

ORDINANCE NO. 2022-_____

AN ORDINANCE OF INDIAN RIVER COUNTY, FLORIDA, CREATING CHAPTER 319 (WATER CONSERVATION ORDINANCE FOR LANDSCAPE IRRIGATION) OF THE CODE OF INDIAN RIVER COUNTY PROVIDING FOR LOCAL IMPLEMENTATION OF THE WATER CONSERVATION RULE FOR LANDSCAPE IRRIGATION OF THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT; PROVIDING DEFINITIONS; PROVIDING THE LANDSCAPE IRRIGATION SCHEDULES; PROVIDING EXCEPTIONS TO THE LANDSCAPE IRRIGATION SCHEDULES; PROVIDING FOR WAIVERS FROM THE SPECIFIC DAY OF THE WEEK LIMITATIONS; PROVIDING FOR APPLICABILITY OF THE ORDINANCE; PROVIDING FOR ENFORCEMENT OF THE ORDINANCE; PROVIDING FOR PENALTIES FOR VIOLATION OF THE ORDINANCE; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the St. Johns River Water Management District has responsibility and exclusive authority under Chapter 373, Florida Statutes, for regulating the consumptive use of water; and

WHEREAS, the St. Johns River Water Management District has amended Rule 40C-2.042, F.A.C., its General Consumptive Use Permit by Rule that regulates small irrigation uses below consumptive use permit thresholds in Rule 40C-2.041(1), F.A.C.; and

WHEREAS, Rule 40C-2.042(2)(a), F.A.C., grants a general permit to each person located within the District to use, withdraw or divert water for small landscape irrigation uses, provided that irrigation occurs in accordance with the requirements set forth in this ordinance, which are also subject to the exceptions set forth in this ordinance; and

WHEREAS, Rule 40C-2.042, F.A.C., applies to landscape irrigation regardless of whether the water comes from ground or surface water, from a private well or pump, or from a public or private utility; and

WHEREAS, Rule 40C-2.042(2)(b), F.A.C., strongly encourages a local government to adopt an ordinance to enforce Rule 40C-2.042(2)(a), F.A.C., within its jurisdiction by adopting a landscape irrigation ordinance that incorporates each of the provisions set forth in Rule 40C-2.042(2)(a), F.A.C.; and

WHEREAS, it is the desire of the Indian River County Board of County Commissioners to adopt an ordinance in accordance with 40C-2.042(2)(a) and (b), F.A.C.; and

WHEREAS, the Indian River County Board of County Commissioners hereby finds and declares that the adoption of this ordinance is appropriate, and in the public interest of the citizens of this community.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA THAT:

Section 1. Enactment Authority.

Article VIII, section 1 of the Florida Constitution and chapter 125, Florida Statutes vest broad home rule powers in counties to enact ordinances, not inconsistent with general or special law, for the purpose of protecting the public health, safety and welfare of the residents of the county. The Indian River County Board of County Commissioners specifically determines that the enactment of this ordinance is necessary to protect the health, safety and welfare of the residents of Indian River County.

Section 2. Enactment of Chapter 319 (Water Conservation Ordinance for Landscape Irrigation) of the Code of Indian River County Florida.

Chapter 319 (Water Conservation Ordinance for Landscape Irrigation) of the Code of Indian River County, Florida is hereby enacted to read as follows:

**CHAPTER 319. WATER CONSERVATION ORDINANCE
FOR LANDSCAPE IRRIGATION**

Section 319.01. - Intent and Purpose.

It is the intent and purpose of this Chapter to implement procedures that promote water conservation through the more efficient use of landscape irrigation.

Section 319.02. – Definitions.

For the purpose of this Chapter the following terms, phrases, words and their derivatives shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural.

- (a) “Address” means the house number of a 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. An “even numbered address” means an address ending in the numbers 0, 2, 4, 6, 8 or the letters A-M. An “odd numbered address” means an address ending in the numbers 1, 3, 5, 7, 9 or the letters N-Z.

- (b) "District" means the St. Johns River Water Management District.
- (c) "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.
- (d) "Landscape irrigation" means the outside watering of plants in a landscape such as shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens and other such flora that are situated in such diverse locations as residential areas, public, commercial, and industrial establishments, and public medians and rights-of-way. "Landscape irrigation" does not include agricultural crops, nursery plants, cemeteries, golf course greens, tees, fairways, primary roughs, and vegetation associated with intensive recreational areas such as playgrounds, football, baseball and soccer fields.
- (e) "Residential landscape irrigation" means the irrigation of landscape associated with any housing unit having sanitary and kitchen facilities designed to accommodate one or more residents, including multiple housing units and mobile homes.
- (f) "Non-residential landscape irrigation" means the irrigation of landscape not included within the definition of "residential landscape irrigation," such as that associated with public, commercial and industrial property, including commercial or transient housing units, hotel and motel units, and public medians and rights-of-way.

Section 319.03. – Landscape Irrigation Schedules.

1. When Daylight Savings Time is in effect, landscape irrigation shall occur only in accordance with the following irrigation schedule:

a. Residential landscape irrigation at odd numbered addresses or no address may occur only on Wednesday and Saturday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

b. Residential landscape irrigation at even numbered addresses may occur only on Thursday and Sunday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

c. Non-residential landscape irrigation may occur only on Tuesday and Friday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

d. No more than $\frac{3}{4}$ inch of water may be applied per irrigation zone on each day that irrigation occurs, and in no event shall irrigation occur for more than 1 hour per irrigation zone on each day that irrigation occurs.

