

ORDINANCE 19 - 11

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF PORT ST. LUCIE BY AMENDING TITLE VI – PUBLIC UTILITIES, CHAPTER 65 – WATER SYSTEM USER RULES, BY AMENDING SECTION 65.01 “TITLE”, SECTION 65.02 “COUNCIL FINDINGS”, SECTION 65.05 “AUTHORIZATION OF CITY MANAGER”, SECTION 65.06 “WATER USE RESTRICTIONS”, SECTION 65.07 “PENALTIES; ENFORCEMENT” AND SECTION 65.08 “RESERVED”; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, SFWMD has amended Chapter 40E-24, F.A.C., requiring year-round water conservation for landscape irrigation; 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 users under Chapters 40E-2 and 40E-20, 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 a local government may adopt an ordinance to locally enforce year-round landscape irrigation conservation measures; and

WHEREAS, it is the desire of the City Council of the City of Port St. Lucie to adopt such an ordinance by amending existing Chapter 65 “Water System User Rules” of the City’s Code; and

WHEREAS, the City’s existing ordinance already addresses Chapter 40E-21, F.A.C., which is SFWMD’s administrative code provision on its water shortage plan; and

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

NOW, THEREFORE, THE CITY OF PORT ST. LUCIE HEREBY ORDAINS:

Section 1. Section 65.01 (Title) of Chapter 65 (Water System User Rules) of Title VI (Public Utilities) of the Code of Ordinances of the City of Port St. Lucie is amended as follows:

Sec. 65.01. - Title.

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This chapter shall be known and shall be cited as the Port St. Lucie Water System User Rules.

Section 2. Section 65.02. (Council findings) of Chapter 65 (Water System User Rules) of Title VI (Public Utilities) of the Code of Ordinances of the City of Port St. Lucie is amended as follows:

Sec. 65.02. - Council findings.

- (a) The City desires to comply with the conditions imposed by South Florida Water Management District ~~in its Water Use Permit.~~
- (b) This chapter is enacted pursuant to all general and special law authority of the City for providing the necessary regulations for the use of water in the interest of the public health, safety, and welfare. This chapter shall apply and be enforced in all areas of the City and to persons who are, by contract or agreement with the City, users of the water system, regardless of their residency.
- (c) Water is a precious resource and a water conservation plan is necessary to:
 - 1. prevent over utilization during periods of water shortages of water under any and all climactic or weather scenarios, both short term and long, including during periods of water shortage as may be declared by the South Florida Water Management District.
 - 2. ~~and to allocate~~ distribute available water supplies.
 - 3. ensure implementation of procedures that promote water conservation throughout the year through the efficient irrigation of landscape.
- (d) ~~Conservation of water during water shortages will protect the water resources of the City from harm; will ensure equitable distribution of available water resources among all water users during times of shortage; and will provide advance knowledge of the means by which water apportionments and reductions will be made during times of shortage.~~
- (d) Mandatory conservation measures for landscape irrigation are intended to provide a framework for consistent implementation to ensure the long-term sustainability of the water resources of the region, increase water use efficiency and prevent and curtail wasteful water use practices through regulatory means for landscape irrigation by all users.

Section 3. Section 65.05. (Authorization of City Manager) of Chapter 65 (Water System User Rules) of Title VI (Public Utilities) of the Code of Ordinances of the City of Port St. Lucie is amended as follows:

Sec. 65.05. - Authorization of City Manager.

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- (a) Upon determination that a water shortage or water shortage emergency exists, the City Manager has the authority to administer, implement, and enforce certain restrictions on the use of water, including but not limited to, any and all limitations imposed by the South Florida Water Management District or the City as may be modified from time to time, including but not limited to those restrictions imposed by Florida Administrative Code, Chapter 40E-21 and Section 65.06 of this Chapter. ~~the City Manager shall be authorized to administer, implement, and enforce water use restrictions for certain nonessential purposes, including but not limited to those purposes listed in Section 65.06.~~
- (b) The City Manager shall be authorized to administer, implement, and enforce the water conservation measures for landscape irrigation, including but not limited to those restrictions imposed by Florida Administrative Code, Chapter 40E-24 and Section 65.07 of this Chapter.
- (c) In enforcing the restrictions, the City Manager is authorized to utilize the enforcement mechanisms ~~impose penalties as~~ set forth in Section 65.087 of this Chapter.
- (d) The City Manager may delegate administration, implementation, and enforcement responsibility of this section to agencies and departments of the City government in accordance with state and local law.

