

**ORDINANCE NO. 09-11**

**AN ORDINANCE OF THE CITY COMMISSION OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 94; ARTICLE IV OF THE WINTER GARDEN CODE OF ORDINANCES AND REPEALING ORDINANCE 94-134 AND CREATING THE FOLLOWING SECTION THEREOF: ORDINANCE NO. 09-11; ARTICLE IV WATER CONSERVATION ORDINANCE FOR LANDSCAPE IRRIGATION, PROVIDING FOR LOCAL IMPLEMENTATION OF THE WATER CONSERVATION RULE FOR LANDSCAPE IRRIGATION OF THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT; PROVIDING DEFINITIONS; PROVIDING LANDSCAPE IRRIGATION SCHEDULES; PROVIDING EXCEPTIONS TO THE LANDSCAPE IRRIGATION SCHEDULES; PROVIDING FOR VARIANCES FROM THE SPECIFIC DAY OF THE WEEK LIMITATIONS; PROVIDING FOR APPLICABILITY OF THE ORDINANCE; PROVIDING FOR ENFORCEMENT OF THE ORDINANCE; PROVIDING FOR PENALTIES FOR VIOLATION OF THE ORDINANCE; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY 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., strongly encourages a local government to adopt an ordinance to enforce Rule 40C-2.042(2)(a), F.A.C., within its jurisdiction by adopting a landscape irrigation ordinance that incorporates each of the provisions set forth in Rule 40C-2.042(2)(a), F.A.C.; and

**WHEREAS**, it is the desire of the City Commission of the City of Winter Garden to adopt such an ordinance in accordance with 40C-2.042(2)(a) and (b), F.A.C.; with the exception that the City's reclaimed water customers may irrigate only in accordance with a specified landscape irrigation schedule and the exceptions thereto; and

**WHEREAS**, the City Commission of the City of Winter Garden hereby finds and declares that the adoption of this ordinance is appropriate, and in the public interest of the citizens of this community.

**BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:**

**Section 1.** The City Commission of the City of Winter Garden has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida and Chapter 166, Florida Statutes.

**Section 2.** Chapter 94 of the City of Winter Garden Code of Ordinances is hereby amended to add Ordinance No. 09-11 to read as follows:

**WATER CONSERVATION ORDINANCE FOR LANDSCAPE IRRIGATION**

**Section 94-134. INTENT AND PURPOSE.**

It is the intent and purpose of this Article to adopt an ordinance to enforce St. Johns River Water Management District Rule 40C-2.042(2)(a), F.A.C. by adopting a landscape irrigation ordinance which 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.

**Section 94-135. DEFINITIONS.**

For the purpose of this Article, 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 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.

- 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, 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.
- 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.
- g. Reclaimed Water" means water that is reused after one or more public supply, municipal, industrial, commercial or agricultural uses.

**Section 94-136. LANDSCAPE IRRIGATION SCHEDULES.**

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

- a. Residential landscape irrigation at odd numbered addresses or no address may occur only on Wednesday and Saturday and shall not occur between 10:00 a.m. and 4:00 p.m.; and
- b. Residential landscape irrigation at even numbered addresses may occur only on Thursday and Sunday and shall not occur between 10:00 a.m. and 4:00 p.m.; and
- c. Non-residential landscape irrigation may occur only on Tuesday and Friday and shall not occur between 10:00 a.m. and 4:00 p.m.; and
- d. No more than  $\frac{3}{4}$  inch of water may be applied per irrigation zone on each day that irrigation occurs, and in no event shall irrigation occur for more than 1 hour per irrigation zone on each day that irrigation occurs.

2. When Eastern Standard Time is in effect, landscape irrigation shall occur only in accordance with the following irrigation schedule:

- a. Residential landscape irrigation at odd numbered addresses or no address may occur only on Saturday and shall not occur between 10:00 a.m. and 4:00 p.m.; and
- b. Residential landscape irrigation at even numbered addresses may occur only on Sunday and shall not occur between 10:00 a.m. and 4:00 p.m.; and
- c. Non-residential landscape irrigation may occur only on Tuesday and shall not occur between 10:00 a.m. and 4:00 p.m.; and
- d. No more than  $\frac{3}{4}$  inch of water may be applied per irrigation zone on each day that irrigation occurs, and in no event shall irrigation occur for more than 1 hour per irrigation zone on each day that irrigation occurs.

3. To address the City's reclaimed water system operational concerns, the reclaimed water customers of the City shall use reclaimed water for landscape irrigation only in accordance with the landscape irrigation schedule set forth above and the exceptions below. For the purpose of this paragraph, a reclaimed water system includes systems in which the primary source is reclaimed water, which may or may not be supplemented from another source during peak demand periods.

