

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Public Hearing to adopt a revised Water Conservation Landscape Irrigation Ordinance

DEPARTMENT: Environmental Services

DIVISION: Water and Sewer

AUTHORIZED BY: Joe Forte, Andrew Neff

CONTACT: Debbie Meinert

EXT: 2121

MOTION/RECOMMENDATION:

Approval to adopt a revised water conservation landscape ordinance, as recommended by the St. John's River Water Management District, by amending Seminole County Code Chapter 270, Part 5.

County-wide

Debbie Meinert

BACKGROUND:

This public hearing is to adopt a revised water conservation landscape irrigation ordinance in accordance with changes to the St. Johns River Water Management District Rule 40C-2.042, Florida Administrative Code, applicable to landscape irrigation.

There are two (2) water conservation landscape ordinances for consideration.

The first ordinance is modeled after the St. John's River Water Management District's Model Ordinance, and specifies new watering restrictions to one (1) day per week during the cooler months (Eastern Standard Time). This proposed ordinance also removes reclaimed water restrictions.

The second ordinance is also modeled after the St. John's River Water Management District's Model Ordinance as stated above with the exceptions to include only the unincorporated areas of the County; and also apply reclaimed water restrictions to Seminole County utility customers only. Restrictions on reclaimed water will be year round, and allow only two days a week watering with reclaimed water.

STAFF RECOMMENDATION:

After working with the SJRWMD's staff, Seminole County staff recommends Board adoption of the **second** ordinance per the Consumptive Use Permit #95581, Seminole County Regional Water Supply Facility at Yankee Lake requirements on reclaimed water.

ATTACHMENTS:

1. Economic Impact Statement
2. Ordinance
3. Ordinance

Additionally Reviewed By:

County Attorney Review (Susan Dietrich)

ECONOMIC IMPACT STATEMENT

DATE: July 16, 2009

DEPT./DIVISION: Env. Services

CONTACT PERSON: Debbie Meinert

EXTENSION: 2121

DESCRIBE PROJECT/PROPOSAL:

This ordinance establishes criteria related to landscape irrigation revised watering schedules.

DESCRIBE THE DIRECT ECONOMIC IMPACT OF THE PROJECT/ PROPOSAL UPON THE OPERATION OF THE COUNTY:

Utility operations of the County's Environmental Services Department (ESD) will be impacted as the primary enforcement mechanism of the program. Funds are budgeted for irrigation monitoring for existing ESD customers, and are coordinated through Utilities Division Water Conservation section.

It is not anticipated that effects from the ordinance's implementation will generate any material amount of revenue, as the program is intended to be one of educational awareness.

DESCRIBE THE DIRECT ECONOMIC IMPACT OF THE PROJECT/ PROPOSAL UPON THE PROPERTY OWNERS/TAX PAYERS/CITIZENS WHO ARE EXPECTED TO BE AFFECTED:

The proposed irrigation schedule represents a slight change from current practice. The change impacts water schedules during the period when we are not on Daylight Savings Time. During these generally cooler months irrigation with potable water will be limited to one day per week. To the extent property owners are following watering restrictions, they will not realize any impact fiscally or operationally.

IDENTIFY ANY POTENTIAL INDIRECT ECONOMIC IMPACTS, POSITIVE OR NEGATIVE WHICH MIGHT OCCUR AS A RESULT OF THE PROJECT PROPOSAL:

The intent of the ordinance is to promote efficient water use practices. Water conservation benefits utility customers indirectly through reduced planning and construction expenditures creating additional water capacity.