Section 4. Section 65.06. (Water use restrictions) of Chapter 65 (Water System User Rules) of Title VI (Public Utilities) of the Code of Ordinances of the City of Port St. Lucie is amended as follows:

Sec. 65.06. - Water use restrictions and declaration of water shortage or water shortage emergency.

- (a) This section establishes limitations and restrictions on the quantity and use of water during water shortages and water shortage emergencies. The specific limitations set forth herein and other restrictions and limitations of this chapter are subject to change when necessary, to enable the City to provide for efficient water conservation.
- (b) ~~The City Manager has the authority to administer, implement, and enforce certain restrictions on the use of water, including but not limited to, any and all limitations imposed by SFWMD or the City as may be modified from time to time, including but not limited to those restrictions imposed by Florida Administrative Code, Chapter 40E-21.~~
- (b) The declaration of water shortage condition and/or water shortage emergency within all or parts of the City by the Governing Board or Executive Director of the District shall invoke the provisions of this Section. Upon such Declaration, all water use restrictions or other measures adopted by the District applicable to the City, or any portion thereof, shall be subject to enforcement action pursuant to this Section 65.08 of this Chapter. Any

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violation of the provisions of Chapter 40E-21, F.A.C., or any order issued pursuant thereto, shall be a violation of this Section.

Section 5. Section 65.07. (Penalties; Enforcement) of Chapter 65 (Water System User Rules) of Title VI (Public Utilities) of the Code of Ordinances of the City of Port St. Lucie is amended as follows:

Sec. 65.07. Penalties; Enforcement. Water Conservation for Landscape Irrigation.

~~(a) Any person who violates any provision of Section 65.06 shall be subject to prosecution. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.~~

~~(b) In addition to the penalties provided in subsection (a) above, the provisions of Section 65.05 may be enforced by appropriate action or proceeding in a court of competent jurisdiction in order to prevent or abate violations of the above referenced section or by any other enforcement proceedings allowed by law, including but not limited to emergency injunctive relief.~~

~~(c) In addition to any other penalties or enforcement actions provided herein, the provisions of this chapter may further be enforced by proceedings brought before Port St. Lucie's Code Compliance Special Magistrate or by the issue and prosecution of a citation, as provided by law or ordinance.~~

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

(b) Definitions. For the purpose of this Section the following terms, phrases, words, and their derivatives shall have the meaning given herein.

1. "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".

2. "Athletic play area" means all golf course fairways, tees, roughs, and greens, and other athletic play surfaces, including football, baseball, soccer, polo, tennis and lawn bowling fields, and rodeo, equestrian and livestock arenas.

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3. “Consumptive Use Permit (CUP)” means a permit issued pursuant to Chapter 40E-2 or 40E-20, F.A.C., authorizing the consumptive use of water.
4. “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.
5. “Existing Landscaping” means any landscaping which has been planted and in the ground for more than ninety (90) days.
6. “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 as defined in subsection 40E-24.101(2), F.A.C.
7. “Low Volume Hand Watering” means the watering of landscape by one person, with one hose fitted with a self-canceling or automatic shutoff nozzle.
8. “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.
9. “Landscape Irrigation” means the outside watering of shrubbery, trees, lawns, grass, ground covers, plants, vines, ornamental gardens, and such other flora, not intended for resale, which are planted and 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 as defined in subsection 40E-24.101(2), F.A.C.
10. “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 micro-spray, and subsurface irrigation.
11. “New Landscaping” means any landscaping which has been planted in the ground for ninety (90) days or less.
12. Odd Numbered Addresses” means an address ending in the numbers 1, 3, 5, 7, 9, or the letters N-Z.

