

CITY OF OCALA**CITY COUNCIL REPORT**

Council Meeting Date: 04/18/17

Subject: Residential Landscape Irrigation Ordinance

Submitted By: Darryl Muse

Department: Water & Sewer

STAFF RECOMMENDATION (Motion Ready): Adopt Ordinance 2017-46 to limit the amount of potable water being used for irrigation purposes within the City of Ocala

OCALA'S RELEVANT STRATEGIC GOALS: Quality of Place

PROOF OF PUBLICATION:**BACKGROUND:**

Currently, landscape irrigation accounts for more than 50 percent of the total water used at any given residential location.

The St. Johns River Water Management District, along with the Southwest Florida Water Management District, developed a drought indicator that monitors the rainfall levels in Marion County. Over the past 12-month period, and looking further back at the last 24-month period, rainfall levels have been severely abnormal. Therefore, water is being pumped out of the ground faster than it can be replenished and has become a major issue.

The Water Resource Department, in an effort to mitigate this water loss, has revised the irrigation ordinance. This ordinance would limit the amount of potable water being used for irrigation purposes in the City limits.

FINDINGS AND CONCLUSIONS:

The goal of this irrigation ordinance is to:

- Limit the amount of potable water used for landscape irrigation.
- Decrease the demand for ground water resources, thus creating less stress on the Upper Floridan Aquifer and the Silver River Springshed.
- Sustain economic feasibility by preserving City of Ocala groundwater resources.

FISCAL IMPACT:

N/A

PROCUREMENT REVIEW:

N/A

LEGAL REVIEW: The ordinance has been reviewed by the Assistant City Attorney, W. James Gooding.

ALTERNATIVE:

Deny, Table or Direct Staff Otherwise

SUPPORT MATERIALS:

ORDINANCE 2017-46

AN ORDINANCE OF THE CITY OF OCALA, FLORIDA, CONCERNING IRRIGATION; IMPLEMENTING THE LANDSCAPE IRRIGATION RULE ADOPTED BY ST. JOHNS RIVER WATER MANAGEMENT DISTRICT; AMENDING SECTION 118-31 PROVIDING DEFINITIONS BY ADDING DEFINITIONS FOR “ADDRESS,” “PERSON,” “LANDSCAPE IRRIGATION,” “RESIDENTIAL LANDSCAPE IRRIGATION” AND “NON-RESIDENTIAL IRRIGATION”; AMENDING SECTION 118-132 PROVIDING FOR LANDSCAPING AND OPEN SPACE REQUIREMENTS BY REQUIRING COMPLIANCE WITH SECTION 118-138; AMENDING SECTION 118-133 PROVIDING FOR LANDSCAPING, STREETScape AND OPEN SPACE REQUIREMENTS FOR DOWNTOWN COMMUNITY REDEVELOPMENT AREA BY REQUIRING COMPLIANCE WITH SECTION 118-138; ADDING SECTION 118-138 PROVIDING FOR LANDSCAPE IRRIGATION RESTRICTIONS AND REQUIREMENTS, AND PROVIDING FOR PURPOSE, LANDSCAPE IRRIGATION SCHEDULES, EXCEPTIONS TO SCHEDULES, ADDITIONAL REQUIREMENTS, VARIANCES, AND PENALTIES; AMENDING SECTION 2-461 PROVIDING FOR AUTHORITY OF CODE ENFORCEMENT OFFICER BY PROVIDING FOR THE ISSUANCE OF CITATIONS FOR VIOLATIONS OF SECTION 118-138; AMENDING SECTION 2-463 PROVIDING FOR PENALTIES BY ADDING A PENALTY FOR VIOLATIONS OF SECTION 118-138; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL CONFLICTING ORDINANCES; AND PROVIDING 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 3 and 5, subject to the exceptions set forth in Section 4; 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., encourages a local government to adopt an ordinance to enforce Rule 40C-2.042(2)(a), F.A.C., within its jurisdiction; and

WHEREAS, it is the desire of the City Council of Ocala to adopt such an ordinance; and

WHEREAS, the City Council of the Ocala 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 Ocala, Florida as follows:

Section 1. That Section 118-32 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to add the following definitions which shall be codified so that they are in alphabetical order:

Sec. 118-32. 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.

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.

