

ORDINANCE NO. C-21-34

AN ORDINANCE AMENDING SECTION 28-1B. OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, ENTITLED "WATER CONSERVATION" RELATING TO MANDATORY YEAR-ROUND LANDSCAPE IRRIGATION CONSERVATION MEASURES OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT BY ADDING DEFINITIONS, REVISING LANDSCAPE IRRIGATION RESTRICTIONS AND PROVIDING A VARIANCE PROCESS; PROVIDING FOR CODIFICATION AND CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS AND REPEAL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Fort Lauderdale desires to amend Section 28-1B. entitled "Water Conservation" of the Code of Ordinances of the City of Fort Lauderdale, Florida, to ensure substantial compliance and consistence with South Florida Water Management District's Chapter 40E-24, Florida Administrative Code, relating to protecting water resources, promoting water conservation, prohibiting wasteful irrigation practices and providing for irrigation variances or waivers; and

WHEREAS, notice was provided to the public that this ordinance would be considered at the City Commission meeting to be held on Tuesday, November 2, 2021, and Tuesday, November 16, 2021, at 6:00 o'clock P.M., in the City Commission Room, City Hall, Fort Lauderdale, Florida, and;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

SECTION 2. Section 28-1B. – "Water conversation" of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby amended as follows:

Sec. 28-1B. – Water conservation.

(a) *Definitions.* As used in this section, the following words in *italic* shall have the meaning herein given.

CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions.

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”.

Athletic Play Area means all golf course fairways, tees, roughs, greens, and other athletic play surfaces; including football, baseball, soccer, polo, tennis, and lawn bowling fields; and rodeo, equestrian, and livestock arenas.

City water means all water that passes through the city's water distribution system. This term does not include city water that is sold by the city to other governmental entities.

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.

Florida-Friendly Landscaping™ means quality landscapes that conserve water, protect the environment, are adaptable to local conditions, and are drought tolerant. The principles of such landscaping include planting the right plant in the right place, efficient watering, appropriate fertilization, mulching, attraction of wildlife, responsible management of yard pests, recycling yard waste, reduction of stormwater runoff, and waterfront protection. Additional components of Florida-Friendly Landscaping™ include planning and design, soil analysis, the use of solid waste compost, practical use of turf, and proper maintenance.

Impervious surface means any artificially created surface which cannot be penetrated by water or which causes water to run off the surface, including streets, driveways, sidewalks and rooftops.

Irrigation means the direct application of water by means other than precipitation.

Irrigation system means a device or combination of devices having a hose, pipe, or other conduit installed in the landscape which transmits city water, through which device or combination of devices city water or a mixture of city water and chemicals is drawn and applied to residential or commercial lawns, landscapes or greenspace.

Landscape means living plant material, shrubbery, trees, lawns, sod, grass, ground covers, plants, vines, or ornamental gardens purposely installed for functional or aesthetic reasons at ground level and open to the sky.

Landscape area means an area where landscaping has been or shall be installed.

Low Volume Hand Watering means the watering of landscape by one (1) person, with one (1) hose fitted with a self-canceling or automatic shutoff nozzle.

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.

Micro-irrigation means the application of small quantites 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.

Odd Numbered Address means an address ending in the numbers 1, 3, 5, 7, 9 or the letters N-Z.

Person means any individual, partnership, firm, corporation, limited liability company, or other legal entity in whose name water is provided and billed by the city.

Rain sensor means an automatic device that will override the irrigation cycle of an irrigation system, thus turning it off, when a predetermined amount of rain has fallen. To meet the requirements of this section, a rain sensor shall be adjusted to shut off irrigation systems when greater than one-fourth ($\frac{1}{4}$) inch of rain has fallen.

Repeated or flagrant wasting of water means and includes those situations where persons who have received informal notice that they are wasting water or misusing water while watering continue to water in the same manner. It does not mean those persons who waste water or misuse water while watering on solitary or isolated occasions.