AN ORDINANCE AMENDING PART 5, CHAPTER 270, SEMINOLE COUNTY CODE; AMENDING SECTION 270.254, "DEFINITIONS"; AMENDING SECTION 270.255, "LANDSCAPE IRRIGATION SCHEDULE"; AMENDING SECTION 270.256, "EXCEPTIONS"; AMENDING SECTION 270.257, "VARIANCES FROM LANDSCAPE IRRIGATION SCHEDULE; CREATING SECTION 270.258, "APPLICATION OF ORDINANCE; RENUMBERING SECTION 270.258, "ENFORCEMENT", TO SECTION 270.259; RENUMBERING SECTION 270.259, "REPEAL", TO SECTION 270.260; RENUMBERING SECTIONS 270.260 - 270.270, "RESERVED", TO SECTIONS 270.261 - 270.270; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, the District amended Rule 40C-2.042, Florida Administrative Code (F.A.C.), the General Consumptive Use Permit by Rule governing the regulation of 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 does not occur more than two (2) days per week during Daylight Savings Time and one (1) day per week during Eastern Standard Time and does not occur between the hours of 10:00 a.m. and 4:00 p.m., subject to certain exceptions and other restrictions as set forth hereinbelow; and

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

WHEREAS, Rule 40C-2.042(2)(b), F.A.C., strongly encourages a local government to adopt an ordinance enforcing 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, the Board of County Commissioners (Board) of Seminole County desires to adopt an ordinance in accordance with Rule 40C-2.042(2)(a) and (b), F.A.C., and the Board finds and declares that said adoption is appropriate and in the public interest of the citizens of the community; and

WHEREAS, Board has evaluated the provisions of the County's regulations relative to a water conservation program, including implementation, water uses, enforcement, exceptions and penalty requirements, and has concluded that certain provisions of the County's Code should be amended to address the Board's concerns pertaining to effective water conservation methods; and

WHEREAS, County compliance with permits issued by and policies of the St. Johns River Water Management District along with demands caused by a growing population have created the need for additional water conservation measures; and

WHEREAS, significant public involvement continues through educational outreach programs informing citizens of the proposed changes to the County Code as set forth in this Ordinance; and

WHEREAS, the provisions of this Ordinance are consistent with the provisions of the Seminole County Comprehensive Plan; and

WHEREAS, the Seminole County Home Rule Charter requires that an Economic Impact Statement be prepared to address the potential impacts and economic costs of this Ordinance upon the public and taxpayers of Seminole County and such Economic Impact Statement has been prepared and made available for such public review and copying prior to the enactment of this Ordinance in accordance with provisions of the Seminole County Home Rule Charter,

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

Section 1. Secs. 270.254 through 270.260, Part 5, Chapter 270, Seminole County Code, are hereby amended to read as follows:

Sec. 270.254. Definitions.

For the purpose of this Part, 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 United States 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) "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.

(d) "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.

(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.

Sec. 270.255. Landscape irrigation schedule.

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

(a) Landscape irrigation at even numbered addresses ~~or no address must~~ may only occur on Thursday and Sunday and must not occur between 10:00 a.m. and 4:00 p.m. ~~daily.~~

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

(c) Non-residential landscape ~~landscape~~ irrigation ~~at commercial addresses must~~ may only occur on Tuesday and Friday and must not occur between 10:00 a.m. and 4:00 p.m. ~~daily.~~

(d) Any person who purchased and installed an automatic lawn sprinkler system after May 1, 1991, shall install, maintain and operate a rain sensor device or switch to override the irrigation cycle of the sprinkler system when adequate rainfall occurs ~~per Section 373.62, Florida Statutes.~~

(e) No more than 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 one (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 even numbered addresses may only occur on Sunday and must not occur between 10:00 a.m. and 4:00 p.m.; and

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

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

(d) No more than 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 one (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.

Sec. 270.256. Exceptions.

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

(a) Irrigation using a micro-spray, micro-jet, drip, or bubbler irrigation system is allowed at any time.

(b) 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.

(c) 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 1/4 inch of water per application except as otherwise required by law, manufacturer, or best management practices.

(d) Irrigation systems may be operated at any time of day on any day for maintenance and repair purposes not to exceed ~~ten~~ twenty (20) minutes per hour per zone.

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

(f) Discharge of water from a ~~water-to-air~~ air conditioning unit or other water-dependent cooling system is not limited.

