

## ORDINANCE NO. 22-032

AN ORDINANCE OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA; CREATING CHAPTER 36 - UTILITIES, ARTICLE VIII – IRRIGATION CONSERVATION MEASURES, PROVIDING FOR LOCAL IMPLEMENTATION OF THE MANDATORY **YEAR-ROUND LANDSCAPE IRRIGATION CONSERVATION MEASURES** RULE OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT (40E-24, F.A.C.); PROVIDING DEFINITIONS; PROVIDING FOR THE APPLICABILITY OF THE ORDINANCE; PROVIDING THE LANDSCAPE IRRIGATION SCHEDULE; PROVIDING EXCEPTIONS TO THE LANDSCAPE IRRIGATION SCHEDULE; PROVIDING FOR A REQUIREMENT TO OPERATE TECHNOLOGY THAT INHIBITS OR INTERRUPTS AN IRRIGATION SYSTEM DURING PERIODS OF SUFFICIENT MOISTURE; PROVIDING FOR VARIANCES FROM THE SPECIFIC DAY OF THE WEEK LIMITATIONS; PROVIDING FOR ENFORCEMENT OF THE ORDINANCE; PROVIDING FOR PENALTIES FOR VIOLATION OF THE ORDINANCE; PROVIDING FOR CODIFICATION OF THE ORDINANCE; PROVIDING FOR THE REPEAL OF ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the South Florida Water Management District (District) has the responsibility and exclusive authority under Chapter 373, Florida Statutes (F.S.), for regulating the consumptive use of water; and

WHEREAS, the District has promulgated Chapter 40E-2, Florida Administrative Code (F.A.C), for the consumptive use of water which includes Rule 40E-2.061, F.A.C., General Permits by Rule, regulating landscape irrigation at a single-family dwelling or duplex, and Rule 40E-2.071, F.A.C., Noticed General Permits and Individual Permits, regulating larger landscape irrigation users; and

WHEREAS, the District promulgated and amended Chapter 40E-24, F.A.C., requiring year-round landscape irrigation conservation measures; and

WHEREAS, Chapter 40E-24, F.A.C., applies to all users as defined in subsection 40E-24.101(14), F.A.C., including permitted and exempt users under Chapter 40E-2, F.A.C.; and

WHEREAS, Chapter 40E-24, F.A.C., calls for year-round and permanent landscape irrigation restrictions, separate and independent from water shortage declarations, in accordance with Chapter 40E-21, F.A.C.; and

WHEREAS, Chapter 40E-24, F.A.C., applies to all 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 40E-24.301, F.A.C., provides that local governments may adopt a landscape irrigation ordinance that achieves water conservation consistent with Rule 40E-24.201, F.A.C., including variance and enforcement procedures; and

WHEREAS, the District strongly encourages local governments to adopt an ordinance in accordance with Chapter 40E-24, F.A.C.; and

WHEREAS, it is the desire of the City Commission of the City of Fort Pierce to adopt an ordinance in accordance with Chapter 40E-24, F.A.C.; and

WHEREAS, The City Commission of the City of Fort Pierce finds and declares that the adoption of this Ordinance is appropriate, and in the public interest of this community.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FORT PIECE OF ST. LUCIE COUNTY, FLORIDA, AS FOLLOWS:

**SECTION 1.** Chapter 36, Article VIII – Irrigation Conservation Measures, Sections 36-500-36-515 is of the Code of Ordinances of the City of Fort Pierce, Florida, are hereby created and the same shall read as follows:

**ARTICLE VIII. – WATER CONSERVATION FOR LANDSCAPE IRRIGATION**

**Sec. 36-500 – Intent and Purpose.**

It is the intent and purpose of this section to implement procedures that promote water conservation through the efficient use of landscape irrigation.