2. When Eastern Standard Time is in effect, landscape irrigation shall occur only in accordance with the following irrigation schedule:

a. Residential landscape irrigation at odd numbered addresses or no address

may occur only on Saturday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

b. Residential landscape irrigation at even numbered addresses may occur only on Sunday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

c. Non-residential landscape irrigation may occur only on Tuesday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

d. No more than $\frac{3}{4}$ inch of water may be applied per irrigation zone on each day that irrigation occurs, and in no event shall irrigation occur for more than 1 hour per irrigation zone on each day that irrigation occurs.

3. All landscape irrigation shall be limited to only that necessary to meet landscape needs.

Section 319.04. – Exceptions to the Landscape Irrigation Schedules.

Landscape irrigation shall be subject to the following irrigation schedule exceptions:

1. Irrigation using a micro-spray, micro-jet, drip or bubbler irrigation system is allowed anytime.
2. Irrigation of new landscape is allowed at any time of day on any day for the initial 30 days and every other day for the next 30 days for a total of one 60-day period, provided that the irrigation is limited to the minimum amount necessary for such landscape establishment.
3. Watering in of chemicals, including insecticides, pesticides, fertilizers, fungicides, and herbicides, when required by law, the manufacturer, or best management practices, is allowed at any time of day on any day within 24 hours of application. Watering in of chemicals shall not exceed $\frac{1}{4}$ inch of water per application except as otherwise required by law, the manufacturer, or best management practices.
4. Irrigation systems may be operated at any time of day on any day for maintenance and repair purposes not to exceed 20 minutes per hour per zone.
5. Irrigation using a hand-held hose equipped with an automatic shut-off nozzle is allowed at any time of day on any day.
6. Discharge of water from a water-to-air air-conditioning unit or other water-dependent cooling system is not limited.
7. The use of water from a reclaimed water system is allowed anytime. For the purpose of this paragraph, a reclaimed water system includes systems in which the primary source is reclaimed water, which may or may not be

supplemented from another source during peak demand periods.

8. The use of recycled water from wet detention treatment ponds for irrigation is allowed anytime provided the ponds are not augmented from any ground or off-site surface water, or public supply sources.

Section 319.05. – Additional Requirement.

Any person who purchases and installs an automatic landscape irrigation system must properly install, maintain, and operate technology that inhibits or interrupts operation of the system during periods of sufficient moisture.

Section 319.06. – Waiver from Specific Day of the Week Limitations.

A waiver from the specific landscape irrigation days or day set forth in Section 319.03 of this Chapter may be granted if strict application of the scheduled days or day would lead to unreasonable or unfair results in particular instances, provided that the applicant demonstrates with particularity that compliance with the scheduled days or day will result in a substantial economic, health or other hardship on the applicant requesting the waiver or those served by the applicant. Where a contiguous property is divided into different zones, a waiver may be granted hereunder so that each zone may be irrigated on different days or day than other zones of the property. However, in no event shall a waiver allow a single zone to be irrigated more than two days per week during Daylight Savings Time or more than one day per week during Eastern Standard Time.

Section 319.07. – Applicability.

This Chapter shall be applicable to and shall regulate each person within the unincorporated area of Indian River County.

Section 319.08. – Enforcement.

This Chapter may be enforced by any Indian River County code enforcement officer, and the code enforcement officer in the public works department who is devoted to issues pertaining to chapter 316, pursuant to F.S. Ch. 162 and section 103.07 of this Code. In addition, this chapter may be enforced by the environmental control officer pursuant to Chapter 85-427, Special Acts, Laws of Florida, and section 303.14 of this Code.

Section 319.09. – Penalties.

Violation of any provision of this Chapter shall be subject to the following penalties:

First violation	Written Warning
Second violation	\$50.00
Subsequent violations	\$100.00

A second violation will be extinguished, assuming there are no further violations, after a year and a subsequent violation will be extinguished two years after the first violation, assuming there are no violations during that two year period. Each day in violation of this Ordinance shall constitute a separate offense. Enforcement officials shall provide violators with no more than one written warning. In addition to the civil sanctions contained herein, Indian River County may take any other appropriate legal action, including, but not limited to, injunctive action to enforce the provisions of this Chapter.

Section 3. Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. Severability. If any part of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall not be affected by such holding and shall remain in full force and effect.

Section 5. Codification. It is the intention of the Board of County Commissioners that the provision of this ordinance shall become and be made part of the Indian River County Code, and that the sections of this ordinance may be renumbered or re-lettered and the word ordinance may be changed to section, article or such other appropriate word or phrase in order to accomplish such intention.

Section 6. Effective Date. This ordinance shall become effective upon adoption by the Board of County Commissioners and filing with the Department of State.

This ordinance was advertised in the Indian River Press Journal on the ____ day of _____, 2022, for a public hearing to be held on the 3rd day of May, 2022, which was continued until the 17th of May, 2022, at which time it was moved for adoption by Commissioner _____, seconded by Commissioner _____, and adopted by the following vote:

Chairman Peter D. O'Bryan	_____
Vice-Chairman Joseph H. Earman	_____
Commissioner Susan Adams	_____
Commissioner Joseph E. Flescher	_____
Commissioner Laura Moss	_____

The Chairman thereupon declared the ordinance duly passed and adopted this ____ day of May, 2022.

**BOARD OF COUNTY COMMISSIONERS
OF INDIAN RIVER COUNTY, FLORIDA**

By: _____
Peter D. O'Bryan, Chairman

**ATTEST: Jeffrey R. Smith, Clerk
 and Comptroller**

By: _____
 Deputy Clerk

EFFECTIVE DATE: This Ordinance was filed with the Department of State on the _____
day of _____, 2022.