

**11/12/2009 FINAL full text**  
**District-wide Year-Round Water Conservation**  
**40E-24, F.A.C.**

**40E-24.011 Policy and Purpose.**

(1) This chapter comprises the ~~South Florida Water Management District's (District)~~ Mandatory Year-Round Landscape Irrigation Conservation Measures for the area within Lee, Collier and that portion of Charlotte County 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 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~~ three days per week except as specified otherwise herein. Users are encouraged to apply no more than  $\frac{3}{4}$ -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 opportunities up to three days per week in designated counties to address utility operational, health and safety, and landscape concerns.

(2) Irrigation of landscapes as defined above, may be further restricted by local governments only in response to concerns directly related to the local water supply system.

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) "Address" means the "house number" (a numeric or alphanumeric designation) that, together with the street name, describes the physical location of a specific

**11/12/2009 FINAL full text**  
**District-wide Year-Round Water Conservation**  
**40E-24, F.A.C.**

1 property. This includes “rural route” numbers but excludes post office box numbers. If a  
2 lot number in a mobile home park or similar community is used by the U.S. Postal  
3 Service to determine a delivery location, the lot number shall be the property’s address.  
4 If a lot number in a mobile home park or similar residential community is not used by the  
5 U.S. Postal Service (e.g., the park manager sorts incoming mail delivered to the  
6 community’s address), then the community’s main address shall be the property’s  
7 address. If a property has no address it shall be considered “even-numbered”.

8 (2) “Athletic play area” means all golf course fairways, tees, roughs, and greens, and  
9 other athletic play surfaces; including, football, baseball, soccer, polo, tennis and lawn  
10 bowling fields, and rodeo, equestrian and livestock arenas.

11 (3) “Consumptive Use Permit (CUP)” means a permit issued pursuant to Chapter  
12 40E-2 or 40E-20, F.A.C., authorizing the consumptive use of water.

13 (4) “Even Numbered Address” means an address, ending in the numbers 0, 2, 4, 6,  
14 8, or rights-of-way or other locations with no address, or the letters A-M.

15 (5) “Existing landscaping” means any landscaping which has been which has been  
16 planted and in the ground for more than ninety sixty (960) days.

17 (6) “Landscaping” means shrubbery, trees, lawns, sod, grass, ground covers, plants,  
18 vines, ornamental gardens, and such other flora, not intended for resale, which are  
19 situated in such diverse locations as residential landscapes, recreation areas,  
20 cemeteries, public, commercial, and industrial establishments, public medians, and  
21 rights-of-way except athletic play areas as defined in Subsection 40E-24.101(2), F.A.C.

22 (5 7) “Low Volume Hand Watering” means the watering of landscape by one person,  
23 with one hose, fitted with a self-canceling or automatic shutoff nozzle.

24 (8) “Low Volume Irrigation” means the use of equipment and devices specifically  
25 designed to allow the volume of water delivered to be limited to a level consistent with  
26 the water requirement of the plant being irrigated and to allow that water to be placed  
27 with a high degree of efficiency in the root zone of the plant. The term also includes  
28 water used in mist houses and similar establishments for plant propagation. Overhead  
29 irrigation and flood irrigation are not included.

30 (6 9) “Landscape Irrigation” means the outside watering of delivery of water to  
31 shrubbery, trees, lawns, sod, grass, ground covers, plants, vines, ornamental gardens,  
32 and such other flora, not intended for resale, which are planted and established for  
33 more than sixty (60) days and are situated in such diverse locations as residential  
34 landscapes, recreation areas, cemeteries, public, commercial, and industrial  
35 establishments, public medians, and rights-of-way except athletic play areas as defined  
36 in Subsection 40E-24.101(2), F.A.C.

37 (10) “Micro-irrigation” means the application of small quantites of water on or below  
38 the soil surface as drops or tiny streams of spray through emitter or applicators placed  
39 along a water delivery line. Micro-irrigation includes a number of methods or concepts  
40 such as bubbler, drip, trickle, mist or microspray, and subsurface irrigation.

41 (11) “New landscaping” means any landscaping which has been planted and in the  
42 ground for ninety sixty (960) days or less.

43 (12 7) “Odd Numbered Address” means an address ending in the numbers 1, 3, 5, 7,  
44 9 or the letters N-Z.

**11/12/2009 FINAL full text**  
**District-wide Year-Round Water Conservation**  
**40E-24, F.A.C.**

1 (13 8) "Reclaimed Water" means wastewater that has received at least secondary  
2 treatment and basic disinfection and is reused after flowing out of a wastewater  
3 treatment facility as defined by Rule 62-40.210, F.A.C.