**Sec. 36-501 – Definitions.**

For the purpose of this section, the following terms, phrases, words, and their derivatives shall have the meaning listed below. 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” (a numeric or alphanumeric designation) that, together with the street name, describes the 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. If a lot number in a mobile home park or similar residential community is not used by the U.S. Postal Service (e.g., the park manager sorts incoming mail delivered to the community’s address), then the community’s main address shall be the property’s address. If a property has no address, it shall be considered “even-numbered.”
- b) Athletic Play Area means all golf course fairways, tees, roughs, greens, and other athletic play surfaces; including, football, baseball, soccer, polo, tennis, and lawn bowling fields, and rodeo, equestrian, and livestock arenas.
- c) Consumptive Use Permit (CUP) means a permit issued pursuant to Chapter 40E-2, F.A.C., authorizing the consumptive use of water.
- d) District means the South Florida Water Management District, a government entity created under Chapter 373, Florida Statutes.
- e) Even Numbered Address means an address ending in the numbers 0, 2, 4, 6, 8, or rights-of-way or other locations with no address, or the letters A-M.
- f) Existing Landscaping means any landscaping which has been planted and in the ground for more than ninety (90) days.
- g) Landscape Irrigation means the outside watering of shrubbery, trees, lawns, sod, grass, ground covers, plants, vines, ornamental gardens, and such other flora not intended for resale, which are planted and situated in such diverse locations as residential landscapes, recreation areas, cemeteries, public, commercial, and industrial establishments, public medians, and rights-of-way, except athletic play areas.
- h) Landscaping means shrubbery, trees, lawns, sod, grass, ground covers, plants, vines, ornamental gardens, and such other flora not intended for resale, which are situated in such diverse locations as residential landscapes, recreation areas, cemeteries, public, commercial, and industrial establishments, public medians, and rights-of-way, except athletic play areas.
- i) Low Volume Hand Watering means the watering of landscape by one (1) person, with one (1) hose, fitted with a self-canceling or automatic shutoff nozzle.

- j) 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. The term also includes water used in mist houses and similar establishments for plant propagation. Overhead irrigation and flood irrigation are not included.
- k) Micro-Irrigation means the application of small quantities of water on or below the soil surface as drops or tiny streams of spray through emitter or applicators placed along a water delivery line. Micro-irrigation includes a number of methods or concepts, such as bubbler, drip, trickle, mist or microspray, and subsurface irrigation.
- l) New Landscaping means any landscaping which has been planted in the ground for ninety (90) days or less.
- m) Odd Numbered Address means an address ending in the numbers 1, 3, 5, 7, 9, or the letters N-Z.
- n) Reclaimed Water means wastewater that has received at least secondary treatment and basic disinfection, and is reused after flowing out of a wastewater treatment facility as defined by Rule 62-40.210, F.A.C.
- o) User means any person, individual, firm, association, organization, partnership, business trust, corporation, company, agent, employee, or other legal entity whether natural or artificial, the United States of America, and the State and all political subdivisions, regions, districts, municipalities, and public agencies thereof, which directly or indirectly takes water from the water resource, including uses from private or public utility systems, uses under water use permits issued pursuant to Chapter 40E-2, F.A.C., or uses from individual wells or pumps.
- p) Wasteful and Unnecessary Water Use means allowing water to be dispersed without any practical purpose to the water use; for example, excessive landscape irrigation, leaving an unattended hose on a driveway with water flowing, allowing water to be dispersed in a grossly inefficient manner regardless of the type of water use; for example, allowing landscape irrigation water to unnecessarily fall onto pavement, sidewalks, and other impervious surfaces; or allowing water flow through a broken or malfunctioning water delivery or landscape irrigation system.
- q) 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.
- r) Water Shortage means when the District determines there is the possibility that insufficient water will be available to meet the present and anticipated needs of the users, or when conditions are such as to require a temporary reduction in total use within a particular area to protect water resources from serious harm. A water shortage usually occurs due to drought.
- s) Water Shortage Emergency means when the District determines the provisions listed in Part II of Chapter 40E-21, F.A.C., are not sufficient to protect the public health, safety, or welfare, the health of animals, fish, or aquatic life, a public water supply, or commercial, industrial, agricultural, recreational, or other reasonable-beneficial uses.

Sec. 36-502 – Applicability.

