

MEMORANDUM

BPS

Agenda Item No. 1G4

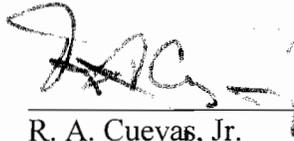
TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: **March 10, 2009**

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance amending Section
32-8.2 of the Code relating to
the permanent landscape
irrigation restrictions

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Natacha Seijas.



R. A. Cuevas, Jr.
County Attorney

RAC/jls



MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: December 16, 2008

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 4(A)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(A)
12-16-08

ORDINANCE NO. _____

ORDINANCE AMENDING SECTION 32-8.2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, RELATING TO PERMANENT LANDSCAPE IRRIGATION RESTRICTIONS; PROVIDING MANDATORY YEAR-ROUND LANDSCAPE IRRIGATION CONSERVATION MEASURES; AMENDING CHAPTER 8CC OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, RELATING TO CODE ENFORCEMENT; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 32-8.2 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows¹

Sec. 32-8.2. Permanent landscape irrigation restrictions.

(a) *Intent and purpose.* To protect the water resources of Miami-Dade County, Florida from the harmful effects of over utilization, >>increase water use efficiency and prevent and curtail wasteful water use practices by providing mandatory year-round<< ~~[[prohibiting]]~~>>landscape irrigation conservation measures<< ~~[[during~~

¹ Words Stricken through and/or ~~[[double bracketed]]~~ shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

periods of high evaporation,]] and prohibiting the operation of irrigation systems [[operated]] in a manner causing water to be wasted.

(b) *Definitions.* In construing the provisions of this section, the following definitions shall apply:

>>(1) Address means the “house number” (a numeric 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”.

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

(3) 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.

(4) Existing Landscape means any landscaping which has been planted and in the ground for more than sixty (60) days.<<

~~[(1) (5) — Irrigation shall mean the application of water by means other than natural precipitation.]]~~

~~[(2)]~~ >> (5) << Irrigation systems shall mean equipment and devices which deliver water to the [[plants]] >>landscape<< being irrigated including, but not limited to, pumping stations, controls, main and submain pipelines, lateral pipelines, emitters, valves, fittings and safety devices.

~~[(3)]~~ >>(6)<< Landscape shall mean all residential, commercial, institutional, industrial or governmental areas which are ornamentally planted including, but not limited to, turf,

ground covers, flowers, shrubs, trees, sand, mulch, hedges and similar plant materials, >>lawns, sod, grass, and such other flora, not intended for resale, which are situated in such diverse locations as residential landscapes, recreation areas, cemeteries, public, commercial, and industrial establishments, public medians, and rights-of-way except athletic play areas as defined in subsection 32-8.2(b)(2).

- (7) Low Volume Hand Watering means the watering of landscape by one person, with one hose, fitted with a self-canceling or automatic shutoff nozzle.
- (8) 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.
- (9) Landscape Irrigation means the outside watering of shrubbery, trees, lawns, sod, grass, ground covers, plants, vines, ornamental gardens, and such other flora not intended for resale, which are planted and are situated in such diverse locations as residential landscapes, recreation areas, cemeteries, public, commercial, and industrial establishments, public medians, and rights-of-way except athletic play areas as defined in subsection 32-8.2(b)(2).
- (10) Micro-Irrigation means the application of small quantities 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.
- (11) New Landscaping means any landscaping which has been planted and in the ground for sixty (60) days or less.
- (12) Odd Numbered Address means an address ending in the numbers 1, 3, 5, 7, 9, or the letters N-Z.
- (13) Reclaimed Water means wastewater that has received at least secondary treatment and basic disinfection and is

reused after flowing out of a wastewater treatment facility as defined by Rule 62-40.210, F.A.C.

(14) 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) 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.<<

~~[(4)]~~ >>(16)<<*Water resource* shall mean water on or beneath the surface of the ground including, but not limited to, natural or artificial watercourses, lakes, ponds, or diffused surface water, and water percolating, standing, or flowing beneath the surface of the ground.

~~[(5)]~~ ~~*Low volume irrigation* shall mean 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 including, but not limited to, water use in mist houses and similar establishments for plant propagation.]]~~

(c) *Application of section:* The provisions of this section shall apply to all persons using any water resource within Miami-Dade County, whether from publicly or privately owned water utility systems, private wells, or private connections with surface water bodies.

(d) *Permanent landscape irrigation restrictions:*

>>(i) It shall be the duty of each water user to keep informed as to the landscape irrigation conservation measures presented within this section, which affect each particular water use.

