



# CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 9/7/10

**SUBJECT:** Ordinance No. 2010 - 25 Water Conservation Ordinance for Landscape Irrigation

**DEPARTMENT:** CITY MANAGER'S OFFICE

**RECOMMENDED MOTION:**

To approve Ordinance No. 2010 - 25 Water Conservation Ordinance for Landscape Irrigation.

**SUMMARY:**

In July, the City applied for St. Johns River Water Management District Water Conservation Cost-Share funds for installation of FlexNet Water transmitters and Water Meters and education efforts. The District seeks applications that implement strategies for water conservation efforts that help provide sufficient water resources for users and that protect the environment.

In order to be eligible for the funding, the City must adopt a water conservation ordinance that regulates landscape irrigation and that reflects the District's promotion of resource conservation through new methods, technology and education efforts.

If you have any questions, contact Margaret Momberger or Kent E. Donahue.

**ATTACHMENTS:**  Ordinance  Resolution  Budget Resolution  
 Other  Supporting Documents and Contract

**DEPARTMENT HEAD** Signed \_\_\_\_\_ Date \_\_\_\_\_

**FINANCE DEPARTMENT** Approved as to Budget Requirements \_\_\_\_\_ Date \_\_\_\_\_

**CITY ATTORNEY** *[Signature]* Approved as to Form and Legality \_\_\_\_\_ Date 8.31.10

**CITY MANAGER** *[Signature]* Approved Agenda Item For: 9/7/10

**COUNCIL ACTION:**  Approved as Recommended  Disapproved  
 Tabled Indefinitely  Continued to Date Certain  Approved with Modification

ORDINANCE NO. 2010-25

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA; ADOPTING AND RESTATING ARTICLE VII, WATER CONSERVATION; AMENDING THE CITY OF PORT ORANGE CODE OF ORDINANCES SECTIONS 74-216 THROUGH 74-223, INCLUSIVE; PROVIDING FOR LOCAL IMPLEMENTATION OF THE WATER CONSERVATION RULE FOR LANDSCAPE IRRIGATION OF THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT; PROVIDING FOR THE INTENT AND PURPOSE; DEFINITIONS; LANDSCAPE IRRIGATION SCHEDULES; ADDITIONAL REQUIREMENTS; EXCEPTIONS TO THE LANDSCAPE IRRIGATION SCHEDULES; VARIANCE FROM THE SPECIFIC DAY OF THE WEEK LIMITATIONS; ENFORCEMENT OF THE ORDINANCE; PENALTY FOR VIOLATION OF THE ORDINANCE; REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**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 small landscape irrigation uses, provided that irrigation occurs in accordance with Sections 74-218 and 74-219, subject to the exceptions set forth in Section 74-220; 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 40C-2.042(2)(a), F.A.C.; and

**WHEREAS**, it is the desire of the City Council of the City of Port Orange to adopt such an ordinance in accordance with 40C-2.042(2)(a) and (b), F.A.C.; and

**WHEREAS**, the City Council of the City of Port Orange hereby finds and declares that the adoption of this ordinance is appropriate, and in the public interest of the citizens of this community.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, FLORIDA, as follows:**

**SECTION 1: The City Council of the City of Port Orange hereby adopts, restates and amends Article VII, *Water Conservation*, Sections 74-216 through 74-223, inclusive to read as follows:**

## **ARTICLE VII. WATER CONSERVATION**

### **Sec. 74-216. Intent and Purpose.**

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

### **Sec. 74-217. 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:

*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.

*District* means the St. Johns River Water Management District.

*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, 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 recreational areas such as playgrounds, football, baseball and soccer fields.

*Person* means any person, firm, partnership, association, corporation, company, or organization of any kind.

*Non-residential landscape irrigation* means the irrigation of landscape 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; but does not include irrigation of landscape defined herein as "residential landscape irrigation."

*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.

**Sec. 74-218. Landscape irrigation schedules.**

(a) Landscape Irrigation Schedules (excluding landscape irrigation using reclaimed water; reclaimed water landscape irrigation schedules are contained in Section 74-202).

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 may occur only on Wednesday and 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 Thursday and 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 Friday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

d. No more than  $\frac{3}{4}$  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. When Eastern Standard 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 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  $\frac{3}{4}$  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. All landscape irrigation shall be limited in amount to only that necessary to meet landscape needs.

**Section 74-219. Additional requirements.**

Any person who purchases and installs an automatic landscape irrigation system shall properly install, maintain, and operate the system that inhibits or interrupts operation of the system during periods of sufficient moisture.

**Section 74-220. Exceptions to the Landscape Irrigation Schedules.**

(a) Landscape irrigation shall be subject to the following irrigation schedule exceptions:

1. Irrigation using a 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 necessary for such landscape establishment.
3. Watering in of chemicals, including insecticides, pesticides, fertilizers, fungicides, and herbicides, when required by law, the manufacturer, or 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  $\frac{1}{4}$  inch of water per application except as otherwise required by law, the manufacturer, or best management practices.
4. Irrigation systems may be operated at 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. Avoidance of hours of high evaporation is encouraged.

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

7. The use of water from a reclaimed water system is allowed in accordance with Section 74-202, the reclaimed water system protocol. 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 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.

**Sec. 74-221. Variance from Specific Day of the Week Limitations.**

(a) A variance from the specific landscape irrigation days or day set forth in Section 74-218 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 scheduled days or day 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 two days per week during Daylight Savings Time or more than one day per week during Eastern Standard Time.

(b) All users requesting a variance as set forth in Section 74-221(a) of this article shall file a petition for variance but must conform to the water use restrictions of this article until such variance is granted.

(c) A petition for variance shall be in writing and contain the following:

1. The petitioner's name and address.
2. The specific days or day from which the petitioner is requesting a variance and the specific days or day on which the petitioner is requesting to irrigate.
3. A detailed statement of the facts demonstrating that compliance with the scheduled days or day will result in a substantial economic, health or other hardship on the

applicant requesting the variance or those served by the applicant.

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

**Sec. 74-222. Enforcement.**

(a) The code enforcement officer and police department shall have enforcement responsibility for this article pursuant to all remedies set forth in Chapter 2, Article V of this Code of Ordinances and pursuant to notice to appear pursuant to administrative procedures established for the county courts.

(b) In addition to any other remedies, whether civil or criminal, the city shall, at its discretion, have the right to seek the aid of the courts of the state with respect to the enforcement hereof and the violation of this Code or any lawful order of the city council, code enforcement officer or building official, which rights shall include the right to seek injunctive relief against such persons as may be determined by the city to be in violation of the terms and provisions of this article.

**Sec. 74-223. Penalty.**

A person violating any of the terms, conditions, regulations, limitations or provisions of this Code shall be punished in accordance with Sections 1-8 and 2-224. Each day that any violation of the terms, conditions, regulations, limitations or provisions of this Code shall continue to exist shall constitute a separate and distinct offense, punishable as herein provided in Section 74-222. Any continuing violations of the terms, conditions, regulations, limitations or provisions of this Code may be enjoined and restrained by an injunctive order of the circuit court in appropriate proceedings instituted for such purposes.

**Secs. 74-224--74-240. Reserved.**

**SECTION 2:**

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**SECTION 3:**

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

**SECTION 4:**

This ordinance shall take effect immediately upon adoption.

\_\_\_\_\_  
MAYOR ALLEN GREEN

ATTEST:

\_\_\_\_\_  
Kenneth W. Parker, City Manager

Passed on first reading on the      day of

Passed and adopted on second and final reading on the      day of

Reviewed and Approved:   
City Attorney