

ORDINANCE NO. 2006-053

AN ORDINANCE OF SARASOTA COUNTY, FLORIDA, RELATING TO THE MAINTENANCE OF WATER RESOURCES WITHIN SARASOTA COUNTY; AMENDING ORDINANCE 2000-015 AND ORDINANCE 2000-082 AS CODIFIED IN SECTIONS 54-921. THROUGH 54-934. OF THE SARASOTA COUNTY CODE; AMENDING AND RESTATING SECTION 54-921. RELATING TO FINDINGS OF FACT; AMENDING AND RESTATING SECTION 54-922. RELATING TO DEFINITIONS; RESTATING SECTION 54-923. RELATING TO APPLICABILITY; AMENDING AND RESTATING SECTION 54-924. RELATING TO ADOPTION OF ADMINISTRATIVE CODE; AMENDING AND RESTATING SECTION 54-925. RELATING TO AUTOMATIC LAWN SPRINKLER / IRRIGATION SYSTEMS; AMENDING AND RESTATING SECTION 54-926. WATER SHORTAGE CONDITION; RESTATING SECTION 54-927. RELATING TO IMMUNITY FROM TRESPASS; AMENDING AND RESTATING SECTION 54-928. RELATING TO VIOLATIONS; AMENDING AND RESTATING SECTION 54-929. RELATING TO WARNING NOTICES AND CITATIONS; AMENDING AND RESTATING SECTION 54-930. RELATING TO PENALTIES AMENDING AND RESTATING SECTION 54-931. RELATING TO ENFORCEMENT; RESTATING SECTION 54-932. RELATING TO SEPARATE VIOLATIONS; RESTATING SECTION 54-933. RELATING TO CONFLICT WITH STATE LAW; RESTATING SECTION 54-934. SEVERABILITY; PROVIDING AN EFFECTIVE DATE

DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

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NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA:

Section 1. This Ordinance amends Ordinances No. 2000-015 and 2000-082, as codified in Sections 54-921 through 54-934 of the Sarasota County Code, as amended (the "Code").

Section 2. Section 54-921 is hereby amended and restated as follows:

Sec. 54-921. Findings of Fact.

The Board of County Commissioners of Sarasota County, Florida hereby makes the following findings of fact:

- (1) As a result of the increased population growth in Sarasota County in recent years, there has been an increased demand for water resources.
- (2) Due to natural conditions, the capacities of water resources fluctuate. During drought

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SARASOTA COUNTY, FLORIDA

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- conditions, the quantities of water available to County users could be greatly reduced.
- (3) Due to natural conditions and user demand, reduction in water use within the County may be necessary to protect and preserve water resources.
 - (4) The maintenance of adequate water resources will promote the health, safety and welfare of the citizens of Sarasota County.
 - (5) The Water Shortage Plan of the Southwest Florida Water Management District, Section Chapter 40D-21.601(2), Florida Administrative Code, and the Year-Round Water Conservation Measures of the District, Chapter 40D-22, Florida Administrative Code prohibit all wasteful and unnecessary water use.
 - (6) Provisions of Chapters 40D-22 and 40D-21, Florida Administrative Code grants the Board of County Commissioners the authority to further restrict the irrigation of established lawns and landscaping.
 - (7) Less frequent landscape irrigation can reduce the amount of pollutants entering our waterways from fertilizer and pesticide application.
 - (8) Peak demands on high water use weekends with irrigation allowed could negatively affect the water pressure in distribution systems compromising the public's health, safety and welfare.
 - (9) Greater community-wide landscape water conservation can result in more drought-tolerant plantings less susceptible to plant diseases.

Section 3. Section 54-922 is hereby amended and restated as follows:

Sec. 54-922. Definitions.

As used in this article, the following words and phrases shall have the following meanings, unless the context clearly indicates otherwise:

Automatic Landscape Sprinkler/Irrigation System means the use of automatic electrically operated equipment and devices to deliver water under pressure and through the air to the level of the vegetation being irrigated.

