



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.1.

1/25/2022

Subject:

Creation of Proposed Chapter 46, Article XI, Landscape Irrigation, Relating to Watering Schedules consistent with St. Johns River Water Management District model ordinance - Public Hearing

Fiscal Impact:

None, no enforcement provision is proposed. Adoption of irrigation schedules is a new pre-requisite for cost share grants from the St. Johns River Water Management District.

Dept/Office:

Natural Resources Management Department

Requested Action:

Consideration of Proposed Chapter 46, Article XI, Landscape Irrigation, Relating to Watering Schedules consistent with St. Johns River Water Management District model ordinance

Summary Explanation and Background:

The Board of County Commissioners (Board), on October 12, 2021 approved legislative intent and permission to advertise the creation of Chapter 46, Article XI, Landscape Irrigation, relating to watering schedules consistent with the St. Johns River Water Management District (District) model ordinance. The Board further directed that the proposed language not include enforcement provisions, leaving enforcement to the District.

On January 12, 2021, the St. Johns River Water Management District Governing Board approved updates to their Districtwide Cost-Share Program. These updates included a new requirement that to be eligible for District Cost-Share grants, municipalities and counties must have a landscape irrigation ordinance that is consistent with the District's model ordinance. Currently, District grants provide up to 25% of construction-only costs for shovel-ready projects. In July 2021, the District's Office of General Counsel determined that adoption of the model ordinance sections related to enforcement and penalties is optional.

Excess irrigation wastes freshwater and carries pollution to sensitive waterways including the Indian River Lagoon. To discourage excess irrigation, the District has established watering schedules based on time of year and street address. For example, during Daylight Savings Time, residential landscape irrigation at odd numbered addresses or no address may occur only on Wednesday and Saturday, while irrigation at even numbered addresses may occur only on Thursday and Sunday. During Eastern Standard Time, residential landscape irrigation at odd numbered addresses or no address may occur only on Saturday, while irrigation at even numbered addresses may occur only on Sunday. Year-round, irrigation shall not occur between 10:00 and 4:00.

Adopting the watering schedules could provide a beneficial opportunity for local outreach on the importance

of water conservation and pollution control. Additionally, including the watering restrictions within the County Code may make the rules more publicly accessible when compared with searching the Florida Administrative Code.

The Building and Construction Advisory Committee and Local Planning Agency considered the proposed ordinance on January 5, 2022 and January 10, 2022, respectively. Both unanimously recommended approval.

Staff Contact: Amanda Elmore, Deputy Director - Natural Resources Management Department
amanda.elmore@brevardfl.gov, 321-307-8996

Options for the Board's consideration:

- 1) Adopt the proposed ordinance.
- 2) Reject the proposed ordinance.
- 3) Provide other direction.

Clerk to the Board Instructions:

If adopted, please file a certified copy of the ordinance with the Department of State within 10 days and return a certified copy to Natural Resources.



FLORIDA DEPARTMENT of STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

January 28, 2022

Honorable Rachel M. Sadoff
Clerk
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, Florida 32781-0999

Attention: Deborah Thomas

Dear Ms. Sadoff:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 22-01, which was filed in this office on January 27, 2022.

Sincerely,

Anya Owens
Program Administrator

AO/lb



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001

Fax: (321) 264-6972

Kimberly.Powell@brevardclerk.us

January 26, 2022

M E M O R A N D U M

TO: Amanda Elmore, Assistant Natural Resources Management Director

RE: Item H.1., Creation of Proposed Chapter 46, Article XI, Landscape Irrigation Relating to Watering Schedules Consistent with St. Johns River Water Management District Model Ordinance

The Board of County Commissioners, in regular session on January 25, 2022, executed and adopted Ordinance No. 22-01, creating a new Article XI, in Chapter 46 of the Brevard County Code of Ordinances, "Landscape Irrigation"; related to watering schedules consistent with St. Johns River Water Management District model ordinance. Enclosed is a certified copy of the Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script, reading "Kimberly Powell".

