

Notice of Change/Withdrawal

WATER MANAGEMENT DISTRICTS South Florida Water Management District

RULE NO: RULE TITLE

40E-24.011: Policy and Purpose

40E-24.101: Definitions

40E-24.201: Year-Round Landscape Irrigation Measures

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NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34 No. 45, November 7, 2008 issue of the Florida Administrative Weekly.

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 Chapters 40E-2 and 40E-20, 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 Chapters 40E-2 and 40E-20, 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 a maximum number of two days per week, except as unless specified otherwise 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 up to three days per week in designated counties to address utility operational, health, and safety and landscape concerns.

(2) through (3) No change.

(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 Specific 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 _____.

40E-24.101 Definitions.

When used in this chapter:

(1) through (4) No change.

(5) “Existing landscaping” means any landscaping which has been ~~which has been~~ planted and in the ground for more than ninety (90) ~~sixty (60)~~ days.

(6) through (10) No change.

(11) “New landscaping” means any landscaping which has been planted and in the ground for ninety (90) ~~sixty (60)~~ days or less.

(12) through (13) No change.

~~(14) “Supplemented reclaimed water” and “blended reclaimed water” means reclaimed water which has been commingled with other sources of water, such as potable water, groundwater, surface water, and water treatment process by product by a public or private utility.~~

~~(14)~~(15) “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 or 40E-20, F.A.C., or uses from individual wells or pumps.

~~(15)~~(16) “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 Specific 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 _____.

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)~~(16), F.A.C., including permitted ~~and exempt~~ users under Chapters 40E-2 and 40E-20, 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 ~~landscape irrigation accomplished using reclaimed water and/or supplemented reclaimed water is subject to only paragraphs (5)(a), (1) and (5)(b), (1) of this section.~~ In addition to the requirements of this section, all permitted users under Chapters 40E-2 and 40E-20, 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) through (3) No change.

(4) In addition to the specific conservation measures enumerated below, all wasteful and unnecessary water use as defined in Subsection 40E-24.101~~(15)~~(16), F.A.C., is prohibited.

(5) The following requirements or exceptions shall apply to all users unless specified otherwise herein:

~~(a)4.~~ Landscape irrigation shall be prohibited daily between the hours of 10:00 a.m. and 4:00 p.m., except as otherwise provided herein.

~~2. Even addresses, installations with irrigation systems that irrigate both even and odd addresses within the same zones, including multi-family units and homeowners' associations, and right-of-way or other locations with no address as defined in Rule subsection 40E-24.101(4), F.A.C., may accomplish necessary landscape irrigation only on Thursday and/or Sunday.~~

~~3. Odd addresses as defined in subsection 40E-24.101(13), F.A.C., and right-of-way or other locations without an address may accomplish necessary landscape irrigation only on Wednesday and/or Saturday.~~

(b) Irrigation of new landscaping shall comply with the following provisions:

~~1. Irrigation of new landscaping shall be prohibited daily between the hours of 10:00 a.m. and 4:00 p.m., except as otherwise provided herein.~~

~~1.2.~~ 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.

~~2.3.~~ The ninety (90) ~~sixty (60)~~ 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.

~~3.4.~~ 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.

~~4.5.~~ Irrigation of new landscaping which has been in place for thirty-one (31) to ninety (90) ~~sixty (60)~~ days may be accomplished on Monday, Wednesday, Thursday, and/or Saturday.

~~5.6.~~ 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) No change.

(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. No change.

2. Such watering-in shall be accomplished during normally allowable watering days and times set forth in paragraphs (5)(a), (6) and (7) ~~and (5)(b)~~ 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 paragraph (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/or 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/or 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 paragraph (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 and/or Thursday and/or 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 and/or Wednesday and/or Saturday.

Rulemaking Specific 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 _____.

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 conservation measures which achieve water conservation and which allow no more cumulative days and time for landscape irrigation than subsections 40E-24.201(5)-(7), F.A.C. Such ordinance shall provide for variance and enforcement procedures which do not diminish the ~~intent and effectiveness of the measures and which do not conflict with the District's authority under Chapter 373, F.S., and District rules.~~

(2) No change.

(3) 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 ~~propose an alternative schedule~~ of landscape irrigation conservation measures as necessary for the local government to achieve a uniform schedule within its jurisdiction.

(4) 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 ~~to review for consistency with Chapter 373, F.S., and District rules and approval. The ordinance must be adopted as approved by the District.~~

(5) In order to evaluate the effectiveness of the approved alternative landscape irrigation 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 20th of each year following the adoption of this Chapter.

(6) 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 Specific 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 _____.

40E-24.401 Enforcement.

(1) No change.

(2) A local government ~~is strongly encouraged to may~~ enforce Rule 40E-24.201, F.A.C., within its jurisdiction by adopting an ordinance that incorporates incorporating the provisions set forth in Rule 40E-24.201, F.A.C. specified herein. 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 ~~to review for consistency with Chapter 373, F.S., and District rules and approval. The ordinance must be adopted as approved by the District.~~

(3) No change.

Rulemaking Specific 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 _____.

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. Florida Statutes~~, and Rule 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) through (b) No change.

(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. ~~A property utilizing modern, properly maintained and highly efficient irrigation technologies, including but not limited to soil moisture sensors and weather/evapotranspiration based irrigation controllers.~~

(2) No change.

(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 users requiring relief from such landscape irrigation conservation measures must petition that local government for relief.

Rulemaking Authority 120.542, 373.044, 373.113, 373.171, 373.62 FS. Law Implemented 120.542, 373.119, 373.171, 373.175(4), 373.219, 373.227, 373.246(7), 373.603, 373.609, 373.62 FS. History– New _____.