Automatic Rain Sensor Device or Switch means an automatic device that will override and temporarily shut down the irrigation cycle of an Automatic Landscape Sprinkler/Irrigation System when a set amount of rainfall occurs.

Board means the Board of County Commissioners of Sarasota County.

Citation means the summons issued by a Code Enforcement Officer and shall be in a form prescribed by the County and contain:

- (1) The date and time of issuance.
- (2) The name, if available, and address of the Person to whom the Citation is issued.
- (3) The date and time the civil infraction was committed.
- (4) The facts constituting reasonable cause.
- (5) The number or section of the code or ordinance violated.
- (6) The name and title of the Code Enforcement Officer.
- (7) The procedure for the Person to follow in order to pay the civil penalty or to contest the Citation.
- (8) The applicable civil penalty if the Person elects to contest the Citation.
- (9) The applicable civil penalty if the Person elects not to contest the Citation.
- (10) A conspicuous statement that if the Person fails to pay the civil penalty within 30 days, or fails to appear in court to contest the Citation, that Person shall be deemed to have waived their right to contest the Citation and that, in such case, judgment shall be entered against the Person for the amount of the Citation, plus court cost, recording fees, and any other charges required by this Ordinance.

Code Enforcement Officer or Officer means any designated employee or agent of Sarasota County whose duty it is to enforce codes and ordinances enacted by Sarasota County.

County means Sarasota County, Florida.

Executive Director means Executive Director of Sarasota County Environmental Services or designee.

District means the Southwest Florida Water Management District.

Landscape means a combination of types of plants (such as grass, groundcovers, flowers, shrubs, vines, palms and trees).

Person means any individual, firm, partnership, association, corporation, company, organization or legal entity of any kind.

Warning or Warning Notice means a Notice of Mandatory Water Conservation form issued by a Code Enforcement Officer and shall contain:

- (1) The date and time of issuance.
- (2) The name, if available, and address of the Person to whom the Warning Notice is issued.
- (3) The activities observed in conflict with mandatory conservation restrictions.

(4) Name and authority of the Code Enforcement Officer.

(5) Action required to avoid a Citation and civil penalty.

(6) Summary of Water Restrictions.

Water Conservation Revenues means monies collected by the Clerk of the Court for payment of civil penalties assessed for violation of this Ordinance.

Water Resource means any and all water on or beneath the surface of the ground, including natural or artificial water sources, lakes, ponds or diffused surface water, and water percolating, standing or flowing beneath the surface of the ground.

Water Shortage Condition means a determination by the District that sufficient water is not available to meet present or anticipated needs of Persons using the water resource, or that conditions are such as to require temporary reduction in total water usage within a particular area to protect the water resource from serious harm.

Water Shortage Plan means Chapter 40D-21, Florida Administrative Code, the codification of the Water Shortage Plan adopted and published by the District, or any modification or derivative of Chapter 40D-21, which may be current at the time a water shortage or water shortage emergency is declared.

Year-Round Water Conservation Measures means Chapter 40D-22, Florida Administrative Code, the codification of the Water Conservation Measures adopted and published by the District.

Section 4. Section 54-923 is hereby restated as follows:

Sec. 54-923. Applicability.

The provisions of this Ordinance shall apply to all Persons residing in the unincorporated area of Sarasota County who use water resources, whether from public or privately owned water utility systems, private wells or private connections with surface water bodies. This Ordinance shall not apply to Persons using treated effluent or saltwater.

Section 5. Section 54-924 is hereby amended and restated as follows:

Sec. 54-924. Adoption of Administrative Code.

The provisions of Chapters 40D-21, and 40D-22, Florida Administrative Code, as the same may be amended from time to time, are hereby adopted by reference in this Ordinance, except for variances granted to the County by the District. Copies of these Chapters are attached to this Ordinance and are available for inspection in the office of the Clerk of the Court.

Section 6. Section 54-925 is hereby renamed, amended and restated as follows:

Sec. 54-925. Automatic Landscape Sprinkler/Irrigation Systems.