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

**Section 94-137. EXCEPTIONS TO THE LANDSCAPE IRRIGATION SCHEDULES.**

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

1. Irrigation using a micro-spray, micro-jet, drip or bubbler irrigation system is allowed anytime.
2. Irrigation of new landscape is allowed at any time of day on any day for the initial 30 days and every other day for the next 30 days for a total of one 60-day period, provided that the irrigation is limited to the minimum amount necessary for such landscape establishment.
3. Watering in of chemicals, including insecticides, pesticides, fertilizers, fungicides, and herbicides, when required by law, the manufacturer, or best management practices, is allowed at any time of day on any day within 24 hours of application. Watering in of chemicals shall not exceed  $\frac{1}{4}$  inch of water per application except as otherwise required by law, the manufacturer, or best management practices.

4. Irrigation systems may be operated at any time of day on any day for maintenance and repair purposes not to exceed 20 minutes per hour per zone.
5. Irrigation using a hand-held hose equipped with an automatic shut-off nozzle is allowed at any time of day on any day.
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 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.

**Section 94-138. ADDITIONAL REQUIREMENT.**

Any person who irrigates landscape with an automatic lawn sprinkler system installed after May 1, 1991, shall install, maintain and operate a rain sensor device or switch that overrides the irrigation system when adequate rainfall has occurred.

**Section 94-139. VARIANCE FROM SPECIFIC DAY OF THE WEEK LIMITATIONS.**

A variance from the specific landscape irrigation days or day set forth in Section 3 may be granted if strict application of the scheduled days or day would lead to unreasonable or unfair results in particular instances, provided that the applicant demonstrates with particularity that compliance with the scheduled days or day will result in a substantial economic, health or other hardship on the applicant requesting the variance or those served by the applicant. Where a contiguous property is divided into different zones, a variance may be granted hereunder so that each zone may be irrigated on different days or day than other zones of the property. However, in no event shall a variance allow a single zone to be irrigated more than two days per week during Daylight Savings Time or more than one day per week during Eastern Standard Time.

**Section 94-140. APPLICATION OF ORDINANCE.**

The provisions of this Ordinance shall apply to each person located within the City of Winter Garden.

**Section 94-141. 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 also delegate enforcement responsibility for this Ordinance to agencies and departments of the City of Winter Garden government.

**Section 94-142. PENALTIES.**

Violation of any provision of this Ordinance shall be subject to the following penalties:

First Violation: Written Warning  
Second Violation: \$50.00  
Subsequent Violations: Increased by \$50.00 with each additional violation with fines not to exceed \$500.00.

Each day in violation of this Ordinance shall constitute a separate offense. Enforcement officials shall provide violators with no more than one written warning. In addition to the civil sanctions contained herein, the City of Winter Garden may take other appropriate legal action, including, but not limited to, injunctive action to enforce the provisions of this Article.

**Section 94-143. CODIFICATION.**

That Section I of this Ordinance shall be codified and made part of the City of Winter Garden Code of Ordinances; that the Sections of this Ordinance may be renumbered or relettered to accomplish such intention; the word "*Ordinance*" may be changed to "*Section*", "*Article*", or other appropriate word.

**Section 94-144. CONFLICT.**

If any Ordinances or parts of Ordinances are in conflict herewith, this Ordinance shall control to the extent of the conflict.

**Section 94-145. SEVERABILITY.**

If any portion of this Ordinance is determined to be void, unconstitutional, or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

**Section 94-146. EFFECTIVE DATE.**

This Ordinance shall become effective upon approval by the City Commission at its final reading.

READ FIRST TIME: \_\_\_\_\_ April 9, 2009 \_\_\_\_\_

READ SECOND TIME AND PUBLIC HEARING HELD: \_\_\_\_\_ April 23, 2009 \_\_\_\_\_

READ THIRD TIME AND PUBLIC HEARING HELD: \_\_\_\_\_ May 14, 2009 \_\_\_\_\_

PASSED AND ORDAINED this \_\_\_\_ 14th \_\_\_\_ day of \_\_\_\_\_ May \_\_\_\_\_, 2009,  
by the City Commission of the City of Winter Garden, Florida.

**CITY OF WINTER GARDEN, FLORIDA,  
a Florida Municipality**

By: \_\_\_\_\_/S/\_\_\_\_\_  
**JOHN REES, Mayor/Commissioner**

**ATTEST:**

By: \_\_\_\_\_/S/\_\_\_\_\_  
**ANGEE GRIMMAGE, Assistant City Clerk**