until such variance is granted.

4. A petition for variance shall be in writing and contain, at a minimum, the following:

a. The petitioner's name and address.

b. A detailed statement of the facts which the petitioner believes demonstrates that the request qualifies for variance.

c. A description of the variance desired.

d. The period of time for which the variance is sought, including the reasons and facts in support thereof.

e. Other relevant information the petitioner believes supports his/her petition for variance.

5. Variances granted under the provisions of this Section shall be issued in writing.

SECTION 4. ADDITION TO ARTICLE V, CHAPTER 24

Section 24-186 ADDITIONAL REQUIREMENT

Any person who irrigates landscape with an automatic lawn sprinkler system installed after May 1, 1991, shall install, maintain and operate a rain sensor device or switch that overrides the irrigation system when adequate rainfall has occurred.

When reclaimed water is available, the use of a private irrigation well for landscape irrigation is not authorized under subsection 40C-2.042(2), F.A.C.. Reclaimed water is deemed available when reclaimed water is provided by a utility through a point of connection.

Section 24-187 APPLICATION OF ORDINANCE

The Provisions of this Ordinance shall apply to each person located within the City of Palm Coast.

Section 24-188 ENFORCEMENT OFFICIALS

Law enforcement officials having jurisdiction in the area governed by this Ordinance are hereby authorized to enforce the provisions of this Ordinance. In addition, the City Manager may also delegate enforcement responsibility for this ordinance to various departments of the City of Palm Coast government.

Section 24-189 PENALTIES

Any person found guilty of a violation of any provision of this ordinance, or any lawful order of the City Council, or City Manager or his/her duly authorized representative, shall be punished by a maximum \$500.00 fine or sixty (60) days imprisonment, or by both a fine and imprisonment. The City may also enforce this Ordinance by any means available under the provisions of controlling law and may seek any available legal remedy.

SECTION 5. SEVERABILITY.

If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section or part of this Ordinance.

SECTION 6. CODIFICATION. It is the intention of the City Council of the City of Palm Coast, Florida, 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 Palm Coast, Florida; that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; that the word, "Ordinance" may be changed to "Section," "Article," or other appropriate word.

SECTION 7. CONFLICTS. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 8. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its

passage and adoption.

Approved on first reading this 19th day of May 2009.

Adopted on second reading after due public notice and hearing City of Palm Coast this 2nd day of June 2009.

CITY OF PALM COAST, FLORIDA

JON NETTS, MAYOR

ATTEST:

DANIEL E. DAVIS, DEPUTY CITY CLERK

APPROVED AS TO FORM AND LEGALITY:

William Reischmann Jr. Esq.
City Attorney