(a) Any Person who owns and operates an Automatic Landscape Sprinkler/Irrigation System shall have an Automatic Rain Sensor Device or Switch installed pursuant to F.S. 373.62.

(b) Any Person who owns or operates an Automatic Landscape Sprinkler/Irrigation System shall maintain the Automatic Rain Sensor Device or Switch in operational condition at all times.

Section 7. Section 54-926 is hereby renamed, amended, and restated as follows:

Sec. 54-926. Landscape Irrigation Days, Times, and Variances.

(a) Subject to Subsection (b) of this section, all water use restrictions or other measures imposed by the Board or District pursuant to Chapter 40D-21-641, Florida Administrative Code as amended from time to time, which are applicable to unincorporated Sarasota County shall be subject to enforcement pursuant to this Ordinance. Irrigation days and hours for lawns and landscaping different from those listed in Chapter 40D-21.641 or Chapter 40D-22 "Year-Round Water Conservation Measures" shall be adopted by Board resolution, as amended from time to time. Otherwise, irrigation days and hours established by Chapters 40D-21.641 and/or 40D-22, shall be in effect throughout unincorporated Sarasota County.

(b) Variances. Unless a variance has been granted by the District the restrictions in section 54-926 herein apply.

(c) Prior to invoking the provisions of this Ordinance, any water use restrictions or other measures imposed by the District or Board shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in Sarasota County.

Section 8. Section 54-927 is hereby restated as follows:

Sec. 54-927. Immunity from Trespass.

For purposes of discharging the duties imposed by this Ordinance, including investigation of possible violations and enforcement, a Code Enforcement Officer is empowered to enter without authority of any court of competent jurisdiction upon any private property, other than a dwelling unit, structure or a fenced enclosure. Officers shall be immune from prosecution for reasonable, good faith trespass upon private property, as provided in F.S. ~ 810.12(5).

Section 9. Section 54-928 is hereby amended and restated as follows:

Sec. 54-928. Violations.

- (a) It is a violation of this Ordinance for any Person to commit an act, or cause an act to be committed, in violation of any water use restrictions or other measures imposed by the Board in this Ordinance, or by the District pursuant to Chapter 40D-21, and/or Chapter 40D-22, Florida Administrative Code, as the same may be amended from time to time.
- (b) It is a violation of this Ordinance for any Person to allow water to be dispersed in a wasteful or unnecessary manner, regardless of the type of water used.
- (c) It is a violation of this Ordinance for any Person to operate an Automatic Landscape Sprinkler/Irrigation System without an operational Automatic Rain Sensor Device or Switch.

Section 10. Section 54-929 is hereby amended and restated as follows:

Sec. 54-929. Warning Notices and Citations.

- (a) A Code Enforcement Officer is authorized to issue a Citation to a Person when, based upon personal investigation, the Officer has reasonable cause to believe that the Person has violated this Ordinance. Prior to issuing a Citation, a Code Enforcement Officer may provide a Warning Notice to the Person. The Warning Notice shall specify that the Person has committed a violation of this Ordinance and must correct the violation immediately. If, upon personal investigation, a Code Enforcement Officer finds that the Person has not corrected the violation, the Code Enforcement Officer shall issue a Citation to the Person who has committed the violation. If the Person has been previously issued a Warning Notice or Citation for the same prohibited activity or if the Person commits a violation of Section 8 (c) herein, the Code Enforcement Officer may immediately issue a Citation.
- (b) After issuing a Citation to an alleged violator, the Code Enforcement Officer shall deposit the original Citation and one copy of the Citation with the Clerk of Court.
- (c) The Person issued the Citation may contest the Citation by contacting the Clerk of the Court within thirty (30) calendar days of the Citation date and requesting a hearing. The Clerk shall then schedule a hearing in the County Court and shall provide written notice of the hearing to the Person and to the Code Enforcement Officer.
- (d) If the Person issued the Citation elects not to contest the Citation, the person shall pay the applicable civil penalty to the Clerk of Court within thirty (30) days after issuance of the Citation.
- (e) If the Person issued the Citation neither pays the civil penalty within the time allowed nor requests a hearing to contest the Citation, the person shall be deemed to have waived their right to contest the Citation and judgement may be entered against the Person for an amount up to the maximum civil penalty.
- (f) Willful refusal to sign and accept a Citation issued by a Code Enforcement Officer by the cited Person issued the Citation shall be treated as a misdemeanor of the second degree, punishable as provided by F.S. ~ 775.082 and 775.083.

