MEMORANDUM

Agenda Item No. 7(B)

TO:	Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners	**DATE:**	April 7, 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

This ordinance was amended by the Governmental Operations Committee to correct scrivener's errors regarding the current drought restriction in the third Whereas clause and the irrigation of new lawns for thirty days in Section (d) (ii) (7).

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/cp

Memorandum

MIAMI-DADE COUNTY

Date: April 7, 2009

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

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

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The ordinance relating to permanent landscape irrigation restrictions is not expected to have a fiscal impact to Miami-Dade County. The permanent landscape irrigation restrictions are a continuation of the watering restriction imposed by the South Florida Water Management District for more than two years. In the long term, it is expected that water conservation measures such as this are more cost effective in meeting our future water demands in lieu of constructing and operating new water supply facilities.

Alex Munoz
Assistant County Manager

Fis02109

MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: April 7, 2009

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

SUBJECT: Agenda Item No. 7(B)

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 Mayor'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. 7(B)

4-7-09

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

>>**WHEREAS**, the South Florida Water Management District ("District") has statutory authority to declare a water shortage when insufficient ground or surface water is available to meet the needs of the users or when conditions are such as to require temporary reduction in total use within an area to protect water resources from serious harm; and[1]

WHEREAS, the District previously issued a declaration of water shortage condition for Miami-Dade County based on the region's ongoing drought and the water level of Lake Okeechobee which is operationally controlled by the District; and

WHEREAS, the District invoked Modified Phase II drought restrictions which limited landscape irrigation to two days per week in Miami-Dade County; and

WHEREAS, to protect the water resources in Miami-Dade County, this Board previously enacted Section 32-8.2 of the Code of Miami-Dade County which permanently

[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.

prohibits landscape irrigation daily between 9:00 am and 5:00 pm except as otherwise provided; and

WHEREAS, due to fluctuating weather conditions and changing water levels of Lake Okeechobee, it is anticipated the District will impose and lift restrictions periodically in order to properly manage flood and drought conditions in the region; and

WHEREAS, this Board finds that it is in the best interest of the people of Miami-Dade County to have a consistent and permanent landscape irrigation policy; and

WHEREAS, this Board finds that a year-round uniform policy for landscape irrigation will effectively protect the water resources of Miami-Dade County and help ensure the availability of potable water to meet the County's projected demand for water,

NOW, THEREFORE,<< 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 follows:

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[[~~by prohibiting~~]]>>, increase water use efficiency and prevent and curtail wasteful water use practices by providing mandatory year-round<< landscape irrigation >>conservation measures<< [[~~during 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* shall mean 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".

(2) *Athletic play area* shall mean 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* shall mean any landscaping where a period of 90 days has lapsed from the date of purchase.<<

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

[[~~(2)~~]]>>(6)<<*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)~~]]>>(7)<<*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 locations including, but

not limited to, residential landscapes, recreation areas, cemeteries, public, commercial, and industrial establishments, public medians, and rights-of-way except athletic play areas and public gardens as defined herein.

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

(9) *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. The term also includes water used in mist houses and similar establishments for plant propagation. Overhead irrigation and flood irrigation are not included.

(10) *Landscape Irrigation* shall mean 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 and public gardens as defined herein.

(11) *Micro-Irrigation* shall mean the application of small quantities of water on or below the soil surface as drops or tiny streams of spray through emitters or applicators placed along a water delivery line. Micro-irrigation includes a number of methods or techniques such as bubbler, drip, trickle, mist or microspray, and subsurface irrigation.

(12) *New Landscaping* shall mean any landscaping where the period of time from the date of purchase is ninety (90) days or less.

(13) *Odd Numbered Address* shall mean an address ending in the numbers 1, 3, 5, 7, 9, or the letters N-Z.

(14) *Public Gardens* shall mean botanical gardens and zoological parks and any planned outdoor space where landscaping is cared for and exhibited and the facility is open to the public at least six months during a twelve month period.

(15) *Reclaimed Water* shall mean wastewater as defined in Rule 62-40.210, F.A.C.

(16) *User* shall mean 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 users of private or public utility systems, individual wells or pumps.

(17) *Wasteful and Unnecessary* shall mean 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)~~]]>>(18)<<*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~~]]>>users of<< 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. >>The provisions of this section shall not apply to athletic play areas and public gardens as defined herein and users under water use permits issued pursuant to Chapter 40E-2 and 40E-20, F.A.C.<<

(d) *Permanent landscape irrigation restrictions:*

(i) [[~~It shall be unlawful for any person 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. daily.~~]]>>It shall be the duty of each 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 shall apply to all users unless specified otherwise herein:

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

[[~~(i)~~]]>>(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 4:00 pm daily except as otherwise provided herein.<<

[[~~(ii)~~]] >>(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 wasted~~]] including, but not limited to, watering paved areas, sidewalks, driveways, and parking lots.

>>(c) Even addresses, installations 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 shall only conduct necessary landscaping irrigation on Thursday or Sunday or both Thursday and Sunday.

(d) Odd addresses as defined in this section shall only conduct necessary landscape irrigation on Wednesday or Saturday or both Wednesday and Saturday.

(2) Users irrigating new landscaping shall comply with the following:

(a) Irrigation of new landscaping shall be prohibited between the hours of 10:00 a.m. and 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) Irrigation of new landscaping which has been purchased for ninety (90) days or less may be conducted on any day except Friday.

(d) The date of purchase of new landscaping may be demonstrated with a dated receipt or invoice.

(e) Irrigation of 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 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 by federal, state or local law, or by Florida Green Industries Best Management Practices for Protection of Florida Water Resources Manual, 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)(ii)(1)(c) and (d)(ii)(1)(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 landscaping may be irrigated using low volume irrigation, micro-irrigation, low-volume hand watering methods including but not limited to the use of a hose with a self-canceling or closing nozzle, rain barrels, cisterns, or other similar rain-harvesting devices without regard to the watering days or times allowed pursuant to this section.

(6) Any landscaping may be irrigated with reclaimed water in accordance with federal, State and local water reuse quality standards, or the use of saltwater without regard to the watering days or times allowed pursuant to this section.

(7) Irrigation of new lawns and landscaping shall be allowed 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. <<

[[~~(iii) The following shall be exempt from the requirements of Section 32-8.2(d)[[(i):~~

~~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, 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 owner(s) 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. Officers 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. The County may take any appropriate legal action, including but not limited to emergency prohibitory and mandatory injunctive action to enforce the provisions of this section.

(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.<<

Section 2. Chapter 8CC of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 8CC-10. Schedule of civil penalties.

Code Section	*Description of Violation*	*Civil Penalty*
>>32-8.2	Violation of Permanent Landscape Irrigation Restrictions	$75.00<<

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 Natasha Seijas