(g) The use of water from a ~~residential~~ reclaimed water system is allowed anytime shall follow the irrigation schedule as described in Section 270.255. For purposes of this subsection, 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.

(h) 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. 270.257. Variances from landscape irrigation schedule.

A variance from the landscape irrigation schedules set forth in Section 270.255 may be granted by the Department Director or designee if strict application of the landscape irrigation schedule would lead to unreasonable or unfair results in particular instances, provided

that the applicant demonstrates with particularity that compliance with the schedule will result in a substantial economic, health, or other hardship for 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, no single zone may be irrigated more than two (2) days a week during Daylight Savings Time or more than one (1) day per week during Eastern Standard Time.

Sec. 270.58. Application of Ordinance.

The provisions of this Part shall apply to each person located within the County.

Sec. 270.258259. Enforcement.

(a) The Department Director and all employees of the Department shall have the duty and authority to enforce the provisions of this Part and the power to issue written warning notices, and bring complaints to the State Attorney's Office for prosecution.

(b) A violation of this Part shall be classified as a Class I violation as provided in Section 53.31(a).

Sec. 270.259260. Repeal.

All ordinances or parts of ordinances insofar as they are inconsistent or in conflict with the provisions of this Part are repealed to the extent of any conflict.

Secs. 270.260261 - 270.270. Reserved.

Section 4. Codification. It is the intention of the Board that the provisions of this Ordinance shall become and be made a part of

the Seminole County Code, and that the word "ordinance" may be changed to "section", "article", or other appropriate word or phrase and the sections of this Ordinance may be renumbered or relettered to accomplish such intention; providing, however, that Sections 4, 5 and 6 shall not be codified.

Section 5. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board that the invalidity shall not affect other provisions or applications of this 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 6. Effective date. This Ordinance shall take effect upon filing a copy of this Ordinance with the Department of State by the Clerk of the Board of County Commissioners.

ENACTED this _____ day of _____, 2009.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA**

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

BOB DALLARI, Chairman

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

WHEREAS, the District amended Rule 40C-2.042, Florida Administrative Code (F.A.C.), the General Consumptive Use Permit by Rule governing the regulation of 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 does not occur more than two (2) days per week during Daylight Savings Time and one (1) day per week during Eastern Standard Time and does not occur between the hours of 10:00 a.m. and 4:00 p.m., subject to certain exceptions and other restrictions as set forth hereinbelow; and

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WHEREAS, Board has evaluated the provisions of the County's regulations relative to a water conservation program, including implementation, water uses, enforcement, exceptions and penalty requirements, and has concluded that certain provisions of the County's Code should be amended to address the Board's concerns pertaining to effective water conservation methods; and

WHEREAS, County compliance with permits issued by and policies of the St. Johns River Water Management District along with demands caused by a growing population have created the need for additional water conservation measures; and

WHEREAS, County has limited reclaimed water resources and unrestricted reclaimed water use would have a detrimental impact on the County utility system's ability to serve all of its customers as well as compromise the system's operational, disposal and storage abilities; and

WHEREAS, restrictions on the use of reclaimed water for landscape irrigation apply only to County's reclaimed water customers; and

WHEREAS, significant public involvement continues through educational outreach programs informing citizens of the proposed changes to the County Code as set forth in this Ordinance; and

WHEREAS, the provisions of this Ordinance are consistent with the provisions of the Seminole County Comprehensive Plan; and

WHEREAS, the Seminole County Home Rule Charter requires that an Economic Impact Statement be prepared to address the potential impacts and economic costs of this Ordinance upon the public and taxpayers of Seminole County and such Economic Impact Statement has been prepared and made available for such public review and copying prior to the enactment of this Ordinance in accordance with provisions of the Seminole County Home Rule Charter,

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post office box numbers. If a lot number in a mobile home park or similar community is used by the United States 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.

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(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.

Sec. 270.255. Landscape irrigation schedule.