4 (14 9) "User" means any person, individual, firm, association, organization,  
5 partnership, business trust, corporation, company, agent, employee or other legal entity  
6 whether natural or artificial, the United States of America, and the State and all political  
7 subdivisions, regions, districts, municipalities, and public agencies thereof, which  
8 directly or indirectly takes water from the water resource, including uses from private or  
9 public utility systems, uses under water use permits issued pursuant to Chapter 40E-2  
10 or 40E-20, F.A.C., or uses from individual wells or pumps.

11 (15 40) "Wasteful and unnecessary" means allowing water to be dispersed without  
12 any practical purpose to the water use; for example, excessive landscape irrigation,  
13 leaving an unattended hose on a driveway with water flowing, allowing water to be  
14 dispersed in a grossly inefficient manner, regardless of the type of water use; for  
15 example, allowing landscape irrigation water to unnecessarily fall onto pavement,  
16 sidewalks and other impervious surfaces; allowing water flow through a broken or  
17 malfunctioning water delivery or landscape irrigation system.

18 *Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented*  
19 *373.042, 373.0421, 373.171, 373.219, 373.223, 373.227 FS. History—New 6-12-03,*  
20 *Amended \_\_\_\_\_.*

21 **40E-24.201 Year-Round Landscape Irrigation Conservation Measures.**

22 (1) The year-round landscape irrigation conservation measures contained in this  
23 chapter are applicable to all users as defined in Subsection 40E-24.101(14 9), F.A.C.,  
24 including permitted and exempt—users under Chapters 40E-2 and 40E-20, F.A.C.,  
25 unless indicated otherwise herein. These conservation measures apply to all water  
26 sources, except that the use of reclaimed water, which may or may not be  
27 supplemented from another source, is allowed anytime. ~~landscape irrigation~~  
28 ~~accomplished using reclaimed water is subject to only Paragraphs 5(a) of this section.~~  
29 In addition to the requirements of this section, all permitted users under Chapters 40E-2  
30 and 40E-20, F.A.C., are required to maintain compliance with all CUP conditions and  
31 terms, including those designed to require the implementation of water conservation  
32 practices.

33 (2) Any restrictions or other measures declared pursuant to Chapter 40E-21, F.A.C.,  
34 or related Board or Executive Director orders which are more restrictive than a measure  
35 contained within this chapter, shall supersede this rule for the duration of the applicable  
36 water shortage declaration.

37 (3) It shall be the duty of each water user to keep informed as to the landscape  
38 irrigation conservation measures presented within this chapter, which affect each  
39 particular water use.

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

43 (5) The following requirements or exceptions shall apply to all users unless specified

**11/12/2009 FINAL full text**  
**District-wide Year-Round Water Conservation**  
**40E-24, F.A.C.**

1 otherwise herein:

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

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

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

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

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

15 ~~1.2.~~ On the day the new landscaping is installed, the new landscaping may be  
16 irrigated once without regard to the normally allowable watering days and times.  
17 Irrigation of the soil immediately prior to the installation of the new landscaping is also  
18 allowable without regard to the normal allowable watering days and times.

19 ~~2.3.~~ The ninety (90) sixty (60) day period begins the day the new landscaping  
20 is installed. The new landscaping shall be installed within a reasonable time from the  
21 date of purchase, which may be demonstrated with a dated receipt or invoice.

22 ~~3.4.~~ Irrigation of new landscaping which has been in place for thirty (30) days  
23 or less may be accomplished on Monday, Tuesday, Wednesday, Thursday, Saturday,  
24 and/or Sunday.

25 ~~4.5.~~ Irrigation of new landscaping which has been in place for thirty-one (31) to ninety  
26 (90) days sixty (60) may be accomplished on Monday, Wednesday, Thursday, and/or  
27 Saturday.

28 5. Irrigation of the new landscaping is limited to areas containing the new  
29 landscaping only. An entire zone of an irrigation system shall only be utilized for  
30 landscape irrigation under this paragraph if the zone in question is for an area that  
31 contains at least 50% new landscaping. If a zone contains less than 50% new  
32 landscaping, or if the new landscaping is in an area that will not typically be irrigated by  
33 an irrigation system, only the individual new plantings are eligible for additional irrigation  
34 under this paragraph. Targeted watering may be accomplished by low volume hand  
35 watering, or any appropriate method which isolates and waters only the new  
36 landscaping.

37 (c) Landscape irrigation systems may be operated during restricted days and/or  
38 times for cleaning, maintenance, and repair purposes with an attendant on site in the  
39 area being tested. Landscape irrigation systems may routinely be operated for such  
40 purposes no more than once per week, and the run time for any one test should not  
41 exceed 10 minutes per zone.

42 (d) Landscape irrigation for the purpose of watering-in fertilizers, insecticides,  
43 pesticides, fungicides and herbicides, where such watering-in is required recommended  
44 by the manufacturer, or by federal, state or local law, or best management practices,

**11/12/2009 FINAL full text**  
**District-wide Year-Round Water Conservation**  
**40E-24, F.A.C.**

1 shall be allowed under the following conditions:

2 1. Such watering-in shall be limited to one application unless the need for more than  
3 one application is stated in the directions for application specified by in the absence of  
4 specific alternative instructions from the manufacturer; and

5 2. Such watering-in shall be accomplished during normally allowable watering days  
6 and times set forth in Paragraphs 5(a), 6, and 7 unless a professional licensed  
7 applicator has posted a temporary ~~pesticide~~ sign containing the date of application and  
8 the date(s) of needed watering-in activity.

9 (e) Any plant material may be watered using low volume irrigation, micro-irrigation,  
10 low-volume hand watering methods, and rain barrels, cisterns, or other similar rain-  
11 harvesting devices without regard to the watering days or times allowed pursuant to this  
12 section.

13 (6) Except as authorized in Paragraph 7, below, irrigation of existing landscaping  
14 shall comply with the following provisions:

15 (a) Even addresses, installations with irrigation systems that irrigate both even and  
16 odd addresses within the same zones, such as multi-family units and homeowners'  
17 associations, and rights-of-way or other locations with no address as defined in  
18 Subsection 40E-24.101(4), F.A.C., shall have the opportunity to accomplish necessary  
19 landscape irrigation only on Thursday and/or Sunday.

20 (b) Odd addresses as defined in Subsection 40E-24.101(12), F.A.C., shall have the  
21 opportunity to accomplish necessary landscape irrigation only on Wednesday and/or  
22 Saturday.

23 (7) Users located in Broward, Collier, Glades, Hendry, Lee, Martin, Miami-Dade,  
24 Monroe, Palm Beach, and St. Lucie counties shall irrigate existing landscaping in  
25 accordance with the provisions set forth in Paragraph 6, above, or as provided below.

26 (a) Even addresses, installations with irrigation systems that irrigate both even and  
27 odd addresses within the same zones, such as multi-family units and homeowners'  
28 associations, and rights-of-way or other locations with no address as defined in  
29 Subsection 40E-24.101(4), F.A.C., shall have the opportunity to accomplish necessary  
30 landscape irrigation only on Tuesday, and/or Thursday, and/or Sunday.

31 (b) Odd addresses as defined in Subsection 40E-24.101(12), F.A.C., shall  
32 have the opportunity to accomplish necessary landscape irrigation only on Monday,  
33 and/or Wednesday, and/or Saturday.

34 Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented  
35 373.042, 373.0421, 373.171, 373.219, 373.223, 373.227 FS. History—New 6-12-03,  
36 Amended \_\_\_\_\_.

37  
38 **40E-24.301 Local Government Option.**

39 (1) Local governments that wish to enforce alternative landscape irrigation  
40 conservation measures, shall be considered to be in substantial compliance with this  
41 rule upon the enactment of an ordinance establishing landscape irrigation conservation  
42 measures which achieve water conservation and which allow no more cumulative days  
43 and time for landscape irrigation than Subsections 40E-24.201(5)-(7), F.A.C. Such  
44 ordinance shall provide for variance and enforcement procedures ~~that do not diminish~~

**11/12/2009 FINAL full text**  
**District-wide Year-Round Water Conservation**  
**40E-24, F.A.C.**

1 ~~the intent and effectiveness of the measures and which do not conflict with the District's~~  
2 ~~authority under Chapter 373, F.S., and District rules.~~

3 (2) Irrigation of landscapes as defined above, may be further restricted by local  
4 governments only in response to concerns directly related to the local water supply  
5 system.

6 (3) Local governments with a jurisdiction divided between the South Florida Water  
7 Management District and another water management district may enact an ordinance  
8 providing for ~~propose an alternative schedule of~~ alternative landscape irrigation  
9 conservation measures as necessary for the local government to achieve a uniform  
10 schedule within its jurisdiction.