Residential landscape irrigation means the irrigation of landscape associated with any dwelling unit having sanitary and kitchen facilities designed to accommodate one or more residents, including single-family and multi-family units.

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.

Section 2. That Section 118-132 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

Sec. 118-132. Landscaping and open space requirements generally.

The following shall apply to non-residential projects other than those subject to section 118-133:

(1) Landscape/open space plan; minimum landscaped open space. Where a building permit and site plan approval are being sought, the applicant shall submit a general landscape/open space plan in conjunction with the site plan. The minimum landscaped open space for an individual parcel or development, including setbacks, shall be as follows: 12 percent for sites less than 25,000 square feet, 15 percent for sites 25,000 square feet up to one acre, and 20 percent for sites one acre or larger. Open space requirements for the office park (OP) district shall be 25 percent.

(2) Irrigation. Sites one acre or larger in area shall have a properly installed irrigation system to give 100 percent coverage to all landscaped areas through the establishment period.

Landscaped areas on sites smaller than one acre shall have a properly installed irrigation system to give 100 percent coverage of the landscaped area, or use proper planting, maintenance and water conservation measures such as native or drought-tolerant vegetation to ensure the healthy survival of all sod, ground cover, shrubs and trees. A landscape plan shall be submitted with every site plan showing the irrigation system or the alternative use of native or drought-tolerant vegetation. All landscape irrigation shall comply with section 118-138.

Section 3. That Section 118-133 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

Sec. 118-133. Landscaping, streetscape and open space requirements for the downtown community redevelopment area.

(a). Open space requirements for the downtown community redevelopment area are as follows:

(1). The streetscape shall be improved in the public right-of-way adjoining any proposed development. For purposes of this subsection, proposed development means the construction of a new building on a vacant or previously used site requiring a site plan review. The city shall have the right to require the type, quantity and size of streetscape improvements during the site plan review process. The criteria for the improvements shall be based on the city's downtown landscape program. All streetscape improvements throughout the CRA shall require a dripline irrigation system; and

(2). For all new developments in the B-3 district, an area equal to five percent of the

total lot size shall be devoted to an urban open space area; or

(3). In lieu of subsections (a)(1) and (2) of this section, all new developments in the B-3 district will be required to pay a fee to the city. The fee will be used throughout the CRA to create urban open space parks or areas or to upgrade the streetscape program along identified rights-of-way. The fee for each development will be based on one percent of the cost of the proposed development or a maximum of \$5,000.00, whichever is lower.

(b). The minimum landscaped open space for an individual parcel or development in the B-3A, B-3B and B-3C districts shall be as follows: ten percent for sites less than 25,000 square feet, 12 percent for sites 25,000 square feet up to one acre, and 15 percent for sites one acre or larger. Any streetscape improvements in the right-of-way of the proposed development shall be considered as part of the required open space for that particular site. All landscaped areas shall have a properly installed irrigation system to give 100 percent coverage of the landscaped area, or use proper planting, maintenance and water conservation measures such as native or drought-tolerant vegetation to ensure the healthy survival of all sod, ground cover, shrubs and trees. A landscape plan shall be submitted with every site plan showing the irrigation system or the alternate use of native or drought-tolerant vegetation. All landscape irrigation shall comply with section 118-138.

Section 4. That the Code of Ordinances, City of Ocala, Florida, is hereby amended by adding Section 118-138 to read as follows:

Section 118-138. Landscape irrigation restrictions, and requirements.

(a). *Purpose.* It is the purpose and intent of this section to implement procedures that promote water conservation through more efficient landscape irrigation.

(b). *Landscape irrigation schedules and requirements.*

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

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

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.

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.

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 and requirements:

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.

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.

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

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.

(c). *Exceptions to landscape irrigation schedules.* Notwithstanding subsection (b):

(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 after the landscape is planted, 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 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 irrigation 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 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 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.

(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.

(d). *Additional requirement.* Any person who purchases and installs an automatic landscape irrigation system must properly install, maintain, and operate technology that inhibits or interrupts operation of the system during periods of sufficient moisture, such as a rain or moisture sensor device or switch.

(e). *Variances from schedule limitations.*

(1). A variance from landscape irrigation schedule provisions concerning specific days of weeks set forth in subsection (b) may be granted by the water and sewer director if strict application of the 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 on the applicant requesting the variance or those served by the applicant.

