

Sec. 26-97 Water conservation.

(a) *Application.* The provisions of this section shall apply to all customers of the City of Tampa Waterworks System and Reclaimed Waterworks System, 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.

(b) *Definitions.* Except as defined hereunder, the definitions found in Florida Administrative Code (FAC), Chapter 40D-22, Year-Round Water Conservation Measures, amended, are hereby adopted and made applicable to this section:

District means the Southwest Florida Water Management District.

Manager means the manager of the water conservation program.

Micro-irrigation means any irrigation device that distributes water near or within the root zone through equipment and devices that apply less than thirty (30) gallons per hour per emitter. Examples of micro-irrigation devices include drip, line source, microspray, microsprinkler, bubbler and similar types of soaker hoses. The term also includes water use in mist houses and similar establishments for plant propagation and production, but excludes any form of turf irrigation other than in a sod production ("turf farming") setting.

(c) *Water use restrictions.* The following provisions shall be observed, followed and enforced in the city:

(1) Low volume irrigation and 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.

(2) The use of reclaimed water for irrigation is not restricted; however, its use must not be wasteful and unnecessary.

(3) Irrigation of established lawns and landscaping shall be permitted as follows:

a. At addresses where the specific portion of the address ends in 0, 1, 2, [or] 3 on Mondays and/or Thursdays;

City of Tampa Water Use Restrictions are established by Tampa Code Sec. 26-97

b. At addresses where the specific portion of the address ends in 4, 5, or 6 on Tuesdays and/or Fridays;

c. At addresses where the specific portion of the address ends in 7, 8, or 9 and at locations with no address and locations with mixed addresses, on Wednesdays and/or Saturdays.

(4) All irrigation is prohibited from 8:00 a.m. to 6:00 p.m. unless otherwise provided herein.

(5) Irrigation for the purpose of chemigation, fertigation or watering-in of applied fertilizers, insecticides, fungicides and herbicides where such watering-in is required by the manufacturer, or by federal, state or local law or by applicable best management practices shall not be restricted when applied by a licensed professional who is in the business of such application for remuneration, with two (2) exceptions when associated with lawn or landscape. In the absence of specific alternative instructions from the manufacturer, such watering-in shall be limited to one (1) application of one-quarter ($\frac{1}{4}$) inch within twenty-four (24) hours of the application; and such watering-in shall be accomplished during allowable watering hours unless a professional applicator has posted a temporary sign containing the date of application and date(s) of needed watering-in activity and also has provided written instructions listing the chemicals used and stating that the watering-in must occur immediately rather than during allowable watering hours. Watering-in of such products applied by someone other than a licensed professional as herein specified shall be restricted to the designated days and times for that address.

(6) All other water use restrictions, not included in subsections (c)(1), (c)(2), (c)(3), (c)(4) and (c)(5) above, contained within F.A.C. Chapter 40D-22, Year-Round Water Conservation Measures, and Chapter 40D-21, F.A.C. titled "Water Shortage Plan", and any Southwest Florida Water Management District Water Shortage Order(s) that may be in effect for the City of Tampa, are adopted and incorporated by reference.

(7) Any water use restrictions subsequently adopted and imposed by the district which are more stringent than those referenced in this section, except with regard to the use of reclaimed water, shall supersede such restrictions herein and shall be incorporated as part of this section and enforceable by the city.

City of Tampa Water Use Restrictions are established by Tampa Code Sec. 26-97

(8) Properties which cannot meet the conditions of this section, due to any of the following conditions:

- a. Properties which have irrigation systems with one (1) or more irrigation zones which water multiple addresses at the same time;
- b. Two (2) or more properties which share a common source of water which, due to source limitations (e.g. a single well), cannot meet the irrigation requirements of all properties served by this source within the day/hours specified by this section; and
- c. Properties of five (5) or more irrigable acres which, because of the amount of irrigated area, cannot efficiently irrigate all zones within the days/hours specified in this section;

shall develop and submit to the manager for review and approval, alternative irrigation schedules, which allow no additional watering days or times as that provided by the restrictions herein. Such schedules shall be comprised of, at a minimum, a site map depicting all irrigation zones and a written description of the days upon which each zone may be operated. Each zone may be operated no more frequently than twice per week. All irrigation is prohibited between 8:00 a.m. to [and] 6:00 p.m. Persons responsible for the control of such irrigation systems shall maintain said plan and shall submit such plan to the manager. Such plan must be dated and signed by the person responsible for the control of the irrigation system.

(9) All individual users and groups of users of water located within the city shall fully comply with all restrictions or other conservation measures enforced by the city.

(10) Users of the water resource may request relief from the applicable provisions of this section or any applicable City Code, ordinance, rules or regulations by filing a petition for variance with the city from subsections (c)(1), (c)(2), (c)(3), (c)(4) and (c)(5) herein.

(11) The rules, regulations, and orders promulgated from time to time by the district which are more stringent than the provisions of this section are hereby adopted by reference and made part hereof and shall be subject to the same enforcement and penalty provisions of this section. In the case of the more stringent rules, a petition for variance shall be filed with the district.