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13. “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 in Rule 62-40.210, F.A.C.
14. “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 other 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 or 40E-20, F.A.C., or uses from individual wells or pumps.
15. “Wasteful and unnecessary” 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; allowing water flow through a broken or malfunctioning water delivery or landscape irrigation system.

(c) Year-Round Landscape Irrigation Restrictions.

1. The City hereby adopts the rules of the South Florida Water Management District, Chapter 40E-24.201(1)-(6), F.A.C., and subsequent additions or corrections thereto, and which are set out as follows:
 - i. It shall be the duty of each user to keep informed as to the landscape irrigation conservation measures presented within this Section, which affect each particular water use.
 - ii. In addition to the specific conservation measures enumerated below, all wasteful and unnecessary water use as defined in Section 65.07(b)15 of this Chapter, is prohibited.
 - iii. The following requirements or exceptions 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:

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- (1) 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 also allowable without regard to the normal allowable watering dates and times.
- (2) The ninety (90) day period begins the day the new landscaping is installed. The new landscaping shall be installed with a dated receipt or invoice.
- (3) 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/or Sunday.
- (4) 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/or Saturday.
- (5) Irrigation of the 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:

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(1) 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

(2) Such watering-in shall be accomplished during normally allowable watering days and times set forth in Sections 65.07(c)1iii.b and 65.07(c)1iii.f of this Chapter, 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.

f. Irrigation of existing landscaping shall comply with the following provisions:

(1) 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 as defined in Section 65.07(b)4 of this Chapter shall have the opportunity to accomplish necessary landscape irrigation only on Tuesday, Thursday and Sunday.

(2) Odd addresses as defined in Section 65.07(b)12 of this Chapter can accomplish necessary landscape irrigation only on Monday, Wednesday and Saturday.

2. In the absence of a declaration of a water shortage condition or water shortage emergency within all or any part of the City by the Governing Board or Executive Director of the District, the landscape irrigation restrictions contained herein, or other measures adopted for the City or any portion thereof shall be subject to enforcement action pursuant to Section 65.08 of this Chapter.

(d) Variances.

1. Application. A request for a variance from Section 65.07 of this Chapter shall be submitted to the Director of the Utility Systems Department. A variance from specific day or days identified in Section 65.07(c) of this Chapter may be granted if strict application of the restrictions 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 substantial economic, health, or other

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hardship on the applicant requiring a variance or those served by the applicant. However, no single zone may be irrigated more than three days per week.

2. Appeal. A decision of the Director of the Utility Systems Department to deny or approve a request for variance may be appealed by an affected party with standing to the City Council within 15 days of the date of the written decision by the Director of the Utility Systems Department; provided, that written notice of the appeal shall be filed with the City Clerk within that period of time. Appeals shall be decided on the evidence presented by the applicant and the Director of the Utility Systems Department. Any interested person shall have the right to submit oral or written testimony at the hearing. All testimony and exhibits submitted at the hearing, including the application of appeal shall become part of the record of the appeal. Evidence which is immaterial, irrelevant, or unduly repetitious may be excluded. Appeal hearings may be adjourned from time to time to dates established by public announcement at those hearings and shall be the earliest practical date for resumption of the hearings.

3. Recognition of District Variances. The City hereby recognizes any and all variances issued by the South Florida Water Management District

(e) Application of Ordinance. The provisions of this Ordinance shall apply to each user within the boundaries of the City service area.

Section 6. Section 65.08. (Reserved) of Chapter 65 (Water System User Rules) of Title VI (Public Utilities) of the Code of Ordinances of the City of Port St. Lucie is amended as follows:

Sec. 65.08 – ~~Reserved.~~ Enforcement.

(a) 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 delegate enforcement responsibility for this Ordinance to agencies and departments of City government, including but not limited to code enforcement officers.

(b) The City may enforce the provisions of Section 65.06 or Section 65.07 of this Chapter by any means available to the City under the Code of Ordinance, state law or other applicable law, including but not limited to, Chapter 37, Code of Ordinances, and Chapter 162, Florida Statutes. The consequences for violation of this Chapter shall be as set forth in the code enforcement method asserted by the City under the Code of Ordinances or as may be available under state law, including but not limited to, Chapter 36, Code of Ordinances, and Chapter 162, Florida Statutes.