The provisions of this Ordinance shall apply to each user providing landscape irrigation from all water resources within the boundaries of the City of Fort Pierce with the following exceptions:

- (1) The use of reclaimed water, which may or may not be supplemented from another source;
- (2) Irrigation at agricultural and nursery operations; and

(3) Irrigation of athletic play areas.

Sec. 36-503 - Year-Round Landscape Irrigation Conservation Measures.

The City of Fort Pierce adopts the rules of the South Florida Water Management District, listed in subsection 40E-24.201 (1)-(6), F.A.C., including subsequent additions or corrections which are set out as follows:

- (1) The year-round landscape irrigation conservation measures contained in this Ordinance are applicable to all users including permitted and exempt users under Chapter 40E-2, F.A.C., unless otherwise indicated. These conservation measures apply to all water sources, except that the use of reclaimed water, which may or may not be supplemented from another source, is allowed anytime. In addition to the requirements of this section, all permitted users under Chapter 40E-2, F.A.C., are required to maintain compliance with all CUP conditions and terms, including those designed to require the implementation of water conservation practices.
- (2) Any restrictions or other measures declared pursuant to Chapter 40E-21, F.A.C., or related Board or Executive Director orders which are more restrictive than a measure contained within this chapter, shall supersede this rule for the duration of the applicable water shortage declaration.
- (3) It shall be the duty of each water user to keep informed as to the landscape irrigation conservation measures presented within this chapter, which affect each particular water use.
- (4) In addition to the specific conservation measures enumerated below, all wasteful and unnecessary water use is prohibited.
- (5) The following requirements shall apply to all users, unless specified otherwise herein:
  - (a) Landscape irrigation shall be prohibited daily between the hours of 10:00 a.m. and 4:00 p.m., except as otherwise provided herein.
  - (b) Irrigation of new landscaping shall comply with the following provisions:
    - i. On the day the new landscaping is installed, the new landscaping may be irrigated once without regard to the normally allowable watering days and times. Irrigation of the soil immediately prior to the installation of the new landscaping is allowed without regard to the normal allowable watering days and times.
    - ii. The ninety (90) day period begins on the day the new landscaping is installed. The new landscaping shall be installed within a reasonable time from the date of purchase, which may be demonstrated with a dated receipt or invoice.
    - iii. Irrigation of new landscaping which has been in place for thirty (30) days or less may be accomplished on Monday, Tuesday, Wednesday, Thursday, Saturday, and Sunday.
    - iv. Irrigation of new landscaping which has been in place for thirty-one (31) to ninety (90) days may be accomplished on Monday, Wednesday, Thursday, and Saturday.
    - v. Irrigation of new landscaping is limited to areas containing the new landscaping only. An entire zone of an irrigation system shall only be utilized for landscape irrigation under

this paragraph if the zone in question is for an area that contains at least 50% new landscaping. If a zone contains less than 50% new landscaping, or if the new landscaping is in an area that will not typically be irrigated by an irrigation system, only the individual new plantings are eligible for additional irrigation under this paragraph. Targeted watering may be accomplished by low volume hand watering, or any appropriate method which isolates and waters only the new landscaping.

- (c) Landscape irrigation systems may be operated during restricted days and/or times for cleaning, maintenance, and repair purposes with an attendant on site in the area being tested. Landscape irrigation systems may routinely be operated for such purposes no more than once per week, and the run time for any one test should not exceed 10 minutes per zone.
- (d) Landscape irrigation for the purpose of watering-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:
  - i. 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
  - ii. Such watering-in shall be accomplished during normally allowable watering days and times set forth in subsections (5)(a) and (6), 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) Any plant material may be watered using low volume irrigation, micro-irrigation, low-volume hand watering methods, and rain barrels, cisterns, or other similar rain-harvesting devices without regard to the watering days or times allowed pursuant to this section.
- (6) Irrigation of existing landscaping shall comply with the following provisions:
  - (a) Even addresses, installations with irrigation systems that irrigate both even and odd addresses within the same zones, such as multi-family units and homeowners' associations, and rights-of-way or other locations with no address shall have the opportunity to accomplish necessary landscape irrigation only on Thursday and Sunday.
  - (b) Odd addresses shall have the opportunity to accomplish necessary landscape irrigation only on Wednesday and Saturday.

