


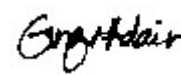


Date: 01/18/2022		AGENDA ITEM				Item: 08	
<input checked="" type="checkbox"/> Ordinance		<input type="checkbox"/> Resolution		<input type="checkbox"/> Budget Resolution		<input type="checkbox"/> Other	
County Goals							
<input type="checkbox"/>	Thriving Communities	<input type="checkbox"/>	Economic & Financial Vitality	<input checked="" type="checkbox"/>	Excellence In Government	<input type="checkbox"/>	NA
Department: Growth And Resource Management							
Division: Environmental Management							
Subject: Ordinance 2022-7, providing an amendment of Chapter 50, Code of Ordinances, titled "Water Conservation," to bring the County's water conservation restrictions into compliance with those mandated by the St. Johns Water Management District.							
Clay Ervin Director Growth and Resource Management  Department Approval				Legal Christopher Ryan Assistant County Attorney  Approved as to Form and Legality		County Manager's Office Ryan Ossowski Chief Financial Officer 	
Ginger Adair Director Environmental Services  Division Approval							
Council Action:							
Modification:							
Account Number(s): NA							
Total Item Budget: NA							
Staff Contact(s):				Phone:		Ext.	
Clay Ervin				386 822 5013		12000	
Ginger Adair				386 736 5927		12059	
Summary/Highlights:							
<p>Chapter 50, Division 8, of the Volusia County Code of Ordinances regulates water conservation including the days and times landscape irrigation may take place. The St. Johns Water Management District (District) maintains exclusive authority under Chapter 373, Florida Statutes for regulating the consumptive use of water. The county's ordinance, which was last amended in 2000, is not consistent with the District's landscape irrigation ordinance. Since cooperative funding from the District now relies on a local government having a landscape irrigation ordinance that is consistent with the district ordinance, staff is proposing the attached amendments. Specifically, the District has requested that our ordinance be modified to delete Section 50-313, Declaration of water shortage, and other sections that pertain to any local designation of a water shortage.</p> <p>In addition to changes requested by the District, staff is requesting to modify the procedure for</p>							

a variance from the landscape irrigation days or times so that the county manager or designee can review and issue the variance, rather than requiring council action. A variance can only be approved to modify the days of the week for irrigation, but not to increase the total amount of time for watering.

Staff distributed a draft of this ordinance to community stakeholders include all cities, VCARD, and local environmental groups requesting feedback. No concerns were received.

Recommended Motion: Approval.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

ORDINANCE 2022 - 7

AN ORDINANCE OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, RELATING TO WATER CONSERVATION WITHIN THE JURISDICTION OF THE COUNTY; AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 50, SECTION 50-311, DEFINITIONS; AMENDING CHAPTER 50, SECTION 50-312, VARIANCES; AMENDING CHAPTER 50, SECTION 50-313; DECLARATION OF WATER SHORTAGE; AMENDING CHAPTER 50, SECTION 50-314, LANDSCAPE IRRIGATION SCHEDULES; AMENDING CHAPTER 50, SECTION 50-315, GENERAL RESTRICTIONS ON WATER USE; AMENDING CHAPTER 50, SECTION 50-316, EXCEPTIONS; AMENDING CHAPTER 50, SECTION 50-317, VIOLATIONS, DECLARATION; REMOVING DEFINITIONS THAT WILL NO LONGER APPEAR IN DIVISION 8, WATER CONSERVATION; AMENDING THE VARIANCE PROCEDURE REGARDING COMPLIANCE WITH IRRIGATION RESTRICTIONS; AMENDING THE LANGUAGE OF THE COUNTY'S WATER CONSERVATION LANGUAGE TO BRING IT INTO CONFORMITY WITH THE MODEL WATER CONSERVATION ORDINANCE PROMULGATED BY THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR SEVERANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

30 **WHEREAS**, the St. Johns River Water Management District has responsibility and
31 exclusive authority under Chapter 373, Florida Statutes, for regulating the consumptive
32 use of water; and
33

34 **WHEREAS**, the St. Johns River Water Management District has amended Rule 40C-
35 2.042, F.A.C., its General Consumptive Use Permit by Rule that regulates small
36 irrigation uses below consumptive use permit thresholds in Rule 40C-2.041(1), F.A.C.;
37 and
38

39 **WHEREAS**, Rule 40C-2.042(2)(a), F.A.C., grants a general permit to each person
40 located within the District to use, withdraw or divert water for small landscape irrigation
41 uses, provided that irrigation occurs in accordance with Sections 3 and 5, subject to the
42 exceptions set forth in Section 4; and
43

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

4
5 **WHEREAS**, Rule 40C-2.042(2)(b), F.A.C., strongly encourages a local government to
6 adopt an ordinance to enforce Rule 40C-2.042(2)(a), F.A.C., within its jurisdiction by
7 adopting a landscape irrigation ordinance that incorporates each of the provisions set
8 forth in Rule 40C-2.042(2)(a), F.A.C.; and

9
10 **WHEREAS**, it is the desire of the County Council of Volusia County to adopt such an
11 ordinance in accordance with 40C-2.042(2)(a) and (b), F.A.C.; and

12
13 **WHEREAS**, the County Council of Volusia County hereby finds and declares that the
14 adoption of this ordinance is appropriate, and in the public interest of the citizens of this
15 community.

