

**PUBLIC HEARING NOTICE
CITY OF RIVIERA BEACH, FLORIDA**

The City Council of the City of Riviera Beach, Palm Beach County, Florida will conduct a Public Hearing on Wednesday, November 17, 2010, at 6:30 PM, or soon thereafter, and from time to time thereafter as necessary, in the Council Chambers at the Municipal Complex, 600 W. Blue Heron Blvd., Riviera Beach, Florida, to consider enactment of the below proposed Ordinance. Interested persons may appear and be heard with respect to the proposed Ordinance; and it may be examined in its entirety in the Office of the City Clerk between the hours of 8:30 AM and 5:00 PM, except holidays.

ORDINANCE NO. 3085

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 20 OF THE CODE OF ORDINANCES ENTITLED "UTILITIES" BY AMENDING ARTICLE III ENTITLED "WATER" BY INCLUDING A NEW DIVISION ENTITLED "WATER CONSERVATION", AND AMENDING CHAPTER 22 OF THE CODE OF ORDINANCES ENTITLED "BUILDINGS AND BUILDING REGULATIONS" BY AMENDING ARTICLE II ENTITLED "BUILDING AND TECHNICAL CODES"; PROVIDING FOR SEVERABILITY, CODIFICATION AND CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

PLEASE BE ADVISED, persons who wish to appeal any decision made by the City Council with respect to any matter considered at this hearing will need a record of the proceedings, and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Said person shall have the responsibility at own expense.

In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodations to participate in the proceedings should contact the Legislative Office at 561-845-4095 no later than 96 hours prior to the proceedings. If hearing impaired, telephone the Florida Relay Services 1-800-955-8771 (TDD) or 1-800-955-8770 (Voice) for assistance.

Carrie E. Ward, Master Municipal Clerk
City Clerk

Publish: November 7, 2010
Palm Beach Post

Item No. 9

ORDINANCE NO. 3085

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 20 OF THE CODE OF ORDINANCES ENTITLED "UTILITIES" BY AMENDING ARTICLE III ENTITLED "WATER" BY INCLUDING A NEW DIVISION ENTITLED "WATER CONSERVATION", AND AMENDING CHAPTER 22 OF THE CODE OF ORDINANCES ENTITLED "BUILDINGS AND BUILDING REGULATIONS" BY AMENDING ARTICLE II ENTITLED "BUILDING AND TECHNICAL CODES" BY PROVIDING FOR REDUCED PLUMBING FLOW RATES AND OTHER REGULATIONS; PROVIDING FOR SEVERABILITY, CODIFICATION AND CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Riviera Beach Code of Ordinances controls and directs the use of water within the municipal limits of the City, and those customers of the City of Riviera Beach Utility District outside the municipal limits of the City, to the extent permitted by law; and

WHEREAS, the South Florida Water Management District has amended Chapter 40E-24, F.A.C., requiring year-round water conservation for landscape irrigation; and

WHEREAS, the South Florida Water Management District requires local governments adopt an ordinance concerning the mandatory use of automatic landscape irrigation system interrupters on all new landscape irrigation systems; and

WHEREAS, the South Florida Water Management District requires local governments adopt an ordinance mandating the use of ultra-low volume fixtures and appliances in all new construction; and

WHEREAS, it is the desire of the City Council of the City of Riviera Beach to adopt an ordinance to comply with the South Florida Water Management District's water conservation requirements; and,

WHEREAS, on October 14, 2010, the Planning and Zoning Board recommended approval of this language to the City Council; and,

WHEREAS, the City Council of the City of Riviera Beach hereby finds and declares that the adoption of this ordinance is appropriate, and in the public interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, THAT:

SECTION 1. That Chapter 20 "Utilities", Article III, "Water", is amended by adding the following Division entitled "Water Conservation", as follows:

WATER CONSERVATION

Intent and Purpose

The intent and purpose of this division is to establish water conservation measures intended to reduce the per capita usage of the City's valuable water resources by implementing date-time water restrictions and requiring the use of rain sensing devices on all new irrigation systems.

Definitions

The following words, terms and phrases, when used in this division, shall have the meaning ascribed to them in this section, except where the context indicates a different meaning:

Irrigation means the application of water by means other than natural precipitation.

Irrigation systems means equipment and devices which deliver water to landscape being irrigated including, but not limited to, pumping stations, controls, main and sub-main pipelines, lateral pipelines, emitters, valves, fittings and safety devices.

Landscape means all residential, commercial, institutional, industrial or governmental areas which are ornamentally planted, including, but not limited to, turf, ground covers, flowers, shrubs, trees, mulch, hedges, and similar plant materials.

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, including, but not limited to, water use in mist houses and similar establishments for plant propagation.

Low volume hand watering means watering by one (1) hose attended by one (1) person, fitted with a self-cancelling or automatic shutoff nozzle.

Micro-irrigation means delivering small amounts of water on or below the soil surface. Drops or tiny streams of water spray through emitters or applicators placed along a water delivery line. This includes bubbler, drip, trickle, mist or microspray, and subsurface irrigation methods.