City of Tampa Water Use Restrictions are established by Tampa Code Sec. 26-97

(12) The director shall have the authority to promulgate rules and regulations pertaining to water use restrictions not less restrictive than those promulgated by the district or with the provisions of Chapter 40D-21, F.A.C., and/or Chapter 40D-22, F.A.C. as now or hereafter amended. Any user who violates such rules or regulations or who refuses to comply with a directive from an officer enforcing such rules and regulations shall be deemed to have violated this section.

(d) *Variances from water use restrictions.*

(1) *General.* These provisions shall apply to petitions for variances filed with the city.

(2) *Criteria for issuance.* No petition for variance shall be granted unless the petitioner affirmatively demonstrates that one (1) or more of the following circumstances exists:

- a. The variance is essential to protect public health or safety;
- b. Compliance with this section will require measures which, because their extent or cost impose undue hardship, cannot be accomplished within the anticipated duration of the shortage or will not ensure equitable distribution;
- c. Alternative restrictions, which achieve the same level of demand reduction as the restrictions from which a variance is sought, are available and are binding and enforceable.
 1. These alternative restrictions shall be summarized within a short-term water reduction plan, prepared by the petitioner, to be submitted to the city for consideration.
 2. Any user who has submitted a short-term water reduction plan in compliance with Tampa's rules and regulations shall, upon approval, be bound by such plan unless good cause exists for changes to such plan and the plan is amended accordingly.

(3) *Petitions for variance.* The petition shall contain the following:

- a. The petitioner's name, address and telephone number;
- b. The specific section of the Code, ordinance, rules or regulations from which the petitioner is requesting relief;

City of Tampa Water Use Restrictions are established by Tampa Code Sec. 26-97

- c. A detailed statement of the facts which the petitioner believes demonstrates that the request qualifies for a variance, which may include reports by qualified technical experts;
- d. A description of the relief desired;
- e. The period of time for which the variance is sought, including the reasons and facts in support thereof;
- f. The damage or harm resulting or which may result to petitioner from compliance with the Code, ordinance, rules or regulations;
- g. The restrictions which petitioner can meet and the date when petitioner can comply with such restrictions;
- h. A short-term water use reduction plan, describing any and all alternative reductions implemented in lieu of the restrictions for which variance is sought, if applicable;
- i. The steps the petitioner is taking to meet the Code, ordinance, rules, regulations or specific restrictions from which the variance is sought and when compliance will be achieved; and
- j. Any other information the petitioner believes is material.

(4) *Review.* Any person who wishes to have the decision of the director regarding the decision on a petition for a variance from Tampa from the provisions of subsections (c)(1), (c)(2), (c)(3), (c)(4) and (c)(5) herein reviewed, shall file a request to review the director's official decision in accordance with section 1-19 of the City Code.

(e) *Enforcement of water use restrictions.*

(1) A violation of this section is a municipal infraction punishable by a maximum civil penalty not to exceed five hundred dollars (\$500.00) and shall be enforced under the city of Tampa Supplemental Enforcement Procedures Ordinance (chapter 23.5 of this Code). Each and every violation of this section shall constitute a separate offense.

City of Tampa Water Use Restrictions are established by Tampa Code Sec. 26-97

(2) Mandatory court appearances are required for third and subsequent violations of this section; except if a user has not violated the provisions stated in this section for three (3) consecutive years from the date of the previous violation, the next violation will be considered that user's first offense. The citation shall clearly inform the user of the mandatory court appearance. Users required to appear in court do not have the option of paying the penalty instead of appearing in court.

(3) In addition, the city may enforce this section by any action at law and in equity, including actions for injunctive relief and, if the city prevails in any such action, the city shall be entitled to its costs and reasonable attorneys' fees.

(4) The director shall have all powers, duties and responsibilities to administer and enforce all provisions of this section and shall be deemed to be an officer for the purpose of enforcing the provisions of this section under authority provided in chapter 2 of this Code. Any action to be taken by the director pursuant to the enforcement of any section herein shall be considered cumulative and in addition to penalties and to other remedies provided elsewhere by ordinance or law.

(f) *Water conservation fund.* To the extent permitted by law, all funds collected from penalties paid for violations of this section shall be remitted to Tampa's Director of Revenue and Finance and deposited in the water department's water conservation fund. All monies in the water conservation fund shall be used only for water conservation and water resources education activities of the water department.

(Ord. No. 89-253, § 2(58-92), 9-28-89; Ord. No. 90-99, § 1, 4-12-90; Ord. No. 90-148, § 15, 5-24-90; Ord. No. 93-148, § 3, 9-23-93; Ord. No. 2002-264, § 2, 12-5-02; Ord. No. 2003-316, § 2, 11-20-03; Ord. No. 2006-104, §§ 1—4, 5-4-06; Ord. No. 2009-48, §§ 1—6, 3-19-09; Ord. No. 2009-57, §§ 1—6, 4-2-09; Ord. No. 2009-81, §§ 1—7, 5-28-09; Ord. No. 2010-12, §§ 1—5, 2-4-10) Editor's note— Ord. No. 2010-12, §§ 1—5, adopted Feb. 4, 2010, repeals emergency Ord. No. 2009-81, which provided for revised emergency measures in restricting water use and curtailing nonessential uses of water. Ord. No. 2010-12 shall take effect March 14, 2010.