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

(1) Irrigation of existing landscaping shall comply with the following provisions:

(a)<< It shall be unlawful for any ~~[[person]]~~ >>user<< to irrigate or to cause, let, permit, allow or suffer the irrigation of any residential, commercial, institutional, governmental or industrial landscape areas between the hours of ~~[[9:00 a.m. and 5:00 p.m.]]~~ >>10:00 am and 4:00pm daily.

(b)<< It shall be unlawful for any ~~[[person]]~~ >>user<< to operate or cause, let, permit, allow or suffer the operation of any irrigation system or device in a >>wasteful and unnecessary<< manner ~~[[causing water to be wasteful]]~~ including, but not limited to, watering paved areas, sidewalks, driveways, and parking lots.

>>(c) Even addresses, installation with irrigation systems that irrigate both even and odd addresses within the same zones, including multi-family units and homeowners' associations, and rights-of-way or other locations with no address, as defined in this section may accomplish necessary landscaping irrigation only on Thursday and/or Sunday.

(d) Odd addresses as defined in this section may accomplish necessary landscape irrigation only on Wednesday and/or Saturday.

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

(a) Irrigation of new landscaping shall be prohibited between the hours of 10:00 a.m. and

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4:00 p.m. daily, except as otherwise provided herein.

- (b) 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.
- (c) The 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.
- (d) 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.
- (e) Irrigation of new landscaping which has been in place for thirty-one (31) to sixty (60) days may be accomplished on Monday, Wednesday, Thursday, and/or Saturday.
- (f) 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.

- (3) 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 test should not exceed 10 minutes per zone.
- (4) Landscape irrigation for the purpose of watering-in fertilizers, insecticides, pesticides, fungicides and herbicides, where such watering-in is recommended by the manufacturer, or be federal, state or local law, or best management practices, shall be allowed under the following conditions:
- (a) Such watering-in shall be limited to one application unless the need for more than one application is stated in the directions for application specified by the manufacturer; and
- (b) Such watering-in shall be accomplished during normally allowable watering days and times set forth in paragraphs (d)(1)(c) and (d)(2)(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.
- (5) Any plant material may be watered using low volume irrigation, micro-irrigation, low-volume hand watering methods, and rain barrels, cisterns, or other rain-harvesting devices without regard to the watering days or times allowed pursuant to this section.<<

~~[[iii]]>>(iv)<< The following shall be exempt from the requirements of Section 32-8.2(d) [[i]] >>(ii)(1)(a) and (2)(a)<<:~~

1. Low-volume irrigation systems and hand-watering including but not limited to the use of a hose with a self-canceling or closing nozzle.
2. Irrigation with ~~[[treated wastewater effluent,]]~~ >>reclaimed water<< in accordance with federal, State and local water reuse quality standards, or the use of saltwater.

3. Irrigation of landscaping for purposes of watering in fungicides, insecticides and herbicides, where watering is required by the manufacturer or by federal, State or local laws. This exemption shall apply only to licensed pest control applicators and shall be limited to the minimum amount specified by the manufacturer's recommendations for the products applied.
4. The operation of irrigation systems for installation, cleaning, repairs, and maintenance purposes by a licensed irrigation contractor or the property owner(s). Each irrigation zone may be tested no more than once a week by the property owners and more frequently by a licensed irrigation contractor. However, such testing shall be limited to the minimum necessary to maintain efficient operation of the system.
5. >>Irrigation of new lawns and landscaping between 11:00 a.m. and 12:01 p.m. daily for a period of thirty (30) days or until the lawn or landscaping is considered established, whichever period is shorter.

>>(e) Enforcement.

Every police officer or sheriff having jurisdiction in the area governed by this section shall, in connection with all other duties imposed by law, diligently enforce the provisions of this section. Law officials may provide violators with no more than one (1) written warning. This section shall also be enforceable in accordance with the provisions of Chapter 8CC of this code.

(f) Penalties.

Violations of any provision of this section shall be subject to the following penalties:

First violation: Seventy-five (\$75.00) fine.

Second and subsequent violations: Fine not to exceed five hundred dollars (\$500.00) and/or imprisonment in the County jail not to exceed sixty (60) days.

Each day in violation of this section shall constitute a separate offense. The County, in addition to the criminal sanctions contained herein, may take any other appropriate legal action, including but not limited to emergency prohibitory and mandatory injunctive action, to enforce the provisions of this section. <<

Section 2. Chapter 8CC of the Code of Miami-Dade County, Florida, is

hereby amended as follows:

<u>Code Section</u>	<u>Description of Violation</u>	<u>Civil Penalty</u>
32-8.2	Violation of Permanent Landscape Irrigation Restrictions	[[\$50.00]] >> <u>\$75.00</u> <<

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any Sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such

intention and the word "ordinance" may be changed to "section", "article" or other appropriate word.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency.



Prepared by:



Henry N. Gillman

Prime Sponsor: Commissioner Natacha Seijas