Waste water or misuse water while watering means either of the following:

- (1) Watering so that water falls directly onto impervious surfaces to the extent that running water leaves the property and enters gutters, storm drains, ditches and other conveyances (watering impervious surfaces); or
- (2) Watering to the extent that water is allowed to accumulate on the surface of the ground and leaves the property and enters gutters, storm drains, ditches and other conveyances (excess watering).

Watering or to water means the act of applying water to the outdoor landscape through means such as moveable sprinklers, installed watering systems and hoses, and similar devices.

Water shortage means sufficient water is not available to meet present or anticipated needs of persons using the water resource, or when conditions are such as to require temporary reduction in total water usage within a particular area to protect the water resource from serious harm. A water shortage usually occurs due to drought.

- (b) *Water misuse*. Water shall be used only for beneficial purposes and shall not be wasted. Prohibited water misuse includes, but is not limited to:
- (1) Watering so that water falls directly onto impervious surfaces to the extent that running water leaves the property and enters gutters, storm drains, ditches and other conveyances (watering impervious surfaces).
 - (2) Watering to the extent that water is allowed to accumulate on the surface of the ground and leaves the property and enters gutters, storm drains, ditches and other conveyances (excess watering).
 - (3) Applying more water than is reasonably necessary to establish and maintain a healthy landscape. Routine watering of landscaping shall be limited to ~~three (3) days~~ two (2) days per week, except for watering more frequently for up to sixty (60) days to establish new landscaping.
 - (4) Watering with spray irrigation between the hours of 9:00 a.m. and 4:00 p.m. except for exemptions listed in Section 28-1B(d)(5)
 - (5) Watering landscaped areas during rain or high wind.

- (6) Applying water intended for irrigation to an impervious surface, such as a street, parking lot, alley, sidewalk or driveway.
 - (7) Using water instead of a broom or mop to clean outdoor impervious surfaces such as sidewalks, driveways and patios, except when cleaning with water is necessary for public health or safety reasons or when other cleaning methods are impractical.
 - (8) Allowing water to pool or flow across the ground or into any drainage way, such as gutters, streets, alleys or storm drains.
 - (9) Washing vehicles with a hose that lacks an automatic shut-off valve.
- (c) *Water for irrigation uses.* Irrigation systems permitted on or after August 1, 2009, shall, in addition to meeting the requirements of section 47-21.7, Irrigation, of the Unified Land Development Regulations (ULDR), comply with the provisions of this section.
- (1) *Irrigation systems shall be designed, operated and maintained to:*
- a. Conserve water while meeting the needs of the plants in the landscape, by not mixing plants that have low water requirements with plants that have high water requirements; by grouping plants with similar water needs in the same areas; and by irrigating using different operational schedules.
 - b. Consider soil, slope and other site characteristics in order to minimize water waste, including overspray or overflow onto impervious surfaces and other non-vegetated areas, and off-site runoff.
 - c. Minimize free flow condition in case of damage or other mechanical failure.
 - d. Use low trajectory spray heads, and/or low volume water distributing or application devices.
 - e. Maximize uniformity, considering factors such as:
 - 1. Emitter types.
 - 2. Head spacing.