Rainwater harvesting means the collection and storing of rainwater for irrigation or other non-potable uses. In typical residential applications, roof catchment systems channel rainwater into onsite storage (usually cisterns or rain barrels) via the home's system of gutters and pipes.

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

Applicability

The provisions of this division shall apply to all customers of the City of Riviera Beach's Utility District (Utility District), both within the corporate limits of the City and to customers outside the corporate limits of the City, to the extent permitted by law, including any inter-local agreement or contract.

Water use restrictions

The following provisions shall be observed, followed and enforced in the City, and on those customers of the Utility District not subject to municipal regulation in this area:

- (a) 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 10:00 a.m. to 4:00 p.m. daily, unless otherwise provided herein.
- (b) Irrigation of established lawns and landscaping shall be permitted as follows:
 1. Residents and businesses with an odd-numbered street address may water lawns and landscapes on Mondays, Wednesdays and/or Saturdays;
 2. Residents and businesses with an even-numbered street address, no street address or those that irrigate both even and odd addresses within the same zones, which may include multi-family units and homeowners associations, may water lawns and landscapes on Tuesdays, Thursdays and/or Sundays.
- (c) Landscape irrigation for the purpose of watering newly planted grass and foliage for the first ninety (90) days after initial installation shall be permitted, pursuant to the following conditions:
 1. On the day new landscaping is installed, new plantings and the soil may be irrigated once without regard to the normally allowable watering days and times. Soil irrigation is also allowed immediately prior to planting.

2. New plantings that have been in place for 30 days or less may be watered on Mondays, Tuesdays, Wednesdays, Thursdays, Saturdays and/or Sundays, only before 10 a.m. and/or after 4 p.m.
3. New plantings that have been in place from 31 to 90 days may be watered on Mondays, Wednesdays, Thursdays and/or Saturdays, only before 10 a.m. and/or after 4 p.m.
4. Irrigation is limited to the areas containing new landscaping only. An entire irrigation zone may be watered only if new landscaping is planted on at least 50 percent of that zone. If new landscaping is planted on less than 50 percent of an irrigation zone, only the new plantings may be watered.

(d) Landscape irrigation for the purpose of water-in fertilizers, insecticides, pesticides, fungicides and herbicides, where such watering-in is recommended by the manufacturer, or by federal, state or local law, or best management practices, shall be allowed under the following conditions:

1. 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
2. Such watering-in shall be accomplished during normally allowable watering days and times set forth in subsections (b) 1. and 2. unless a professional licensed applicator has posted a temporary sign containing the date of application and the date(s) of needed watering in activity.

(e) The following shall be exempt from the requirements of subsections (a) and (b) of this section:

1. Low-volume irrigation, micro-irrigation, and irrigation with water from a rain barrel, cistern or other rain-harvesting device is allowed at any time;
2. Low volume hand watering of new and established landscaping shall not be restricted. Hand watering of lawn areas shall be with a hose fitted with an automatic shut-off nozzle and is restricted to the designated days and times for that address. However, a voluntary reduction in use is encouraged, and landscape irrigation conducted by hand watering should not produce water runoff.
3. The use of reclaimed water for irrigation is not restricted; however, its use must not be wasteful and unnecessary.

4. Irrigation with treated reclaimed wastewater effluent, in accordance with applicable federal, state, and local water quality standards, or the use of saltwater.
5. The operation of irrigation systems for installation, cleaning, repairs, and maintenance purposes by a licensed irrigation contractor or the property owner(s).
6. Agricultural irrigation where the use of water is permitted by a consumptive or water use permit issued by the South Florida Water Management District.

Automatic water irrigation systems

All new automatic water irrigation systems shall be equipped with a properly installed rain sensing device or switch. The rain sensing device or switch shall be maintained in fully operational condition at all times by the owner or operator of the irrigation system.

Maintenance of Irrigation System

Owners and operators of automatic water irrigation systems must properly maintain the irrigation system. This obligation includes the timely repair and replacement of any broken, missing or misdirected sprinkler heads within seven (7) days.

Administrative waiver

- (a) Any person affected by the provisions of this division may petition the Utility District Director, or designee, for a waiver if compliance would impose a unique, unnecessary and inequitable hardship on such person. Relief may be granted only upon a demonstration that such hardship is peculiar to the person or the affected property and is not self-imposed, and that the grant of the waiver will be consistent with the general intent and purpose of this article. The duration of the waiver shall be determined on a case-by-case basis and for as long as is reasonably necessary. Any application for waiver or appeal shall be sent by certified mail, return receipt requested.
- (b) Upon receiving a petition for administrative waiver, the Utility District Director, or designee, shall render a decision on the waiver within ten (10) working days. Denials of an administrative waiver may be appealed to the Utility District Board within twenty (20) days of such person's receipt of the notice of denial. The Utility District Board shall make all final decisions concerning waivers from the provisions of this division.

- (c) A petition for a waiver, and/or the granting of a waiver, shall operate prospectively, and shall not affect any pending enforcement action against the property owner pursuant to the provisions of this division.
- (d) The City hereby recognizes any and all variances issued by the South Florida Water Management District to those users who operate and maintain smart irrigation systems which meet the requirements of Section 373.62(7), Florida Statutes.

