

## **CHAPTER 40E-24**

### **MANDATORY YEAR-ROUND LANDSCAPE IRRIGATION MEASURES CONSERVATION MEASURES**

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#### **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.*