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(c) Each day in violation of this Chapter shall constitute a separate offense. Law enforcement officials and others as delegated may provide violators with no more than one written warning. In addition to the civil enforcement mechanisms provided herein, the City may take any other appropriate legal action.

Section 7. Conflict. If any ordinances, or parts of ordinances, or if any sections, or parts of sections, of the Code of Ordinances of the City of Port St. Lucie, Florida, are in conflict herewith, this Ordinance shall control to the extent of the conflicting provisions.

Section 8. Severability. The provisions of this Ordinance are intended to be severable. If any provision of this Ordinance is determined to be void or is declared illegal, invalid, or unconstitutional by a Court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 9. Codification. It is the intention of the City Council of the City of Port St. Lucie, and it is hereby ordained, that the provisions of this Ordinance shall become and made a part of the Code of Ordinances of the City of Port St. Lucie, Florida, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and the word "ordinance" may be changed to "Section" or other appropriate word as may be necessary.

Section 10. Effective Date. This Ordinance shall become effective ten (10) days after final adoption on second reading.

PASSED AND APPROVED by the City Council of the City of Port St. Lucie, Florida, this ____ day of _____, 2019.

CITY COUNCIL
CITY OF PORT ST. LUCIE, FLORIDA

By: _____
Gregory J. Oravec, Mayor

ATTEST:

Karen A. Phillips, City Clerk

APPROVED AS TO FORM:

By: _____
James D. Stokes
Interim City Attorney

CHAPTER 40E-24

MANDATORY YEAR-ROUND LANDSCAPE IRRIGATION MEASURES CONSERVATION MEASURES

- 40E-24.011 Policy and Purpose
- 40E-24.101 Definitions
- 40E-24.201 Year-Round Landscape Irrigation Conservation Measures
- 40E-24.301 Local Government Option
- 40E-24.401 Enforcement
- 40E-24.501 Variances and Waivers

40E-24.011 Policy and Purpose.

(1) This chapter comprises the Mandatory Year-Round Landscape Irrigation Conservation Measures within the boundaries of the South Florida Water Management District (District). These mandatory conservation measures are intended to provide a framework for consistent implementation to ensure the long-term sustainability of the water resources of the region, increase water use efficiency and prevent and curtail wasteful water use practices through regulatory means for landscape irrigation by all users. Water savings achieved by public and private water supply utilities through conservation may be used to extend the availability of all water sources to meet future demands and defer the need for additional capital investment in alternative water supplies, subject to compliance with Chapter 40E-2, F.A.C. Local governments are encouraged to implement these conservation measures through the adoption of ordinances that would include these measures, variance and enforcement provisions. These measures are in addition to the Chapter 40E-2, F.A.C., provisions and non-regulatory measures, such as education and incentive programs, which are also utilized by the District to promote water conservation. These conservation measures prohibit landscape irrigation during those periods of the day when irrigation efficiency significantly decreases, and limit landscape irrigation water use to two days per week except as specified herein. Users are encouraged to apply no more than 3/4-inch to 1-inch of water per week on their lawns and landscapes and only as needed to supplement rainfall. However, provisions have been made in this chapter to allow landscape irrigation three days per week in designated counties to address utility operational, health, and safety and landscape concerns.

(2) This chapter applies to all water users unless specified otherwise herein.

(3) This chapter only applies to landscape irrigation as defined herein. This chapter does not apply to agricultural irrigation.

(4) In concert with the establishment of the year round landscape irrigation conservation measures of this chapter, the District commits to the following activities:

(a) Coordinate with stakeholders to develop and implement a water conservation partnership plan to further promote conservation and efficient use of water;

(b) On at least an annual basis, evaluate the implementation and effectiveness of the District's water conservation partnership plan; and,

(c) No later than five years from the effective date of this chapter, District staff shall provide the Governing Board with recommendations based on a comprehensive evaluation of this chapter and its implementation. The Governing Board may revise this chapter at any time, as it deems appropriate.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.042, 373.0421, 373.171, 373.219, 373.223, 373.227 FS. History—New 6-12-03, Amended 3-15-10, 7-14-14.