Penalties

Violations of any provision of this division shall be enforced under Chapter 2, Article VI, and with the following penalties:

- a. *First violation:* A written notice of violation will be issued.
- b. *Second violation:* A fine of \$50.00.
- c. *Third and subsequent violations:* A fine of \$100, and the Utility District Director designee, shall have the authority to order the immediate discontinuance of water service, if necessary. When water service is discontinued hereunder, the person aggrieved shall have the right to appeal the decision of discontinuance to the Utility District Board, who shall have the authority to reverse or modify the discontinuance.
- d. Each day in violation of this section shall constitute a separate offense.
- e. The provisions of this article are not the exclusive remedy or means for enforcement of the Code of the City and do not precluded any other remedies available by law.

Upon determination by the City Code Enforcement Division that an owner/occupant is in violation of the provisions of this division, the City Code Enforcement Administrator shall notify, in writing, the owner/occupant of the nature of the violation and provide notice of a hearing before the special magistrate pursuant to section 2-335, Enforcement Procedures. The conduct of such hearing shall be in conformance with section 2-336, Conduct of Hearing. The special magistrate's findings and order shall constitute the final administrative action of the City for purposes of judicial review under state law.

SECTION 2. That Chapter 22 "Buildings and Building Regulations", Article II, "Building and Technical Codes", is amended by adding the following:

Requirements for plumbing fixtures, fixture fittings and appliances

(a) Intent - To require reduced flow rates and consumption for plumbing fixtures, fixture fittings, and appliances installed within the City. Such ultra-low volume plumbing fixtures, fixture fittings, and appliances shall comply with the specifications below or with the United States Environmental Protection Agency (EPA) WaterSense Program, where applicable.

(b) Requirements for plumbing fixtures

(1) The maximum water consumption flow rates and quantities for all new plumbing fixtures and fixture fittings shall be in accordance with Table A. Permit applications for new residential and commercial structures shall include ultra-low volume plumbing fixtures, fixture fittings and appliances as provided in Table A. Such ultra-low volume plumbing fixtures, fixture fittings and appliances shall comply with the specifications in Table A or have received the EPA WaterSense Label.

(2) Exceptions:

1. Blowout design water closets having a maximum water consumption of 3.5 gallons (13 L) per flushing cycle.
2. Vegetable sprays.
3. Clinical sinks having a maximum water consumption of 4.5 gallons (17 L) per flushing cycle.
4. Service sinks.
5. Emergency showers.

TABLE - A

Maximum Flow Rates and Consumption for Plumbing Fixtures and Fixture Fittings

<u>Plumbing Fixture or Fixture Fitting</u>	<u>Maximum Flow Rate or Quantity</u>
Toilet	1.28 gallons per flush with at least 350 gram waste removal
Showerhead ^(a)	1.5 gpm at 80 psi
Bathroom faucet	1.5 gpm at 60 psi
Urinal	Waterless or 0.5 gallon per flushing cycle or less
Dishwasher, Residential (standard)	5.0 gallons per cycle or less (Energy Star/Water Sense Certified)
Dishwasher, Residential (compact)	3.5 gallons per cycle or less (Energy Star/Water Sense Certified)
Washing machine, Residential	Water factor of 6 or lower (Energy Star/Water Sense Certified) ^(b) or 25.2 gallons per load

gpm: gallons per minute

psi: pounds per square inch

^(a) A handheld shower spray is a showerhead.

^(b) Water Factor in gallons per cycle per cubic foot.

SECTION 3. If any word, phrase, clause, subsection or section of this Ordinance is for any reason held invalid, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

SECTION 4. It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Riviera Beach, and the sections of this Ordinance may be renumbered to accomplish such intentions.

SECTION 5. That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

SECTION 6. Specific authority is hereby granted to codify this Ordinance.

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ORDINANCE NO. _____

PAGE 9

PASSED AND APPROVED on the first reading this _____ day of _____,

PASSED AND ADOPTED on second and final reading this _____ day of _____.

APPROVED:

THOMAS A. MASTERS
MAYOR

DAWN S. PARDO
CHAIRPERSON

ATTEST:

CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK

JUDY L. DAVIS
CHAIR PRO TEM

BILLIE E. BROOKS
COUNCILPERSON

CEDRICK A. THOMAS
COUNCILPERSON

SHELBY L. LOWE
COUNCILPERSON

ORDINANCE NO. _____
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1ST READING

2ND & FINAL READING

MOTIONED BY: _____

MOTIONED BY: _____

SECONDED BY: _____

SECONDED BY: _____

D. PARDO _____

D. PARDO _____

J. DAVIS _____

J. DAVIS _____

B. BROOKS _____

D. BROOKS _____

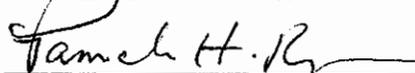
C. THOMAS _____

C. THOMAS _____

S. LOWE _____

S. LOWE _____

REVIEWED AS TO LEGAL SUFFICIENCY



PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 10/26/10