16
17 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF VOLUSIA**
18 **COUNTY, FLORIDA AS FOLLOWS:**

19
20 **(Words in strike through type are deletions; words in underscore type are**
21 **additions.)**

22
23 **SECTION I. AMENDMENT** – Chapter 50, Sections 50-311 through 50-317 are
24 hereby amended to read as follows:

25
26 Sec. 50-311. - Definitions.

27 For the purpose of this division, the following words shall be defined as provided in
28 section 50-71:

29 ~~Agricultural use.~~
30 Automatic system.
31 District.
32 Even numbered address.
33 ~~Heating and air conditioning use.~~
34 Landscape irrigation use.
35 ~~Local government.~~
36 ~~Low volume hand watering.~~
37 ~~Low volume irrigation.~~
38 ~~Low volume pressure cleaning.~~
39 ~~Manual system.~~
40 ~~Mobile equipment.~~
41 ~~Municipality.~~
42 Odd numbered address.
43 Reclaimed water.
44 ~~Reuse.~~
45 ~~User.~~

1 Water conservation.
2 Water shortage.
3 Water shortage plan.

4
5 Sec. 50-312. - Variances.

6 The county council, under this section, provides for variances to the provisions of
7 this division.

8 ~~(1) When the county council finds that compliance with any of the requirements of~~
9 ~~this division would result in undue hardship for a specific user, a variance from~~
10 ~~any one or more such requirements may be granted by the county council~~
11 ~~provided the variance is the minimum necessary to alleviate such undue~~
12 ~~hardship for the user and to the extent such variance can be granted without~~
13 ~~impairing the intent and purpose of this division.~~

14 ~~(2) All users requesting a variance from the provisions of this division shall file a~~
15 ~~petition for variance but must conform to the greatest possible extent to the~~
16 ~~water use restrictions of this division until such variance is granted.~~

17 ~~(3) A petition for variance shall be in writing and contain the following:~~

18 ~~a. The petitioner's name and address.~~

19 ~~b. The specific provision from which the petitioner is requesting a variance.~~

20 ~~c. A detailed statement of the facts which the petitioner believes demonstrate~~
21 ~~that the request qualifies for variance under subsection (4) of this section.~~

22 ~~d. A description of the variance desired.~~

23 ~~e. The period of time for which the variance is sought, including the reasons~~
24 ~~and facts in support thereof.~~

25 ~~f. The damage or harm resulting or which may result to the petitioner from~~
26 ~~compliance with the provision.~~

27 ~~g. The steps the petitioner is taking to meet the provisions from which the~~
28 ~~variance is sought and when compliance could be achieved.~~

29 ~~h. Other relevant information the petitioner believes supports his petition for~~
30 ~~variance.~~

31 ~~(4) No petition for variance shall be approved unless the petitioner affirmatively~~
32 ~~demonstrates that one or more of the following circumstances exists:~~

33 ~~a. The variance is essential to protect health or safety;~~

34 ~~b. Compliance with the provision from which a variance is sought will require~~
35 ~~measures which, because of their extent or cost, cannot be accomplished;~~

36 ~~c. Compliance with the provision from which a variance is sought will result in~~
37 ~~a substantial economic, social or health burden on the petitioner or those~~
38 ~~served by the petitioner; or~~

1 ~~d. Alternative restrictions which achieve the same level of demand reduction~~
2 ~~as the provision are available and reflect the intent and purpose of this~~
3 ~~division.~~

4 ~~(5) No variance shall be granted from section 50-314 to allow a single irrigation~~
5 ~~zone to be irrigated more than two days per week during Daylight Savings~~
6 ~~Time, or more than one day per week during Eastern Standard Time.~~

7 A variance from the specific landscape irrigation days or day set forth in section 50-
8 313 may be granted by the county manager or designee if strict application of the
9 scheduled days or day would lead to unreasonable or unfair results in particular
10 instances, provided that the applicant demonstrates with particularity that compliance
11 with the scheduled days or day will result in a substantial economic, health or other
12 hardship on the applicant requesting the variance or those served by the applicant.
13 Where a contiguous property is divided into different zones, a variance may be granted
14 hereunder so that each zone may be irrigated on different days or day than other zones
15 of the property. However, in no event shall a variance allow a single zone to be irrigated
16 more than two days per week during Daylight Savings Time or more than one day per
17 week during Eastern Standard Time. Variance requests under this section must be
18 submitted on a completed application form designated by the county. The decision of
19 the county manager or designee on a variance request under this section shall be final
20 and non-appealable.