Kimberly Powell, Clerk to the Board

Encls. (1)

ORDINANCE NO. 22- 01

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, CREATING A NEW ARTICLE IN CHAPTER 46 OF THE BREVARD COUNTY CODE OF ORDINANCES; SPECIFICALLY CREATING CHAPTER 46, ARTICLE XI, ENTITLED "LANDSCAPE IRRIGATION"; PROVIDING FOR INCLUSION OF THE WATER CONSERVATION RULE FOR LANDSCAPE IRRIGATION OF THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT IN THE BREVARD COUNTY CODE; PROVIDING FOR DEFINITIONS; PROVIDING FOR LANDSCAPE IRRIGATION SCHEDULES; PROVIDING EXCEPTIONS TO THE LANDSCAPE IRRIGATION SCHEDULES; PROVIDING FOR VARIANCES FROM THE SPECIFIC DAY OF THE WEEK LIMITATIONS; PROVIDING FOR AN AREA ENCOMPASSED; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR 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 subject to the rules and regulations outlined in Chapter 40C, F.A.C., and this ordinance; and

WHEREAS, Rule 40C-2.042, 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 pertaining to landscape irrigation that incorporates the provisions set forth in Rule 40C-2.042(2)(a), F.A.C.; and

WHEREAS, the St. Johns River Water Management District's Districtwide Cost-Share Program requires local governments to adopt an ordinance pertaining to landscape irrigation consistent with the District's model irrigation ordinance in order to be eligible for grant funds; and

OFFICIALLY FILED WITH THE STATE ON JANUARY 27, 2022

WHEREAS, it is the desire of the Board of County Commissioners of Brevard County, Florida, to adopt such an ordinance; and

WHEREAS, the Board hereby finds and declares that the adoption of this ordinance is appropriate, and in the public interest of the citizens of this community.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY FLORIDA, AS FOLLOWS

Section 1. Recitals. The foregoing recitals are incorporated by reference into this Ordinance.

Section 2. Landscape Irrigation Regulations. Chapter 46, Article XI of the Brevard County Code, entitled "Landscape Irrigation", is hereby created to read as follows:

CHAPTER 46, ARTICLE XI – LANDSCAPE IRRIGATION

Section 46-402. Intent and Purpose

It is the intent and purpose of this Ordinance to implement procedures that promote water conservation through the more efficient use of landscape irrigation.

Section 46-403. 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 intensive 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.

Section 46-404. 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. All landscape irrigation shall be limited to only that necessary to meet landscape needs.

Section 46-405. 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 water from a reclaimed water system is allowed anytime. 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.

8. The use of recycled water from wet detention treatment ponds for irrigation is allowed anytime provided the ponds are not augmented from any ground or off-site surface water, or public supply sources.

Section 46-406. Additional Requirement

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

Section 46-407. Variance from Specific Day of the Week Limitations

After receiving a notice of violation from an agency having jurisdiction, 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 46-408. Application of Article

The provisions of this Article shall apply throughout the County except in municipalities that have adopted an ordinance(s) regulating the subject matter addressed herein. This Article is for informational purposes only and shall not create a basis for the County to bring any code enforcement or other type of action against those who do not comply with the regulations outlined herein.

Section 3. Area Encompassed. This Ordinance shall apply County-wide except in municipalities that have adopted an ordinance regulating the subject matter addressed herein.

Section 4. Inclusion in Code. It is the intention of the Board that the provisions of this Ordinance shall become and be made part of the Brevard County Code of Ordinances, and that the sections of this Ordinance may be renumbered or re-lettered and that the word "Ordinance" may be changed to "Chapter," "Section," "Article," or such other appropriate word or phrase in order to accomplish such intentions.

Section 5. Conflict. In the case of a direct conflict between any provision of this

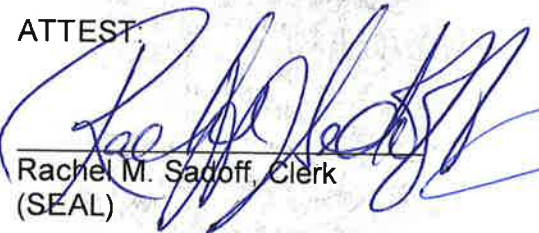
Ordinance and a provision of County law, rule, or regulation, the more restrictive shall apply.

Section 6. Severability. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 7. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. Unless specified otherwise, this Ordinance shall take effect upon adoption and filing as required by law.

DONE, ORDERED AND ADOPTED, in Regular Session, this 25 day of Jan., 2022.