40E-24.101 Definitions.

When used in this chapter:

(1) "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".

(2) "Athletic play area" means all golf course fairways, tees, roughs, and greens, and other athletic play surfaces; including, football, baseball, soccer, polo, tennis and lawn bowling fields, and rodeo, equestrian and livestock arenas.

(3) "Consumptive Use Permit (CUP)" means a permit issued pursuant to Chapter 40E-2, F.A.C., authorizing the consumptive use of water.

(4) "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.

(5) "Existing landscaping" means any landscaping which has been planted and in the ground for more than ninety (90) days.

(6) "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 as defined in subsection 40E-24.101(2), F.A.C.

(7) "Low Volume Hand Watering" means the watering of landscape by one person, with one hose fitted with a self-canceling or automatic shutoff nozzle.

(8) "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.

(9) "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 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 as defined in subsection 40E-24.101(2), F.A.C.

(10) "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.

(11) "New landscaping" means any landscaping which has been planted and in the ground for ninety (90) days or less.

(12) "Odd Numbered Address" means an address ending in the numbers 1, 3, 5, 7, 9 or the letters N-Z.

(13) "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.

(14) "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.

(15) "Wasteful and unnecessary" 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; allowing water flow through a broken or malfunctioning water delivery or landscape irrigation system.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.042, 373.0421, 373.171, 373.219, 373.223, 373.227 FS. History--New 6-12-03, Amended 3-15-10, 7-14-14.

40E-24.201 Year-Round Landscape Irrigation Conservation Measures.

(1) The year-round landscape irrigation conservation measures contained in this chapter are applicable 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., unless indicated otherwise herein. 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 as defined in subsection 40E-24.101(15), F.A.C., is prohibited.

(5) The following requirements or exceptions 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:

1. 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 also allowable without regard to the normal allowable watering days and times.

2. The ninety (90) day period begins 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.

3. 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.

4. 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.

5. Irrigation of the 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:

1. 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

2. Such watering-in shall be accomplished during normally allowable watering days and times set forth in paragraph (5)(a), subsections (6) and (7) 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) Except as authorized in subsection (7), below, 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 as defined in subsection 40E-24.101(4), F.A.C., shall have the opportunity to accomplish necessary landscape irrigation only on Thursday and Sunday.

(b) Odd addresses as defined in subsection 40E-24.101(12), F.A.C., shall have the opportunity to accomplish necessary landscape irrigation only on Wednesday and Saturday.

(7) Users located in Broward, Collier, Glades, Hendry, Lee, Martin, Miami-Dade, Monroe, Palm Beach, and St. Lucie counties shall irrigate existing landscaping in accordance with the provisions set forth in subsection (6), above, or as provided below.

(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 as defined in subsection 40E-24.101(4), F.A.C., shall have the opportunity to accomplish necessary landscape irrigation only on Tuesday, Thursday and Sunday.

(b) Odd addresses as defined in subsection 40E-24.101(12), F.A.C., shall have the opportunity to accomplish necessary landscape irrigation only on Monday, Wednesday and Saturday.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.042, 373.0421, 373.171, 373.219, 373.223, 373.227 FS. History—New 6-12-03, Amended 3-15-10, 7-14-14.

40E-24.301 Local Government Option.

(1) Local governments that wish to enforce alternative landscape irrigation conservation measures, shall be considered to be in substantial compliance with this rule upon the enactment of an ordinance establishing landscape irrigation measures which achieve water conservation consistent with the number of days and times for landscape irrigation set forth in subsections 40E-24.201(5)-(7), F.A.C. Such ordinance shall provide for variance and enforcement procedures that do not diminish the effectiveness of the measures.

(2) Local governments with a jurisdiction divided between the South Florida Water Management District and another water management district may enact an ordinance providing for alternative landscape irrigation

conservation measures as necessary for the local government to achieve a uniform schedule within its jurisdiction that is in accordance with at least one of the involved water management district rules.

(3) At least thirty (30) days prior to the adoption of an ordinance for alternative landscape irrigation conservation measures, the local government shall submit the proposed ordinance to the District.