Sec. 36-504 - Additional Requirements.

Any user who purchases and installs an automatic landscape irrigation system shall properly install, maintain, and operate technology that inhibits or interrupts operation of the system during periods of sufficient moisture in accordance with section 373.62, Florida Statutes.

Sec. 36-505 - Variances.

- (1) Users may request relief from the provisions of this chapter by filing a petition for variance or waiver pursuant to section 120.542, Florida Statutes and Chapter 28-104, F.A.C.
- (2) A variance or waiver from the specific day or days identified herein may be granted by the City if the applicant demonstrates with particularity that compliance with the schedule of days for landscape irrigation will result in a substantial hardship on the applicant requesting the variance or those served by the applicant.
- (3) The City recognizes all irrigation variances or waivers issued by the District under Rule 40E-24.501, F.A.C.
- (4) If granted, the applicant shall post a notice at each parcel to which the variance pertains.
- (5) A variance or waiver is invalid if it has expired or if the user or its agent violates the terms of the variance or waiver.

Sec. 36-506 -- Declaration of Water Shortage or Water Shortage Emergency.

Declaration of a water shortage and/or water shortage emergency within all or parts of the City by the District's Governing Board or Executive Director shall supersede this Ordinance for the duration of the applicable water shortage declaration in accordance with the City of Fort Pierce Code of Ordinances Section 36-52. A water shortage usually occurs due to drought.

Sec. 36-507 - Enforcement.

- (1) In the absence of a declaration of water shortage or water shortage emergency within all or any parts of the City by the District's Governing Board or Executive Director, the listed landscape irrigation restrictions shall be subject to enforcement action.
- (2) The City authorizes the Fort Pierce Police Department's officers, the City's code enforcement officers, and any other City employees designated by the city manager to enforce this section.
- (3) Each day and/or incident in violation of this section shall constitute a separate offense. Violators may be provided with no more than one (1) written warning within a six (6) month period. In addition to the civil penalties provided, the City may take any other appropriate legal action, including, but not limited to, injunctive action to enforce the provisions of this article.

Sec. 36-508 - Penalties.

- (1) Violations of any provision of this section shall be enforced pursuant to Chapter 1, Article II of the City of Fort Pierce Code of Ordinances.

Sec. 36-509 – 36-515. Reserved.

**SECTION 2.** In the event a court of competent jurisdiction should determine hereafter that any part of this ordinance is invalid, for any reason, then, in such event, the invalid portion shall be severed, with the remainder of such ordinance to be given full force and effect.

**SECTION 3.** All ordinances or parts of ordinances in conflict herewith shall and the same be repealed as of the effective date hereof and shall be of no further force or effect whatsoever.

**SECTION 4.** This ordinance is and the same shall become effective immediately upon final passage hereof.

APPROVED AS TO FORM  
AND CORRECTNESS:

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Tanya M. Earley, Esq.  
City Attorney

STATE OF FLORIDA  
COUNTY OF ST. LUCIE

WE, THE UNDERSIGNED, Mayor Commissioner and the City Clerk of the City of Fort Pierce, Florida, do hereby certify that the foregoing and above Ordinance No. \_\_\_\_\_ was duly advertised by title only in the St. Lucie News Tribune on \_\_\_\_\_; copy of said Ordinance was made available at the office of the City Clerk to the public upon request; said Ordinance was duly introduced, read by title only, and passed on first reading by the City Commission of the City of Fort Pierce, Florida, on Monday, \_\_\_\_\_; and was duly introduced, read by title only, and passed on second and final reading on Monday, \_\_\_\_\_, by the City Commission of the City of Fort Pierce, Florida.

IN WITNESS HEREWITH, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida.

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Linda Hudson  
MAYOR COMMISSIONER

ATTEST

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Linda W. Cox  
CITY CLERK