21
22 ~~Sec. 50-313. – Declaration of water shortage.~~

23 ~~(a) The county acknowledges that the groundwater resource available to its citizens is~~
24 ~~a sole source aquifer and is not connected to other groundwater resources. The~~
25 ~~county deems it necessary to be able to determine water shortages based on the~~
26 ~~data available in the county independent of data available elsewhere in the district.~~

27 ~~(b) In the event the district declares a water shortage and implements its water~~
28 ~~shortage plan, 40C-21, Florida Administrative Code, the water shortage plan and all~~
29 ~~elements of said plan become effective and take precedence over the provisions of~~
30 ~~this division, provided that the plan provides for a more restrictive level of water~~
31 ~~conservation than the level in effect, until the water shortage declaration expires.~~

32 ~~Sec. 50-313. - Landscape irrigation schedules.~~

33 ~~The county, in order to provide the necessary levels of year round water~~
34 ~~conservation and provide for the most logical transition to a declared water shortage,~~
35 ~~water shortage emergency or the district water shortage plan, shall establish the~~
36 ~~following levels of water conservation and use:~~

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

39 ~~(1) Residential landscape irrigation at odd numbered addresses or no~~
40 ~~address may occur only on Wednesday and Saturday and shall not occur~~
41 ~~between 10:00 a.m. and 4:00 p.m.; and~~

- 1 (2) Residential landscape irrigation at even numbered addresses may occur
2 only on Thursday and Sunday and shall not occur between 10:00 a.m. and
3 4:00 p.m.; and
- 4 (3) Nonresidential landscape irrigation may occur only on Tuesday and Friday
5 and shall not occur between 10:00 a.m. and 4:00 p.m.; and
- 6 (4) No more than $\frac{3}{4}$ inch of water may be applied per irrigation zone on each
7 day that irrigation occurs, and in no event shall irrigation occur for more
8 than 1 hour per irrigation zone on each day that irrigation occurs.

9 (b) When Eastern Standard Time is in effect, landscape irrigation shall occur only
10 in accordance with the following schedule:

- 11 (1) Residential landscape irrigation at odd numbered addresses or no
12 address may occur only on Saturday and shall not occur between 10:00
13 a.m. and 4:00 p.m.; and
- 14 (2) Residential landscape irrigation at even numbered addresses may occur
15 only on Sunday and shall not occur between 10:00 a.m. and 4:00 p.m.; and
- 16 (3) Nonresidential landscape irrigation may occur only on Tuesday and shall
17 not occur between 10:00 a.m. and 4:00 p.m.; and
- 18 (4) No more than $\frac{3}{4}$ inch of water may be applied per irrigation zone on each
19 day that irrigation occurs, and in no event shall irrigation occur for more
20 than 1 hour per irrigation zone on each day that irrigation occurs.

21 (c) All landscape irrigation shall be limited in amount to only that necessary to
22 meet landscape needs and in accordance with the schedules herein.

23 ~~(d) Level II. Level II shortage corresponds to the district's "Phase II Severe Water~~
24 ~~Shortage Plan" and all provisions therein as set forth in 40C-21.631, F.A.C~~
25 ~~which are incorporated herein by reference. Upon declaration of a severe water~~
26 ~~shortage by the district, any landscape irrigation conducted in violation of the~~
27 ~~schedule established by the district shall be punishable as set forth in this~~
28 ~~section.~~

29 ~~(e) Level III. Level III shortage corresponds to the district's "Phase III Extreme~~
30 ~~Water Shortage Plan" and all provisions therein as set forth in 40C-21.641,~~
31 ~~F.A.C which are incorporated herein by reference. Upon declaration of an~~
32 ~~extreme water shortage by the district, any landscape irrigation conducted in~~
33 ~~violation of the schedule established by the district shall be punishable as set~~
34 ~~forth in this section.~~

35 ~~(f) Level IV. Level IV shortage corresponds to the district's "Phase IV Critical~~
36 ~~Water Shortage Plan" and all provisions therein as set forth in 40C-21.651,~~
37 ~~F.A.C, which are incorporated herein by reference. Upon declaration of a critical~~
38 ~~water shortage by the district, any landscape irrigation conducted in violation of~~
39 ~~the schedule established by the district shall be punishable as set forth in this~~
40 ~~section.~~

41 Sec. 50-3154. General restrictions on water use. Additional requirement

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

4 ~~(a) Excessive or unnecessary water use. Excessive, wasteful and unnecessary water~~
5 ~~use is hereby prohibited. Excessive, wasteful and unnecessary water use includes,~~
6 ~~but is not limited to:~~