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

(c) Non-residential landscape landscape irrigation at commercial addresses must may only occur on Tuesday and Friday and must not occur between 10:00 a.m. and 4:00 p.m. ~~daily.~~

(d) Any person who purchased and installed an automatic lawn sprinkler system after May 1, 1991, shall install, maintain and operate a rain sensor device or switch to override the irrigation cycle of the sprinkler system when adequate rainfall occurs ~~per Section 373.62, Florida Statutes.~~

(e) No more than 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 one (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 even numbered addresses may only occur on Sunday and must not occur between 10:00 a.m. and 4:00 p.m.; and

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

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

(d) No more than 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 one (1) hour per irrigation zone on each day that irrigation occurs.

(3) Landscape irrigation using water from a Seminole County utility reclaimed water system shall occur only in accordance with the following irrigation schedule:

(a) Landscape irrigation at even numbered addresses may only occur on Thursday and Sunday and must not occur between 10:00 a.m. and 4:00 p.m.

(b) Landscape irrigation at odd numbered addresses or no address may occur only on Wednesday and Saturday and must not occur between 10:00 a.m. and 4:00 p.m.

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

(d) No more than 3/4 inch of reclaimed water may be applied per irrigation zone on each day that irrigation occurs, and in no event shall irrigation occur for more than one hour per irrigation zone on each day that irrigation occurs.

(e) For purposes of this subsection, 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.

(f) The above described schedule shall apply to reclaimed water use year-around.

(4) All landscape irrigation shall be limited in amount to only that necessary to meet landscape needs.

Sec. 270.256. Exceptions.

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

(a) Irrigation using a micro-spray, micro-jet, drip, or bubbler irrigation system is allowed at any time.

(b) 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.

(c) 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 1/4 inch of water per application except as otherwise required by law, manufacturer, or best management practices.

(d) Irrigation systems may be operated at any time of day on any day for maintenance and repair purposes not to exceed ~~ten~~ twenty (20) minutes per hour per zone.

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

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

~~(g) The use of water from a residential reclaimed water system shall follow the irrigation schedule as described in Section 270.255. For purposes of this subsection, 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.~~

(g) 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. 270.257. Variances from landscape irrigation schedule.

A variance from the landscape irrigation schedules set forth in Section 270.255 may be granted by the Department Director or designee if strict application of the landscape irrigation schedule would lead to unreasonable or unfair results in particular instances, provided

that the applicant demonstrates with particularity that compliance with the schedule will result in a substantial economic, health, or other hardship for 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, no single zone may be irrigated more than two (2) days a week during Daylight Savings Time or more than one (1) day per week during Eastern Standard Time.

Sec. 270.258. Application of Ordinance.

The provisions of this Part shall apply to each person located within unincorporated County.

Sec. 270.258259. Enforcement.

(a) The Department Director and all employees of the Department shall have the duty and authority to enforce the provisions of this Part and the power to issue written warning notices, and bring complaints to the State Attorney's Office for prosecution.

(b) A violation of this Part shall be classified as a Class I violation as provided in Section 53.31(a).

Sec. 270.259260. Repeal.

All ordinances or parts of ordinances insofar as they are inconsistent or in conflict with the provisions of this Part are repealed to the extent of any conflict.

Secs. 270.260261 - 270.270. Reserved.

Section 4. Codification. It is the intention of the Board that the provisions of this Ordinance shall become and be made a part of

the Seminole County Code, and that the word "ordinance" may be changed to "section", "article", or other appropriate word or phrase and the sections of this Ordinance may be renumbered or relettered to accomplish such intention; providing, however, that Sections 4, 5 and 6 shall not be codified.

Section 5. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board that the invalidity shall not affect other provisions or applications of this 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 6. Effective date. This Ordinance shall take effect upon filing a copy of this Ordinance with the Department of State by the Clerk of the Board of County Commissioners.

ENACTED this _____ day of _____, 2009.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA**

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

BOB DALLARI, Chairman

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2/17/09, 6/12/09, 6/29/09, 7/13/09
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