(2). 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.

(3). A variance under this subsection (e) is different from a variance under other provisions of this code including, without limitation, division 4 of article II of chapter 122, and the provisions of such other provisions shall not apply to this variance.

(f). *Penalties.*

(1). Except in situations where a citation is issued pursuant to section 2-463 (in which event the provisions of such section shall apply as to the amount of the penalties), violation of any provision of this section shall be subject to the following penalties:

a). First violation - Written warning. Further, no citation shall be issued under

section 2-461 for the first violation.

- b). Second violation - \$100.00.
- c). Subsequent violations - Fine not to exceed \$500.00.

(2). Each day a violation of this section exists shall constitute a separate offense. Enforcement officials shall provide violators with no more than one written warning. In addition to the penalties contained herein, the city may take any other appropriate legal action, including, but not limited to, injunctive action to enforce the provisions of this section.

Section 5. That Section 2-461 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

Sec. 2-461. Authority of code enforcement officer.

(a). Subject to the procedures set forth in section 2-462, a code enforcement officer is authorized to issue a citation to a person when, based on personal investigation, the officer has reasonable cause to believe that the person has violated one of the following provisions of this code of ordinances:

- (1). Section 34-95. Weeds; accumulations of trash or other unsightly or unsanitary matter.
- (2). Section 34-122. Abandoned or derelict vehicles.
- (3). Section 34-201. Littering generally; use of recycling containers; removal of waste generated by contractors, tree trimmers and similar businesses.
- (4). Section 34-202. Distribution of handbills.
- (5). Section 62-62. Tax certificate required.
- (6). Section 110-131. Prohibited signs.
- (7). Section 118-138. Landscape irrigation restrictions, and requirements.
- (8). Section 122-1193. Parking of trailers and commercial vehicles in residential districts; use of trailers for storage purposes.

(b). Designation as a code enforcement officer does not provide the code enforcement officer with the power of arrest or subject the code enforcement officer to the provisions of F.S. §§ 943.085--943.255.

Section 6. That Section 2-463 of the Code of Ordinances, City of Ocala, Florida, is hereby

amended to read as follows:

Sec. 2-463. Penalties.

- (a). A violation of a provision of this code of ordinances listed in section 2-461 is a civil infraction.
- (b). There is established a maximum civil penalty not to exceed \$500.00 per violation.
- (c). If the person elects not to contest the citation, the civil penalty is as follows:

TABLE INSET:

Code Section	First citation	Second citation within 12 months of First citation	Third or subsequent citation within 12 months of First citation
34-95	\$100.00	\$250.00	\$450.00
34-122	\$100.00	\$250.00	\$450.00
34-201	\$100.00	\$250.00	\$450.00
34-202	\$100.00	\$250.00	\$450.00
62-62	\$100.00	\$250.00	\$450.00
110-131	\$100.00	\$250.00	\$450.00
118-138	Written warning	\$100.00	\$250.00
122-1193	\$100.00	\$250.00	\$450.00

(d). In addition to the foregoing, a code enforcement officer shall issue a notice to appear at a hearing conducted by the county court if he has reasonable cause to believe that a person has committed a third or subsequent violation within 12 months of the issuance of the first citation for such violation. A notice to appear means a written order issued by a code enforcement officer in lieu of physical arrest requiring a person accused of violating the law to appear in county court at a specified date and time. If a person issued a notice to appear under this section refuses to sign such notice, the code enforcement officer has no authority to arrest such person.

(e). Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be guilty of a misdemeanor as provided for in F.S. § 162.21.

Section 7. Severability Clause: Should any provision or section of this ordinance be held by a court of competent jurisdiction to be held unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 8. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 9. This ordinance shall take effect upon approval by the mayor, or upon becoming law without such approval.

ATTEST:

CITY OF OCALA

By: _____
Angel B. Jacobs
City Clerk

By: _____
Brent R. Malever
President, Ocala City Council

Approved/Denied by me as Mayor of the City of Ocala, Florida, on _____, 2017.

By: _____
Reuben Kent Guinn
Mayor

Approved as to form and legality:

By: _____
Patrick G. Gilligan
City Attorney

Ordinance No: 2017-46
Adopted: 4/18/2017
Legal Ad No: