

5-15-08 DRAFT
District-wide Year-Round Water Conservation
40E-24

1 **40E-24.011 Policy and Purpose.**

2 (1) This chapter comprises the ~~South Florida Water Management District's (District)~~
3 ~~Mandatory Year-Round Landscape Irrigation Measures for the area within Lee, Collier~~
4 ~~and that portion of Charlotte County~~ within the boundaries of the South Florida Water
5 Management District (~~District~~). These mandatory measures are intended to provide a
6 framework for consistent implementation to ensure the long-term sustainability of the
7 water resources of the region, increase water use efficiency and prevent and curtail
8 wasteful water use practices through regulatory means for landscape irrigation by all
9 users. Local governments are encouraged to implement these measures through the
10 adoption of ordinances that would include these measures, variance and enforcement
11 provisions. These measures are in addition to Chapter 40E-2, F.A.C., provisions and
12 non-regulatory measures, such as education and incentive programs, which are also
13 utilized by the District to promote water conservation. These measures prohibit
14 landscape irrigation during those periods of the day when irrigation efficiency
15 significantly decreases, and limit landscape irrigation water use to a maximum number
16 of ~~three~~ two days per week unless specified otherwise herein.

17 (2) through (3) No Change.

18 *Specific Authority* 373.016, 373.044, 373.0831, 373.113, 373.171, 373.227 *FS. Law*
19 *Implemented* 373.042, 373.0421, 373.0831, 373.171, 373.223, 373.227 *FS. History-*
20 *New 6-12-03, Amended* _____.

21 **40E-24.101 Definitions.**

22 When used in this chapter:

23 (1) "Address" means the "house number" (a numeric or alphanumeric designation)
24 that, together with the street name, describes the physical location of a specific
25 property. This includes "rural route" numbers but excludes post office box numbers. If a
26 lot number in a mobile home park or similar community is used by the U.S. Postal
27 Service to determine a delivery location, the lot number shall be the property's address.
28 If a lot number in a mobile home park or similar residential community is not used by the
29 U.S. Postal Service (e.g., the park manager sorts incoming mail delivered to the
30 community's address), then the community's main address shall be the property's
31 address. If a property has no address it shall be considered "even-numbered".

32 (2) "Alternative water supply" means alternative water supply as defined in Section
33 373.019(1), F.S.

34 (2 ~~3~~) "Athletic play area" means all golf course fairways, tees, and greens, and other
35 athletic play surfaces; including, football, baseball, soccer, polo, tennis and lawn
36 bowling fields, and rodeo, equestrian and livestock arenas.

37 (3 ~~4~~) "Consumptive Use Permit (CUP)" means a permit issued pursuant to Chapter
38 40E-2 or 40E-20, F.A.C., authorizing the consumptive use of water.

39 (4 ~~5~~) "Even Numbered Address" means an address, ending in the numbers 0, 2, 4,
40 6, 8, or rights-of-way or other locations with no address, or the letters A-M.

41 (6) "Existing landscaping" means any landscaping which has been which has been
42 planted and established for more than sixty (60) days.

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1 (7) “Landscaping” means shrubbery, trees, lawns, sod, grass, ground covers, plants,
2 vines, ornamental gardens, and such other flora which are situated in such diverse
3 locations as residential landscapes, recreation areas, cemeteries, public, commercial,
4 and industrial establishments, public medians, and rights-of-way except athletic play
5 areas as defined in subsection 40E-24.101(2), F.A.C.

6 (5 8) “Low Volume Hand Watering” means the watering of landscape by one
7 person, with one hose, fitted with a self-canceling or automatic shutoff nozzle.

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

14 (6 10) “Landscape Irrigation” means the delivery of water to shrubbery, trees,
15 lawns, sod, grass, ground covers, plants, vines, ornamental gardens, and such other
16 flora which are planted and established for more than sixty (60) days and are situated in
17 such diverse locations as residential landscapes, recreation areas, cemeteries, public,
18 commercial, and industrial establishments, public medians, and rights-of-way except
19 athletic play areas as defined in subsection 40E-24.101(2), F.A.C.

20 (11) “Micro-irrigation” means the application of small quantities of water on or
21 below the soil surface as drops or tiny streams of spray through emitter or applicators
22 placed along a water delivery line. Micro-irrigation includes a number of methods or
23 concepts such as bubbler, drip, trickle, mist or microspray, and subsurface irrigation.

24 (12) “New landscaping” means any landscaping which has been planted and
25 established for sixty (60) days or less.

26 (7 13) “Odd Numbered Address” means an address ending in the numbers 1, 3, 5, 7,
27 9 or the letters N-Z.

28 (8 14) “Reclaimed Water” means wastewater that has received at least secondary
29 treatment and basic disinfection and is reused after flowing out of a wastewater
30 treatment facility as defined by Rule 62-40.210, F.A.C.

31 (15) “Supplemented reclaimed water” and “blended reclaimed water” means
32 reclaimed water which has been commingled with potable water, groundwater, surface
33 water, or some other traditional source by a public or private utility for the purpose of
34 increasing supply.

35 (9 16) “User” means any person, individual, firm, association, organization,
36 partnership, business trust, corporation, company, agent, employee or other legal entity
37 whether natural or artificial, the United States of America, and the State and all political
38 subdivisions, regions, districts, municipalities, and public agencies thereof, which
39 directly or indirectly takes water from the water resource, including uses from private or
40 public utility systems, uses under water use permits issued pursuant to Chapter 40E-2
41 or 40E-20, F.A.C., or uses from individual wells or pumps.

42 (40 17) “Wasteful and unnecessary” means allowing water to be dispersed without
43 any practical purpose to the water use; for example, excessive landscape irrigation,
44 leaving an unattended hose on a driveway with water flowing, allowing water to be

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1 dispersed in a grossly inefficient manner, regardless of the type of water use; for
2 example, allowing landscape irrigation water to unnecessarily fall onto pavement,
3 sidewalks and other impervious surfaces; allowing water flow through a broken or
4 malfunctioning water delivery or landscape irrigation system.

5 *Specific Authority* 373.016, 373.044, 373.0831, 373.113, 373.171, 373.227 FS. *Law*
6 *Implemented* 373.042, 373.0421, 373.0831, 373.171, 373.223, 373.250, 373.227 FS.
7 *History*—New 6-12-03, Amended _____.

8 **40E-24.201 Year-Round Landscape Irrigation Measures.**

9 (1) The year-round landscape irrigation measures contained in this chapter are
10 applicable to all users as defined in subsection 40E-24.101(9), F.A.C., including
11 permitted and exempt users under Chapter 40E-2, F.A.C., unless indicated otherwise
12 herein. These measures apply to all water sources, except that landscape irrigation
13 accomplished using 100% reclaimed water is subject to only paragraphs 5(a)(1) and
14 5(d)(1) of this section. In addition to the requirements of this section, all permitted users
15 under Chapter 40E-2, F.A.C., are required to maintain compliance with all CUP
16 conditions and terms, including those designed to require the implementation of water
17 conservation practices.

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

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

25 (4) In addition to the specific measures enumerated below, all wasteful and
26 unnecessary water use as defined in subsection 40E-24.101(10), F.A.C., is prohibited.

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

29 ~~(a) Landscape irrigation shall be prohibited daily between the hours of 10:00 a.m.~~
30 ~~and 4:00 p.m., except as otherwise provided herein. Irrigation of existing~~
31 ~~landscaping shall comply with the following provisions:~~

32 1. Landscape irrigation shall be prohibited daily between the hours of
33 10:00 a.m. and 4:00 p.m., except as otherwise provided herein.

34 2. Even addresses, installations with irrigation systems that irrigate
35 both even and odd addresses within the same zones, including multi-family units and
36 homeowners' associations, and rights-of-way or other locations with no address as
37 defined in subsection 40E-24.101(4 5), F.A.C., shall accomplish necessary landscape
38 irrigation only on may accomplish necessary landscape irrigation only on Tuesday,
39 and/or Thursday and/or Sunday.

40 3. Odd addresses as defined in subsection 40E-24.101(7 13), F.A.C.,
41 and rights-of-way or other locations without an address shall accomplish necessary
42 landscape irrigation only on Monday, and/or Wednesday and/or Saturday.

43 (b) Landscape irrigation using supplemented reclaimed water which meets

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1 one of the conditions listed in paragraphs 5(b)(1) through 5(b)(6), below, shall be
2 subject to the restrictions set forth in paragraph 1. Landscape irrigation which utilizes
3 supplemented reclaimed water that fails to meet the conditions specified below shall be
4 subject to the restrictions set forth in paragraphs 5(c), and 5(d).

5 1. The other supply is incidental stormwater runoff that enters a
6 reclaimed water storage pond;

7 2. The other supply consists of withdrawals from an un-augmented
8 stormwater system or water recovered from a permitted aquifer storage and recovery
9 (ASR) well that stores seasonal diversions from a surface water body;

10 3. The other supply is recovered from a reclaimed water ASR well
11 permitted by the Florida Department of Environmental Protection, including reclaimed
12 ASR well testing authorized in preparation for permit issuance;

13 4. The other supply is rainwater collected in a rain barrel, cistern, or
14 other rain harvesting system.

15 5. The other supply consists of concentrate, reject water, or other by-
16 products from the treatment of brackish groundwater; or,

17 6. The reclaimed water provider has demonstrated to the District that
18 the other traditional supply is necessary to achieve full disposal of the reclaimed water.

19 (c) Irrigation of existing landscaping which utilizes supplemented reclaimed
20 water and/or water derived from an alternative water supply, but not including 100%
21 reclaimed water, shall comply with the following provisions:

22 1. Landscape irrigation shall be prohibited daily between the hours of
23 10:00 a.m. and 4:00 p.m., except as otherwise provided herein.

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

29 3. Odd addresses as defined in subsection 40E-24.101(13), F.A.C.,
30 may accomplish necessary landscape irrigation only on Monday, Wednesday, and/or
31 Saturday.

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

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

35 2. On the day the new landscaping is installed, the new landscaping
36 may be irrigated once without regard to the normally allowable watering times. Irrigation
37 of the soil immediately prior to the installation of the new landscaping is also allowable
38 without regard to the normal allowable watering days and times.

39 3. The sixty (60) day period begins the day the new landscaping is
40 installed. The new landscaping shall be installed within a reasonable time from the date
41 of purchase, which may be demonstrated with a dated receipt or invoice.

42 4. Irrigation of new landscaping which has been in place for thirty (30)
43 days or less shall be accomplished on Monday, Tuesday, Wednesday, Thursday,
44 Saturday, and/or Sunday.

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1 5. Irrigation of new landscaping which has been in place for thirty-one
2 (31) to sixty (60) days shall be accomplished on Monday, Wednesday, Thursday, and/or
3 Saturday.

4 6. Irrigation of the new landscaping is limited to areas containing the
5 new landscaping only. An entire zone of an irrigation system shall only be utilized for
6 landscape irrigation under this paragraph if the zone in question is for an area that
7 contains at least 50% new landscaping. If a zone contains less than 50% new
8 landscaping, or if the new landscaping is in an area that will not typically be irrigated by
9 an irrigation system, only the individual new plantings are eligible for additional irrigation
10 under this paragraph. Targeted watering may be accomplished by hand watering, or
11 any appropriate method which isolates and waters only the new landscaping.

12 ~~(d)~~(e) Landscape irrigation systems may be operated during restricted days
13 and/or times for cleaning, maintenance, and repair purposes with an attendant on site in
14 the area being tested. Landscape irrigation systems may routinely be operated for such
15 purposes no more than once per week, and the run time for any one test should not
16 exceed 10 minutes per zone.