Section 11. Section 54-930 is hereby amended and restated as follows:

Sec. 54-930. Penalties.

- (a) A violation of this Ordinance or any standard adopted herein is a civil infraction.
- (b) The civil penalty for a civil infraction shall not exceed \$500.00 per violation.
- (c) By resolution the Board shall establish the amount of any civil penalty for a civil infraction.
- (d) Court costs may be imposed as provided by law.
- (e) If, within thirty (30) days after issuance of the Citation, the Person neither pays the civil penalty nor contests the citation, the Person shall be deemed to have waived his right to contest the citation and, in such case, the county court shall enter a judgment against the Person in the amount of the Citation, plus court cost, recording fees and all surcharges required by this Ordinance. Additionally, the court may issue an order to show cause upon the request of the County requiring such person to appear before the court to explain why action on the Citation has not been taken. The court may hold in contempt any Person who is issued such order and fails to appear in response to the court's directive.
- (f) The County may seek a lien on the property when the Person cited for a violation fails to pay the amount entered as a judgment.
- (g) Funds collected from penalties paid for violations of this article shall be dispersed as set forth in Florida Statutes.

Section 12. Section 54-931 is hereby amended and restated as follows:

Sec. 54-931. Enforcement.

- (a) This Ordinance shall be enforced by the Executive Director of Sarasota County Environmental Services or such other persons as designated by the Executive Director or by the County Administrator.
- (b) In addition to the enforcement procedures provided herein, the County may enforce this Ordinance by any other means provided by law and may further enforce this Ordinance by actions at law and in equity, including actions for injunctive relief, and if the County prevails in any such action, the County shall be entitled to its costs and reasonable attorneys fees incurred in such action.

Section 13. Section 54-932 is restated as follows:

Sec. 54-932. Separate Violations.

Each day or fraction thereof that each violation set forth in section 54-928 herein continues shall be considered a separate violation.

Section 14. Section 54-933 is restated as follows:

Sec. 54-933. Conflict with State Law.

In the event of a conflict between this Ordinance and F.S. ch. 162, pt. II, said Statute shall prevail.

Section 15. Section 54-934 is restated as follows:

Sec. 54-934. Severability.

In the event any portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 16. Effective Date.

This Ordinance shall take effect immediately upon filing with the Office of the Secretary of the State of Florida.

PASSED AND DULY ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA, this 23rd day of August, 2006.

BOARD OF COUNTY COMMISSIONERS
OF SARASOTA COUNTY, FLORIDA

BY: *David P. Miller*
Chairman

ATTEST:
KAREN E. RUSHING, Clerk of the
Circuit Court and Ex-Officio Clerk
of the Board of County Commissioners
of Sarasota County, Florida

By: *Paula J. Lentman*
Deputy Clerk

STATE OF FLORIDA
COUNTY OF SARASOTA
I HEREBY CERTIFY THAT THE FOREGOING IS A
TRUE AND CORRECT COPY OF THE ORIGINAL FILED
IN THIS OFFICE WITNESS MY HAND AND OFFICIAL

SEAL THIS DATE 8/25/06
KAREN E. RUSHING, CLERK OF THE CIRCUIT COURT
EX-OFFICIO CLERK TO THE BOARD OF COUNTY
COMMISSIONERS, SARASOTA COUNTY, FLORIDA

Karen E. Rushing
BY
CLERK