3. Sprinkler pattern.
 4. Water pressure at the emitter.
 - f. Use the lowest quality water feasible (gray water shall be used where approved systems are available).
 - g. Use rain switches or other devices, such as soil moisture sensors with automatic controls.
 - h. Operate only during hours and on days permitted under the Code.
 - i. Use, where feasible, drip irrigation or micro-sprinklers.
- (2) *Rain sensors shall be required on all automatic irrigation systems.* All rain sensors shall be adjusted and set so that they automatically shut off the irrigation system after greater than one-fourth ($\frac{1}{4}$) inch of rainfall has occurred. All rain sensors shall be installed according to manufacturer's instructions in a location that will provide full exposure to rainfall such that accuracy of operation is assured and shall be maintained in good working condition. No person shall, with the intent of circumventing the purpose of this section, adjust either the rain sensor or irrigation system so that the rain sensor is not able to override and turn off the irrigation system after greater than one-fourth ($\frac{1}{4}$) inch of rain has fallen.
- (3) *Florida-Friendly landscape.* It is the city's policy to encourage Florida-Friendly Landscapes throughout its service area and referenced in Section 47-21 of the ULDR. Prohibitions on the use of Florida-Friendly Landscapes are contrary to public policy.
- (4) *Irrigation of more than one acre.* In order to extend the yield of the city's water supply and to encourage the efficient use of water, the irrigation of landscape of more than one (1) acre may be subject to special review by the director of the public works department or his/her designee. Open space of more than one (1) acre may include contiguous parcels or, in the discretion of the city, several non-contiguous parcels located in close proximity to one another.
- (5) *Irrigation of narrow strips of land.* Spray irrigation of narrow strips of land almost inevitably results in water waste. Therefore, the following irrigation system and design requirements apply to irrigation of any strip of land less than twenty-five (25) feet in width, including

medians, parkways, traffic islands, parking lot islands and perimeters, rights-of-way along streets and other public or private areas along roadways unless specifically authorized by the director of the public works department or his/her designee:

- a. *For strips of land less than six (6) feet in width:* Spray irrigation shall be prohibited. Low-flow~~volume~~ irrigation systems are required.
 - b. *For strips of land between six (6) feet and fifteen (15) feet in width:* Only low-flow~~volume~~ irrigation, or spray irrigation using low-angle spray nozzles designed for the specific width to be irrigated shall be permitted. All spray heads must be pressure reducing and designed to prevent low head drainage.
 - c. *For strips of land greater than fifteen (15) feet and up to twenty-five (25) feet in width:* Only gear-driven rotors with low angle nozzles may be used to irrigate areas. Planting beds may be irrigated with low-flow~~volume~~ or spray irrigation. All spray heads must be pressure reducing and designed to prevent low head drainage.
- (d) Landscape irrigation restrictions. Irrigation of landscaping shall comply with the following provisions:
- (1) Landscape irrigation shall be permitted between the hours of 3:00 a.m. and 9:00 a.m. and 4:00 p.m. and 9:00 p.m. except as otherwise provided herein.
 - (2) ~~Addresses ending in Even numbered addresses (0, 2, 4, 6, 8) are allowed to irrigate on Tuesday, Thursday, and Sunday.~~ 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 shall have the opportunity to accomplish necessary landscape irrigation two (2) days a week, only on Thursday and/or Sunday.
 - (3) ~~Addresses ending in odd Odd numbered addresses (1, 3, 5, 7, 9) are allowed to irrigate on Monday, Wednesday, Saturday.~~ shall have the opportunity to accomplish necessary landscape irrigation two (2) days a week, only on Wednesday and/or Saturday.
 - (4) ~~Areas with irrigation installation systems that irrigate both even and odd addresses within the same zones, including multi-family units and homeowner's associations, and rights-of-way or other locations with no address are allowed to irrigate on Tuesday, Thursday, and Sunday.~~

- (4) New landscape irrigation shall be prohibited between the hours of 9:00 a.m. and 4:00 p.m., except as otherwise provided herein:
- a. 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.
 - b. The sixty-day period permitted to establish new landscaping 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.
 - c. New landscaping which has been in place for thirty (30) days or less may be irrigated a maximum of six (6) days per week. Irrigation is permitted on Monday, Tuesday, Wednesday, Thursday, Saturday, and/or Sunday.
 - d. New landscaping which has been in place for thirty-one (31) to sixty (60) days may be irrigated a maximum of four (4) days per week. Irrigation is permitted on Monday, Wednesday, Thursday, and/or Saturday.
 - e. 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 section if the zone in question is for an area that contains at least fifty (50) percent new landscaping. If a zone contains less than fifty (50) percent 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 section. Targeted watering may be accomplished by low volume hand watering, or any appropriate method which isolates and waters only the new landscaping.
- (5) The provisions of this Ordinance shall apply to each person, as defined in subsection 28-1B(a), providing landscape irrigation from all water resources within the boundaries of the City with the following exceptions:
- a. 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 (1) test should not exceed ten (10) minutes per zone.

