

ORDINANCE NO. 431

**AN ORDINANCE OF THE CITY OF ORANGE CITY, FLORIDA,
AMENDING SECTIONS OF CHAPTER 17.3 UTILITIES OF THE CODE
OF ORDINANCES OF THE CITY OF ORANGE CITY, FLORIDA;
PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE
DATE.**

WHEREAS, Section 17.3 Utilities, of the Code of Ordinances of the City of Orange City was adopted in 1991 and amended on July 14, 2009; and

WHEREAS, it is the desire of the City Council to update this portion of the code to fully implement the requirements of the St. Johns River Water Management District's landscape irrigation rule; 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 **17.3-83** and **17.3-85**, subject to the exceptions set forth in Section **17.3-84**; 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 Council of the City of Orange City to adopt such an ordinance in accordance with 40C-2.042(2)(a) and (b), F.A.C.; and

WHEREAS, words with underlined type shall constitute additions to the original text and ~~strike through~~ shall constitute deletions to the original text; and

WHEREAS, the City Council of the City of Orange City 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 ENACTED BY THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA:

SECTION 1. That Chapter 17.3 of the Code of Ordinances of the City of Orange City is hereby amended in accordance with Exhibit "A" attached hereto and incorporated herein as though fully set forth by this reference.

SECTION 2. All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed.

SECTION 3. If any section, part of a section, paragraph, clause, phrase or word of this ordinance is declared invalid, the remaining provisions of this ordinance shall not be affected.

SECTION 4. This ordinance shall take effect immediately upon its adoption by the City Council of the City of Orange City, Florida, and approval as provided by law.

ROLL CALL VOTE AS FOLLOWS:

First Reading this 28th day of September, 2010

Gary A. Blair	<u>yes</u>	Jeff H. Allebach	<u>yes</u>
O William Crippen	<u>yes</u>	Tom Abraham	<u>yes</u>
Anthony Pupello	<u>yes</u>	Tom Laputka, Vice Mayor	<u>yes</u>
Harley Strickland, Mayor	<u>yes</u>		

ROLL CALL VOTE AS FOLLOWS:

Second Reading this 12th day of October, 2010

Gary A. Blair	<u>yes</u>	Jeff H. Allebach	<u>yes</u>
O. William Crippen	<u>yes</u>	Tom Abraham	<u>yes</u>
Anthony Pupello	<u>yes</u>	Tom Laputka, Vice Mayor	<u>yes</u>
Harley Strickland, Mayor	<u>yes</u>		

PASSED and ADOPTED this 12th day of October, 2010.

ATTEST:

Deborah J. Renner
Deborah J. Renner, CMC, City Clerk

AUTHENTICATED:

Harley Strickland
Harley Strickland, Mayor

Approved as to form and legal sufficiency:

William E. Reischmann, Jr.
William E. Reischmann, Jr., City Attorney

Exhibit "A"

Sec. 17.3-81. - Intent, purpose, and applicability.

It is the intent and purpose of this division is to implement procedures that promote water conservation through more efficient landscape irrigation. ~~The provisions of this division are applicable to private wells, surface water and potable water used for irrigation and other nonpotable uses.~~

(Ord. No. 393, § 1, 7-14-09)

Sec. 17.3-82. - 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.

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.

District means the St. Johns River Water Management District.

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.

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.

Person means any person, firm, partnership, association, corporation, company, or organization of any kind.

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.

(Ord. No. 393, § 1, 7-14-09)

Sec. 17.3-83. - Landscape irrigation schedules.

(a)

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

(1)

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

(2)

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

(3)

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

(4)

No more than three-fourths-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 one hour per irrigation zone on each day that irrigation occurs.

(b)

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

(1)

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

(2)

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

(3)

Non-residential landscape irrigation may occur only on Tuesday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

(4)

No more than three-fourths-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 one hour per irrigation zone on each day that irrigation occurs.

(c)

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

(Ord. No. 393, § 1, 7-14-09)

Sec. 17.3-84. - 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 one-fourth 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.

(Ord. No. 393, § 1, 7-14-09)

Sec. 17.3-85. - 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. 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.~~

(Ord. No. 393, § 1, 7-14-09)

Sec. 17.3-86. - Variance from specific day of the week limitations.

A variance from the specific landscape irrigation days or day set forth in section 17.3-83 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.

(Ord. No. 393, § 1, 7-14-09)

Sec. 17.3-87. - Application of division.

The provisions of this division shall apply to each person located within the City of Orange City.

(Ord. No. 393, § 1, 7-14-09)

Sec. 17.3-88. - Enforcement officials.

Division 2, Water Conservation shall be enforced by citation to the appropriate court, hearing officer, city manager or code enforcement board, except where prohibited by law or statute.

Enforcement personnel means those personnel duly authorized by the city for the purposes of maintaining compliance with the provisions of this division. This shall include, but not be limited to, state officials, county officials, district, or any duly authorized agency officials, code enforcement officers, law enforcement officers, employees of the fire department, water meter readers, utility personnel/public works

employees and other duly designated employees or agents of the city so designated by the city manager.

(Ord. No. 393, § 1, 7-14-09)

Sec. 17.3-89. - Penalties.

(a)

Enforcement personnel as defined in subsection 17.3-82(c) are authorized to issue a citation to a person when, based upon personal observation and/or investigation the enforcement personnel has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted city code or ordinance. However, prior to issuing a citation, enforcement personnel shall provide notice that the person has committed a violation of code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than ten calendar days. If, upon personal investigation or observation, enforcement personnel find that the person has not corrected the violation within the time period, enforcement personnel may issue a citation to the person who has committed the violation in accordance with the penalties under subsections (b), (c), and (d) below.

(b)

Penalty for a first-time violation shall be a written warning delivered or sent to the violator along with a copy of the restrictions. A door tag is sufficient warning.

(c)

Penalty for second-time violation shall be as set forth by resolution.

(d)

Penalty for each succeeding violation shall be as set forth by resolution. Each day of noncompliance is considered a separate violation.

(e)

Any violations occurring after the ten-day period shall be considered separate violations when considering the application of penalties. Nothing herein is intended to legalize any violations that occur following the ten-day period, and no other warning shall be deemed necessary.

(f)

Enforcement personnel shall issue a notice of a citation in a form prescribed by the city.

(g)

In the event that full compliance is not met with the issuance of the first written warning, citation fines may be charged to the violator's utility bill, and if not paid within the standard period allowed to pay the utility bill, the violator's water service shall be discontinued until such fine is paid in full.

(h)

Penalties for watering restriction violations shall be paid to the utilities department of the city.

(Ord. No. 393, § 1, 7-14-09)