17 ~~(e)~~(f) Landscape irrigation for the purpose of watering-in fertilizers, insecticides,
18 fungicides and herbicides, where such watering-in is required by the manufacturer, or
19 by federal, state or local law, or best management practices, shall be allowed under the
20 following conditions:

21 1. Such watering-in shall be limited to one application in the absence of
22 specific alternative instructions from the manufacturer; and

23 2. Such watering-in shall be accomplished during normally allowable
24 watering days and times unless a professional licensed applicator has posted a
25 temporary pesticide sign containing the date of application and the date(s) of needed
26 watering-in activity.

27 (f) (g) Any plant material may be watered using low volume irrigation, micro-
28 irrigation, and low-volume hand watering methods without regard to the watering days
29 or times allowed pursuant to this section.

30 *Specific Authority 373.016, 373.044, 373.0831, 373.113, 373.171, 373.227 FS. Law*
31 *Implemented 373.042, 373.0421, 373.0831, 373.171, 373.223, 373.250, 373.227 FS.*
32 *History—New 6-12-03, Amended _____.*

33 **40E-24.301 Local Government Option.**

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

41 (2) Local governments with a jurisdiction divided between the South Florida Water
42 Management District and another water management district may propose an
43 alternative schedule of measures as necessary for the local government to achieve a

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1 uniform schedule within its jurisdiction.

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

6 (4) In order to evaluate the effectiveness of the approved alternative landscape
7 irrigation measures, such local governments shall provide an annual report to the
8 District which includes any variances granted or denied, enforcement actions taken and
9 any measures proposed to be amended in the next reporting period. The first report
10 shall be submitted no later than January 1, 2004 2009. Each annual report thereafter
11 shall be submitted no later than September 30th of the following year.

12 (5) Users within the jurisdiction or customers of such local governments shall comply
13 with the alternative measures contained within the ordinance implementing that program
14 and are not subject to the measures contained in subsection 40E-24.201(5), F.A.C.

15 *Specific Authority 373.016, 373.044, 373.0831, 373.113, 373.171, 373.227 FS. Law*
16 *Implemented 373.042, 373.0421, 373.0831, 373.171, 373.223, 373.227 FS. History–*
17 *New 6-12-03, Amended _____.*

18
19 **40E-24.401 Enforcement.**

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

25 (2) A local government may enforce Rule 40E-24.201, F.A.C., within its jurisdiction
26 by adopting an ordinance incorporating the provisions specified therein. At least thirty
27 (30) days prior to the adoption of an ordinance to enforce Rule 40E-24.201, F.A.C., the
28 local government shall submit the proposed ordinance to the District to review for
29 consistency with Chapter 373, F.S., and District rules and approval. The ordinance
30 must be adopted as approved.

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

34 (34) In enforcing the provisions of this chapter the District will utilize any of the
35 enforcement remedies available pursuant to Chapter 120 or 373, F.S., or applicable
36 District rule. The Executive Director may take appropriate action pursuant to Sections
37 373.119, 373.175(4), 373.246(7) and 120.69, F.S., to enforce the provisions of this
38 chapter.

39 *Specific Authority 373.016, 373.044, 373.0831, 373.113, 373.171, 373.227 FS. Law*
40 *Implemented 373.0831, 373.119, 373.171, 373.175, 373.246, 373.603, 373.609,*
41 *373.227 FS. History–New 6-12-03, Amended _____.*

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

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1 (1) Users may request relief from the provisions of this Chapter by filing a
2 petition for variance or waiver pursuant to Section 120.542, Florida Statutes, and Rule
3 28-104, F.A.C. Examples of circumstances, which subject to the above-referenced
4 statute and rule and the provisions below, may be candidates for the issuance of a
5 variance, include but are not limited to:

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

7 (b) A public or private water system experiencing, or anticipating,
8 pressure problems associated with 40E-24.201(5), F.A.C.

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

11 (3) Users requiring relief from restrictions and/or measures set forth in a local
12 government's year-round water conservation ordinance must petition that local
13 government for relief.

14 Specific Authority 373.016, 373.044, 373.0831, 373.113, 373.171, 373.227 FS. Law
15 Implemented 373.0831, 373.119, 373.171, 373.175, 373.246, 373.603, 373.609,
16 373.227 FS. History–New _____.
17