7 ~~(1) Allowing water to be dispersed without any practical purpose to the water~~
8 ~~user, regardless of the type of water use;~~

9 ~~(2) Allowing water to be dispersed in a grossly inefficient manner, regardless of~~
10 ~~the type of water use; and~~

11 ~~(3) Allowing water to be dispersed to accomplish a purpose for which water use is~~
12 ~~unnecessary or which can be readily accomplished through alternative methods~~
13 ~~of significantly less water use.~~

14 ~~(b) Discharge of groundwater used in heating or air conditioning systems. All~~
15 ~~groundwater utilized in water-to-air heating and air conditioning systems must be~~
16 ~~directed to landscape irrigation systems, groundwater injection or exfiltration~~
17 ~~systems. Off site discharge from heating and air conditioning systems is prohibited.~~

18 ~~(c) All automatic landscape irrigation systems, regardless of date of installation, shall~~
19 ~~be equipped with rain sensor devices or soil moisture sensing devices.~~

20
21 Sec. 50-3165. - Exceptions.

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

23 (a) Irrigation using a microspray, microjet, drip or bubbler irrigation system is
24 allowed anytime.

25 ~~Agricultural uses are exempt from the provisions of this division, as long as they~~
26 ~~follow the agricultural water conservation requirements of the district.~~

27 (b) Irrigation of new landscape is allowed at any time of day, on any day for the
28 initial 30 days and every other day for the next 30 days for a total of one, 60-day
29 period, provided that the irrigation is limited to the minimum amount necessary
30 for such landscape establishment.

31 (c) Watering in of chemicals, including insecticides, pesticides, fertilizers,
32 fungicides and herbicides, when required by law, the manufacturer, or best
33 management practices, is allowed at any time of day on any day within 24
34 hours of application. Watering in of chemicals shall not exceed ¼ inch of water
35 per application except as otherwise required by law, the manufacturer, or best
36 management practices.

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

- 1 (e) Irrigation using a hand-held hose equipped with an automatic shutoff nozzle is
2 allowed at any time of day on any day.
- 3 (e) Discharge of water from a water-to-air air-conditioning unit or other water-
4 dependent cooling system is not limited.
- 5 (g) The use of water from a reclaimed water system is allowed anytime. For the
6 purpose of this subsection, a reclaimed water system includes systems in which
7 the primary source is reclaimed water, which may or may not be supplemented
8 from another source during peak demand periods.
- 9 (h) The use of recycled water from wet detention treatment ponds for irrigation is
10 allowed anytime provided the ponds are not augmented from any ground or off-
11 site surface water or public supply sources.

12 **Sec. 50-3176. - Violations; declaration.**

13 The county council hereby finds and declares that a violation of this division
14 presents a serious threat to the public health, safety and welfare and is irreparable or
15 irreversible in nature. No violator of this division shall be entitled to an opportunity to
16 correct a violation prior to the levy of a civil penalty in accordance with any of the
17 enforcement methods prescribed in section 1-7. The civil penalty shall be \$50.00 for
18 each violation. However, if the person has been previously found through a code
19 enforcement board or any other quasi-judicial or judicial process to have violated or who
20 has admitted violating this division within five years prior to the violation, the civil penalty
21 shall be \$100.00 for a second violation, \$250.00 for a third violation and \$500.00 for a
22 fourth or subsequent violation, notwithstanding the violations occur at different locations.

23
24 **SECTION II. – CODIFICATION.** The provisions of this ordinance shall be
25 included and incorporated into the Code of Ordinances of the County of Volusia and
26 shall be appropriately numbered to conform to the uniform numbering system of the
27 Code.

28 **SECTION III. – SEVERABILITY.** If any provision of this ordinance is for any
29 reason finally held invalid or unconstitutional by any court of competent jurisdiction,
30 such provision shall be deemed a separate, distinct, and independent provision, and
31 such holding shall not affect the validity of the remaining provisions.

32 **SECTION IV. – EFFECTIVE DATE.** A certified copy of this Ordinance shall be
33 filed in the Office of the Secretary of State by the County Manager within ten (10) days
34 after enactment and this Ordinance will take effect upon receipt of official
35 acknowledgment from that office that said Ordinance has been filed.

36
37 **ADOPTED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, IN**
38 **OPEN MEETING DULY ASSEMBLED IN THE COUNTY COUNCIL CHAMBERS AT**
39 **THE THOMAS C. KELLY ADMINISTRATION CENTER, 123 WEST INDIANA**
40 **AVENUE, DELAND, FLORIDA, THIS ___ DAY OF ___ A.D., 2022.**

1
2

ATTEST:

COUNTY COUNCIL
VOLUSIA COUNTY, FLORIDA

George Recktenwald
County Manager

Jeffrey S. Brower
County Chair

3