(4) In order to evaluate the effectiveness of the alternative conservation measures, such local governments shall provide an annual report to the District which includes any variances granted or denied, enforcement actions taken and any measures proposed to be amended in the next reporting period. Each annual report shall be submitted to the District no later than September 30th of each year following the adoption of this chapter.

(5) Users within the jurisdiction or customers of such local governments shall comply with the alternative landscape irrigation conservation measures contained within the ordinance implementing that program and are not subject to the measures contained in subsections 40E-24.201(5)-(7), F.A.C.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.042, 373.0421, 373.171, 373.219, 373.223, 373.227, 373.609 FS. History--New 6-12-03, Amended 3-15-10.

40E-24.401 Enforcement.

(1) As required by Section 373.609, F.S., each county and city commission, state and county attorney, sheriff, police officer and other appropriate local government official in the region covered by this chapter which is not implementing alternative landscape irrigation conservation measures pursuant to a local government ordinance, shall respond to address-specific or location-specific violations of this chapter upon request from the District.

(2) A local government is strongly encouraged to enforce Rule 40E-24.201, F.A.C., within its jurisdiction by adopting an ordinance that incorporates the provisions set forth in Rule 40E-24.201, F.A.C. At least thirty (30) days prior to the adoption of an ordinance to enforce Rule 40E-24.201, F.A.C., the local government shall submit the proposed ordinance to the District.

(3) In enforcing the provisions of this chapter the District will utilize any of the enforcement remedies available pursuant to Chapter 120 or 373, F.S., or applicable District rule. The Executive Director may take appropriate action pursuant to Sections 373.119, 373.175(4), 373.246(7) and 120.69, F.S., to enforce the provisions of this chapter.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.119, 373.171, 373.175(4), 373.219, 373.227, 373.246(7), 373.603, 373.609 FS. History--New 6-12-03, Amended 3-15-10.

40E-24.501 Variances and Waivers.

(1) Users may request relief from the provisions of this chapter by filing a petition for variance or waiver pursuant to Section 120.542, F.S. and Chapter 28-104, F.A.C. Examples of circumstances, which, subject to the above-referenced statute and rule and the provisions below, may be candidates for the issuance of a variance, include but are not limited to:

(a) Two or more properties which share a common source of water;

(b) A public or private water system experiencing, or anticipating distribution problems that cannot be addressed through Rule 40E-24.301, F.A.C.:

(c) User maintains an irrigation system that uses soil moisture sensors with remote monitoring and adjustment capabilities that satisfies the requirements set forth in Section 373.62(7), F.S.

(2) 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.

(3) Where a local government has adopted an ordinance incorporating the provisions set forth in Rule 40E-24.201, F.A.C., or alternative landscape irrigation measures pursuant to Rule 40E-24.301, F.A.C., the local government may grant a variance from the specific day or days for landscape irrigation identified in the

ordinance, or the specific day or days for landscape irrigation identified in the ordinance adopting the alternative landscape irrigation measures, provided that 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. If granted, the applicant shall be required to post a notice at each parcel to which the variance pertains.

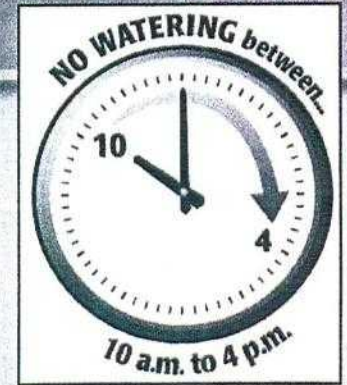
Rulemaking Authority 120.542, 373.044, 373.113, 373.171 FS. Law Implemented 120.542, 373.119, 373.171, 373.175(4), 373.219, 373.227, 373.246(7), 373.603, 373.609 FS. History—New 3-15-10.

SFWMD 3-Day-A-Week Watering

WATERING DAYS AND TIMES

IF YOUR HOME ADDRESS ENDS IN..

