

ORDINANCE 06-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLE ISLE, FLORIDA, AMENDING CHAPTER 32, ARTICLE II OF THE BELLE ISLE CODE OF ORDINANCES TO PROVIDE RESTRICTIONS FOR LANDSCAPE IRRIGATION, PROVIDING FOR SEVERABILITY; 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; and

WHEREAS, Rule 40 C – 2.042(2)(a), F.A.C., grants a permit to each person located within the district to use, withdraw or divert water for small landscape irrigation uses, provided the irrigation does not occur more than two days per week and does not occur between the hours of 10:00 a.m. and 4:00 p.m. daily, subject to certain exceptions; and

WHEREAS, Rule 40 C – 2.042(2)(b) provides that a local government may adopt an ordinance identifying the specific two days irrigation is allowed, as identified by the district specified irrigation schedule; and

WHEREAS, it is the desire of the city council to adopt such an ordinance; and

WHEREAS, the city council 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 city council of the City of Belle Isle, Florida, as follows:

SECTION 1.

Chapter 32, Article II, Section 32-31 is hereby amended as follows:

Sec. 32-31. Restrictions on irrigation and accessory use.

(a) ~~*Authority.* The city council is hereby authorized to restrict the use of water for irrigation and/or accessory use during those periods of time of critical concern.~~

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

~~(b) *Adoption of resolution.* The city council shall adopt a resolution, after a public hearing, which shall outline the restrictions as to time, methods and use of water. It shall further provide for any additional penalties. A copy of the proposed resolution shall be posted at city hall and published in a newspaper at least three days prior to adoption.~~

Definitions. For the purpose of this article, the following terms shall have the meaning given herein.

1. “Address” means the building address 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 an even number or the letters A through M. An “odd numbered address” means an address ending in an odd number or the letters N through Z.

2. “District” means the St. Johns River Water Management District.

3. “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 golf course greens, tees, fairways, primary roughs, and vegetation associated with intensive recreational areas such as, but not limited to, playgrounds, and football, baseball and soccer fields.

(c) *Landscape Irrigation Schedule*

1. Landscape irrigation at odd numbered addresses shall only occur on Wednesday and Saturday and must not occur between 10:00 a.m. and 4:00 p.m. daily.

2. Landscape irrigation at even numbered addresses or no address shall only occur on Thursday and Sunday and must not occur between 10:00 a.m. and 4:00 p.m. daily.

~~(ed) *Prohibitions; eExceptions.* Notwithstanding the above, each water use shall be prohibited from irrigation between the hours of 10:00 a.m. and 4:00 p.m. each day of the week, except as follows: Landscape irrigation shall be subject to the following irrigation schedule exceptions:~~

(1) Irrigation using a micro-irrigation system is allowed at anytime.

- (2) Preparation for or irrigation of new landscape; 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, recommended by the manufacturer, or constituting best management practices is allowed anytime within 24 hours of application.
- (4) Maintenance and repair of irrigation systems is allowed at anytime for a period not to exceed 10 minutes per hour per zone.
- (5) Irrigation using low volume hand watering, including watering by one hose attended by one person, fitted with a self-canceling or automatic shutoff nozzle or both is allowed anytime.
- (6) Air conditioning water to air systems. 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 period.
- (8) The use of recycled water from water 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.

(e) Variance. A variance from the Landscape Irrigation Schedule may be granted if strict application of that schedule would lead to unreasonable or unfair results in particular instances, provided that the applicant demonstrates with particularity that compliance with the schedule 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 than other zones of the property. However, no single zone may be irrigated more than 2 days per week.

(f) Application of Ordinance. The provisions of this Ordinance shall apply to each person located within the District.

~~(g) Issuance of Citation and Schedule of Fines. Penalties. After a written warning, whoever violates any provision of this section shall be subject to a \$100.00 fine for a first offense; \$200.00 for a second violation and \$500.00 and/or termination of service to the property for a third violation or subsequent violations.~~

(1) Any enforcement officer authorized by the city manager to enforce the provisions of this code and who observes a violation of this article shall issue a civil citation to the person who has committed the violation.

(2) The citation shall state the date and time of issuance; the name and address of the person to whom the citation is issued, the date and time the violation was committed; the section of the code violated; the name of the enforcement officer; the applicable civil penalty; and the procedure for the person to follow in order to pay the penalty or contest the citation.

(3) The amount of the civil penalty for violation of this article shall be as follows:

- i. A warning without monetary penalty shall be issued for the first violation.
- ii. \$100.00 for the second violation.
- iii. \$200.00 for the third violation.
- iv. \$500.00 for a fourth violation or subsequent violations.

Each day in violation of this Ordinance shall constitute a separate offense. In addition to the civil sanctions contained herein, the City may take any other appropriate legal action, including by not limited to, injunctive action to enforce the provisions of this article.

(h) *Payment of Fines/Appeal.* The payment of fines or procedures for hearing of appeal of the citation shall be those set forth in Section 10-64 of this code.

SECTION 2. SEVERABILITY. If any word, phrase, sentence, clause or other portion of this Ordinance is determined to be invalid, void, or unconstitutional, the remainder of this Ordinance shall remain in effect.

SECTION 3. EFFECTIVE DATE. This ordinance shall become effective upon adoption.

FIRST READING: held this 7th day of March, 2006
ADVERTISED FOR SECOND READING: 26TH of March, 2006
SECOND READING: held this 4th day of April, 2006

| | YES | NO | ABSENT |
|--------------------|------------|-----------|---------------|
| Thomas G. Petruzzi | _____ | _____ | _____ |
| Trudy Prince | _____ | _____ | _____ |
| Charles Scott | _____ | _____ | _____ |
| Larry Ady | _____ | _____ | _____ |
| Harvey Readey | _____ | _____ | _____ |
| Lydia Pisano | _____ | _____ | _____ |
| Eric Spaulding | _____ | _____ | _____ |

ATTEST:

William G. Brooks, Mayor

Belinda Bateman, MMC, City Clerk

Approved as to form and legality
John F. Bennett, City Attorney

STATE OF FLORIDA
COUNTY OF ORANGE

I, BELINDA L. BATEMAN, CITY CLERK of the City of Belle Isle, do hereby affirm that the above and foregoing ordinance was duly and legally adopted by the Belle Isle City Council, in session assembled on the 4th day of April, 2006, at which session a quorum of the members were present.

Belinda L. Bateman, MMC
City Clerk