



INTRODUCED BY:
Mayor Pruette

ORDINANCE NO. 2010-06

A BILL TO BE ENTITLED

AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA ADDING ~~(d)~~ TO SECTION 2-4473-27 PROVISIONS OF DIVISION SUPPLEMENTAL IN THE CODE OF ORDINANCES AUTHORIZING THE CITY MANAGER AND HIS DESIGNEE TO ISSUE CITATIONS FOR VIOLATIONS OF THE CITY'S CODE AS HE DEEMS NEEDED. ADOPTING THE ST JOHNS RIVER WATER MANAGEMENT DISTRICT'S WATER CONSERVATION RULE FOR LANDSCAPE IRRIGATION AND PROVIDING 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 some violations of the city code requires immediate resolution; 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. many violations can be disposed of by citation without required a hearing; 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 Rule 40C-2.042(2)(a), F.A.C.; and issuing citations in some cases in lieu of a hearing may reduce staff overtime,

WHEREAS, Rule 40C-2.042(2), 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, the City Council of the City of Neptune Beach, Florida has determined that it is necessary to insure that water conservation is provided for in Neptune Beach by adopting and enforcing the Water Conservation Rule for Landscape Irrigation of the St Johns River Water Management District ("District") in accordance with District Rule 40C-2.042(2)(a)and(b), Florida Administrative Code ("F.A.C."), as set out below in Sections 1 through 3;

Now, Therefore, be it ordained by the City Council of Neptune Beach, Florida:

Section 1. Sec. 2-447 Provisions of Division Supplemental shall be amended as follows:

Sec. 2-447 Provisions of Division Supplemental

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It is the legislative intent of this division to provide an additional or supplemental means of obtaining compliance with local codes. Nothing contained in the division shall prohibit the city council from enforcing its codes by any other means. Authorizing the city manager and his designee to issue citations for violations of the city's code as he deems needed

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No citations shall be issued without the approval of the City Manager. The first citation shall be a warning giving a reasonable time to correct the violation. The maximum fine will be \$250. Failure to pay a fine within 10 days will add additional fine of \$50. After 20 days of an unpaid fine, the City Manager may place a lien on the property. Also, after the 20 day period, a second citation may be issued for failure to pay fine.

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Any person or entity cited may request a hearing before the Code Enforcement Board within 30 days of the citation for resolution of their citation at a cost of \$200. If the Board finds in favor of the person receiving the violation, the fee will be returned. If the Board finds that the person or entity cited is guilty, they may set any fine allowed by law for the violation.

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Section 1. The City hereby adopts each of the provisions set forth in District Rule 40C-2.042(2)(a), F.A.C.

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Section 2. A variance from the specific landscape irrigation days or day set forth in Rule 40C-2.042(2)(a)1. and 2., F.A.C., 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 variance or those served by the applicant. Where a contiguous property is divided into different zones, a variance 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 variance 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.

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Section 3. District Rule 40C 2.042(2)(a), F.A.C., will be enforced by the City's Code Enforcement Officer through the City's code enforcement process pursuant to Article VII, Division 2, Sec 2-436 through 447 of the City Code as authorized by Chapter 162, Florida Statutes.

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Section 24. The Ordinance shall become effective on after passage by the City Council.

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VOTE RESULTS OF FIRST READING:

Mayor Harriet Pruette Yes
Vice Mayor John Weldon Fred Lee Yes
Councilor Eric Pardee Yes
Councilor Fred Lee Kara Tucker Yes
Councilor John Weldon Kara Tucker Yes

Passed on First Reading this 5th day of April, 2010.

VOTE RESULTS OF SECOND AND FINAL READING:

Mayor Harriet Pruette
Vice Mayor Fred Lee John Weldon

Councilor Eric Pardee

Councilor ~~Kara Tucker~~ Fred Lee

Councilor ~~John Weldon~~ Kara Tucker

Passed on Second and Final Reading this.

Harriet Pruette
Mayor

ATTEST:

Lisa Volpe, CMC
City Clerk

Approved as to form and correctness:

Christopher A. White
City Attorney

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