b. 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:

i. Such watering-in shall be limited to one (1) application, unless the need for more than one (1) application is stated in the directions for application specified by the manufacturer; and

ii. Such watering-in shall be accomplished during normally allowable watering days and times set forth in subsection 28-1B(d), unless a professional licensed applicator has posted a temporary sign containing the date of application and the date(s) of needed watering-in activity.

c. Any plant material may be watered using low volume irrigation, micro-irrigation, low volume hand watering method, rain barrels, cisterns, or other similar rain-harvesting devices without regard to the watering days or times allowed pursuant to this Section.

d. The use of reclaimed water, which may or may not be supplemented from another source.

e. Irrigation at agricultural and nursery operations.

f. Irrigation of athletic play areas.

(e) Water for industrial, commercial and public use. The city encourages all industrial, commercial and public use licensees to implement Best Management Practices (BMP) for efficient use of water.

(f) Water for heating or process water.

(1) A water conservation device conforming to such specifications as may be required by the city, shall be installed on heating, processing or other industrial or commercial uses of

water whenever the city determines in its discretion that recycling of the water without treatment is practical.

- (2) For purposes of this section, a water conservation device is any equipment, process or procedure whereby all water used for heating or processing is either consumed in the intended use, or is recycled for the same purpose until it is unusable.
- (g) Water used for cooling including condensate. All new construction and replacements of cooling equipment whose function is evaporative or refrigerated cooling uses and air conditioning facilities that deliver water or condensate to a drain or other discharge facility are prohibited. This includes any equipment, process or procedure which relies upon the temperature of the water supply for cooling purposes.
- (h) *Commercial power washing.* Commercial enterprises for which cleaning with water is an essential element of their business shall use only high efficiency equipment that uses 1.6 gallons per minute or less and is certified by the manufacturer.
- (i) *Water for decorative features.* Decorative water features or similar water operating devices using potable or recycled water shall recirculate water within the device. Each device connected to the water system must have an approved back-flow prevention assembly as required by engineering standards.
- (j) *Lakes and ponds.* Potable water shall not be used to fill or maintain water levels in lakes and ponds.
- (k) *Variances.*

- (1) A variance from the specific day or days identified in subsection 28-1B(d) may be granted by the City Manager or designee if strict application of the restrictions would lead to unreasonable or unfair result; provided the applicant demonstrates with particularity that compliance with the schedule will result in substantial economic, health, or other hardship on the applicant 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. Relief may be granted only upon a demonstration that such hardship exists, is peculiar to the person or the affected property, is not self-imposed, and further demonstrates that granting the variance would be consistent with the general intent and purpose of this ordinance.

- (2) The City recognizes all irrigation variances or waivers issued by the South Florida Water Management District under Rule 40E-24.501, F.A.C.

SECTION 3. CODIFICATION AND SCRIVENER'S ERRORS. The City intends that this Ordinance will be made part of the Code of Ordinance; that sections of this Ordinance can be re-numbered or re-lettered to accomplish codification and, regardless of whether this Ordinance is ever codified, the Ordinance can be re-numbered or re-lettered, and typographical errors that do not affect the intent can be corrected with the authorization of the City Manager, or his designee, without the need for a public hearing.

SECTION 4. That if any clause, section, or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 5. That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 6. That this Ordinance shall be in full force and effect upon final passage.

PASSED FIRST READING this 2nd day of November, 2021.

PASSED SECOND READING this _____ day of _____, 2021.

Mayor
DEAN J. TRANTALIS

ATTEST:

City Clerk
JEFFREY A. MODARELLI