11 (4) At least thirty (30) days prior to the adoption of an ordinance for alternative  
12 landscape irrigation conservation measures, the local government shall submit the  
13 proposed ordinance to the District ~~to review for consistency with Chapter 373, F.S., and~~  
14 ~~District rules and approval. The ordinance must be adopted as approved by the District.~~

15 (5 ~~2~~) In order to evaluate the effectiveness of the approved alternative landscape  
16 irrigation conservation measures, such local governments shall provide an annual report  
17 to the District which includes any variances granted or denied, enforcement actions  
18 taken and any measures proposed to be amended in the next reporting period. Each  
19 annual report shall be submitted to the District no later than September 20<sup>th</sup> of each  
20 year following the adoption of this Chapter.

21 (~~6~~ 3) Users within the jurisdiction or customers of such local governments shall  
22 comply with the alternative landscape irrigation conservation measures contained within  
23 the ordinance implementing that program and are not subject to the measures  
24 contained in Subsection 40E-24.201(5), F.A.C.

25 *Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented*  
26 *373.042, 373.0421, 373.171, 373.219, 373.223, 373.227, 373.609 FS. History—New 6-*  
27 *12-03, Amended \_\_\_\_\_.*

28 **40E-24.401 Enforcement.**

29 (1) As required by Section 373.609, F.S., each county and city commission,  
30 state and county attorney, sheriff, police officer and other appropriate local government  
31 official in the region covered by this chapter which is not implementing alternative  
32 landscape irrigation conservation measures pursuant to a local government ordinance,  
33 shall respond to address-specific or location-specific violations of this chapter upon  
34 request from the District.

35 (2) A local government is strongly encouraged to enforce Rule 40E-24.201,  
36 F.A.C., within its jurisdiction by adopting a landscape irrigation ordinance that  
37 incorporates ~~incorporating~~ the provisions set forth in Rule 40E-24.201, F.A.C. At least  
38 thirty (30) days prior to the adoption of an ordinance to enforce Rule 40E-24.201,  
39 F.A.C., the local government shall submit the proposed ordinance to the District.

40 ~~Irrigation of landscapes, as defined above, may be further restricted by local~~  
41 ~~governments only in response to concerns directly related to the local water supply~~  
42 ~~system or as provided in Rule 40E-24.301, F.A.C., above.~~

43 (3) In enforcing the provisions of this chapter the District will utilize any of the

**11/12/2009 FINAL full text**  
**District-wide Year-Round Water Conservation**  
**40E-24, F.A.C.**

1 enforcement remedies available pursuant to Chapter 120 or 373, F.S., or applicable  
2 District rule. The Executive Director may take appropriate action pursuant to Sections  
3 373.119, 373.175(4), 373.246(7) and 120.69, F.S., to enforce the provisions of this  
4 chapter.

5 Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented  
6 373.119, 373.171, 373.175(4), 373.219, 373.227, 373.246(7), 373.603, 373.609 FS.  
7 History—New 6-12-03, Amended \_\_\_\_\_.

8 **Section 40E-24.501 Variances and Waivers.**

9 (1) Users may request relief from the provisions of this Chapter by filing a  
10 petition for variance or waiver pursuant to Section 120.542, F.S. Florida Statutes, and  
11 Rule 28-104, F.A.C. Examples of circumstances, which subject to the above-  
12 referenced statute and rule and the provisions below, may be candidates for the  
13 issuance of a variance, include but are not limited to:

14 (a) Two or more properties which share a common source of water;

15 (b) A public or private water system experiencing, or anticipating,  
16 distribution problems that cannot be addressed through Rule 40E-24.301, F.A.C.; or

17 (c) User maintains an irrigation system that uses soil moisture sensors  
18 with remote monitoring and adjustment capabilities that satisfies the requirements set  
19 forth in Section 373.62(7), F.S.

20 (2) A variance or waiver is invalid if it has expired or if the user or its agent  
21 violates the terms of the variance or waiver.

22 (3) Where a local government has adopted an ordinance incorporating the  
23 provisions set forth in Rule 40E-24.201, F.A.C the local government may grant a  
24 variance from the specific day or days for landscape irrigation identified in Rule 40E-  
25 24.201(6) or (7), F.A.C., or the specific day or days for landscape irrigation identified in  
26 the alternative landscape irrigation measures pursuant to Rule 40E-24.301, F.A.C.,  
27 provided that the applicant demonstrates with particularity that compliance with the  
28 schedule of days for landscape irrigation will result in a substantial hardship on the  
29 applicant requesting the variance or those served by the applicant. If granted, the  
30 applicant shall be required to post a notice at each parcel to which the variance  
31 pertains.

32 Rulemaking Authority 120.542, 373.044, 373.113, 373.171 FS. Law Implemented  
33 120.542, 373.119, 373.171, 373.175, 373.219, 373.227, 373.246, 373.603, 373.609 FS.  
34 History—New \_\_\_\_\_.