		1, 3, 5, 7, 9	0, 2, 4, 6, 8
Monday	Before 10 am	✓	
	After 4 pm		✓
Tuesday	Before 10 am		✓
	After 4 pm		✓
Wednesday	Before 10 am	✓	
	After 4 pm		✓
Thursday	Before 10 am		✓
	After 4 pm		✓
Saturday	Before 10 am	✓	
	After 4 pm		✓
Sunday	Before 10 am		✓
	After 4 pm		✓



For more information, please read [FYI: Year-Round Landscape Irrigation Rule](#).

CONSERVE



PORT ST. LUCIE CITY COUNCIL AGENDA ITEM SUMMARY

Meeting Date: February 11, 2019

Agenda Item #: 10A

PLACEMENT: First Reading of Ordinances / Public Hearing

ACTION REQUESTED: Motion / Vote

ADOPT ORDINANCE RELATED TO SOUTH FLORIDA WATER MANAGEMENT DISTRICT'S (SFMWD) REQUIREMENT FOR YEAR-ROUND WATER CONSERVATION FOR LANDSCAPE IRRIGATION

SUBMITTED BY: Brad Macek, Utility Systems Director

STRATEGIC PLAN LINK: The City's Vision to preserve unique natural resources including the St. Lucie River.

EXECUTIVE SUMMARY (General Business): Ordinance 19-11 clarifies and strengthens existing language in the Chapter 65 of the City's Code of Ordinances with regards to SFWMD's year-round water use restrictions and landscape irrigation.

PRESENTATION INFORMATION: N/A

STAFF RECOMMENDATION: Move that the Council adopt Ordinance 19-11

ALTERNATE RECOMMENDATIONS:

1. Move that the Council amend the recommendation and complete a motion in the affirmative
2. Move that the Council provide staff direction

BACKGROUND: Florida Administrative Code (FAC) 40E-24 governs year-round landscape irrigation conservation measures that apply to all permitted water users. The Utility Systems Dept. (USD) falls into the category of a permitted user based on our SFWMD issued consumptive use permit that allows us to withdraw raw water from local shallow and Floridan aquifers for later treatment and distribution to our more than 73,000 customers.

The USD's water customers and any City residents utilizing private wells for irrigation must also comply with the 40E-24 regulations and restrictions. Current irrigation restrictions allow St. Lucie County residents to irrigate three days a week based on odd/even addresses; however, irrigation is prohibited between 10:00 a.m. and 4:00 p.m. other than for new landscaping installed within the last 90 days. It should be noted that these restrictions are not new.

What is new? During the review/approval of the USD's Water Supply Facility Work Plan Update, SFWMD noted that the City's existing codes pertaining to water use restrictions did not sufficiently align with FAC 40E-24 and that they needed to be amended to more specifically mirror restrictions outlined in FAC 40E-24; establish language related to a City variance and appeal process; and strengthen language related to enforcement. Those concerns are addressed in Ordinance 19-11.

ISSUES/ANALYSIS: Ordinance 19-11 will become a companion exhibit to the large scale comprehensive text amendment (Infrastructure Element) that incorporates the USD's Water Supply Facility Work Plan Update into the City's Comprehensive Plan (P17-201).

FINANCIAL INFORMATION: N/A


SPECIAL CONSIDERATION: Ordinance 19-11 needs to be timely adopted so that it can be attached to and incorporated by exhibit reference into the above note Comprehensive Plan Amendment.

LOCATION OF PROJECT: N/A

ATTACHMENTS: Ordinance 19-11; FAC 40E-24; and a SFWMD 3-Day-A-Week Watering chart

NOTE: All of the listed items in the "Attachment" section above are in the custody of the City Clerk. Any item(s) not provided in City Council packets are available upon request from the City Clerk.


LEGAL SUFFICIENCY REVIEW:

Reviewed by Elizabeth Hertz, Deputy City Attorney. Approved as to Legal form and sufficiency by James D. Stokes, Interim City Attorney. 


ROUTING:

1. Department requesting Agenda Item: Utility Systems Department

APPROVAL(S):

2. Department preparing Agenda Item: Utility Systems Director Brad Macek 

3. Secondary Department Approval:

4. City Manager's Office: Jesus Merejo, Assistant City Manager 

5. City Manager's Office:

6. City Manager: Russ Blackburn 