ATTEST:


Rachel M. Sadoff, Clerk
(SEAL)

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA


Kristine Zonka, Chair

As approved by the Board on 1/25/22



B.O.C.C. COUNTY MANAGER'S OFF
2725 JUDGE FRAN JAMIESON WAY
BLDG C
MELBOURNE, FL, 32940

STATE OF WISCONSIN COUNTY OF BROWN:

Before the undersigned authority personally appeared said legal clerk, who on oath says that he or she is a Legal Advertising Representative of the **FLORIDA TODAY**, a daily newspaper published in Brevard County, Florida that the attached copy of advertisement, being a Legal Ad in the matter of

Notice Public Hearing

as published in **FLORIDA TODAY** in the issue(s) dated:
or by publication on the newspaper's website, if authorized,
on

01/14/2022

Affiant further says that the said **FLORIDA TODAY** is a newspaper in said Brevard County, Florida and that the said newspaper has heretofore been continuously published in said Brevard County, Florida each day and has been entered as periodicals matter at the post office in **MELBOURNE** in said Brevard County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has never paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and Subscribed before me this 14th of January 2022, by legal clerk who is personally known to me

Affiant

Notary State of Wisconsin County of Brown
5.15.23

My commission expires
Publication Cost: \$285.61
Ad No: 0005085293
Customer No: BRE-6BR446
This is not an invoice
of Affidavits 1

AD#5085293 01/14/2022
NOTICE OF PUBLIC HEARING
NOTICE IS HEREBY GIVEN that the Board of County Commissioners of Brevard County, Florida, on January 25, 2022 at 9:00 a.m. in the Commission Room at 2725 Judge Fran Jamieson Way, Building C, First Floor, Viera, FL, 32940, will hold a public hearing on the following ordinance:

ORDINANCE NUMBER 2022.
AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, CREATING A NEW ARTICLE IN CHAPTER 48 OF THE BREVARD COUNTY CODE OF ORDINANCES; SPECIFICALLY CREATING CHAPTER 48, ARTICLE XI, ENTITLED "LANDSCAPE IRRIGATION"; PROVIDING FOR INCLUSION OF THE WATER CONSERVATION RULE FOR LANDSCAPE IRRIGATION OF THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT IN THE BREVARD COUNTY CODE; PROVIDING FOR DEFINITIONS; PROVIDING FOR LANDSCAPE IRRIGATION SCHEDULES; PROVIDING EXCEPTIONS TO THE LANDSCAPE IRRIGATION SCHEDULES; PROVIDING FOR VARIANCES FROM THE SPECIFIC DAY OF THE WEEK LIMITATIONS; PROVIDING FOR AN AREA ENCOMPASSED; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Interested parties may appear at the January 25, 2022 meeting and be heard with respect to the proposed ordinance. A copy of the ordinance may be inspected at the following locations:

- Office of Clerk to the Board of County Commissioners, Titusville, Florida
- North Brevard Library, Titusville, Florida

- Central Brevard Library, Cocoa, Florida
- Melbourne Library, Melbourne, Florida
- South Manland Library, Mico, Florida

A copy of the ordinance may also be viewed online at www.brevardfl.gov/public-hearings-and-notices. Pursuant to Section 286.0105 Florida Statutes, if a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she will need to ensure that a verbatim record of the proceedings is made, at his or her own expense, which record includes the testimony and evidence upon which any such appeal is to be based. Such person may provide a court reporter, stenographer, or a tape recorder for such verbatim record. In accordance with the Americans Disabilities Act, persons needing a special accommodation or an interpreter to participate in the proceedings, please notify the department sponsoring the meeting/hearing, or the County Manager's Office, (321) 633-2001, at least 48 hours in advance. TDD: 1-800-955-8771. Assisted Listening System receivers are available for the hearing impaired, & can be obtained from the Sound Technician at the meeting. This meeting will be broadcast live on Space Coast Government Television (SCGT) on Bright House Networks channel 499, Comcast Cable Communications channel 51 in North Brevard and channel 13 in South Brevard, and AT&T Uverse channel 59. SCGT will also replay this meeting during the coming month. Check the SCGT website for daily program updates <http://www.scgtv.org>

RECEIVED

JAN 18 2022

County Manager's
Office

NANCY HEYRMAN
Notary Public
State of Wisconsin