

**RULE OF THE  
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
CHAPTER 40D-22  
YEAR-ROUND WATER CONSERVATION MEASURES**

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**40D-22.011 Policy and Purpose**

(1) This Chapter comprises the Southwest Florida Water Management District's (District) Year-Round Conservation Measures. It is the policy of the District to promote and require water conservation during times of average and above average rainfall as well as during declared water shortages. To that end, the purpose of this Chapter is to promote long-term sustainability of the water resources of the District through water use efficiency by regulatory means during times when no water shortage has been declared. The measures contained in this Chapter are intended to reduce wasteful irrigation practices and encourage lawn and landscape drought conditioning. In addition to these measures, the District also uses 40D-2, F.A.C., provisions and education and incentive programs to promote water conservation.

(2) This Chapter applies to all water sources as provided herein and all water users as defined herein engaged in irrigation, including those not subject to permitting pursuant to Chapter 40D-2, Florida Administrative Code.

Specific authority 373.044, 373.113, 373.171, FS. Law Implemented 373.171, FS.  
History – New 3-24-92, amended 9-15-03.

**40D-22.101 Definitions**

When used in this rule:

(1) "Address" means the "house number" (a numeric or alphanumeric designation) that, together with the street name, describes the 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. If a lot number in a mobile home park or similar residential community is not used by the U.S. Postal Service (e.g., the park manager sorts incoming mail delivered to the community's address), then the community's main address shall be the property's address.

(2) "Agriculture" means the science and art of production of plants and animals useful to humans, including to a variable extent the preparation of these products for human use and their disposal by marketing or otherwise, and includes aquaculture, horticulture, floriculture, zoological and botanical specimen exhibits, viticulture, forestry, dairy, livestock, pasture, poultry, bees, and any and all forms of farm products and farm

production. Plant nurseries and Turfgrass production (“sod farming”) are agriculture; however, the care of new or Existing Lawns, non-edible Landscapes, Cemeteries, Golf Courses and Athletic Play Areas are not classified as Agriculture for the purpose of this Chapter.

(3) “Athletic Play Area” means all golf course fairways, tees, and greens, and other athletic play surfaces; for example, football, baseball, soccer, polo, tennis and lawn bowling fields, and rodeo, equestrian and livestock arenas. A turfgrass area in a public park, when used for a festival or other scheduled event that includes heavy foot traffic, is also considered an athletic play area for a period ending two weeks after the event.

(4) “Cemeteries” means a place dedicated to and used or intended to be used for the permanent interment of human or pet remains. A Cemetery may contain land or earth interment; mausoleum, vault, or crypt interment; a columbarium, ossuary, scattering garden, or other structure or place used or to intended to be used for the interment or disposition of cremated human or pet remains; or any combination of one or more of such structures or places.

(5) “Domestic” and Other Sanitary Uses” means the use of water for the individual personal household purposes of drinking, bathing, cooking, laundry, household cleaning, or other sanitation. Other uses often associated with domestic activities, such as Lawn Irrigation are classified elsewhere in this Chapter within appropriate use classes.

(6) “Driving Range” is the turfgrass at a practice or instructional facility that provides a simulated golf fairway, simulated golf tee and simulated golf green. The simulated golf green associated with a simulated golf fairway is primarily a visual target instead of a regulated play surface, and so does not receive the foot traffic and related turfgrass damage normally associated with an actual golf green.

(7) “Even Numbered Address” means an Address, ending in the numbers 0, 2, 4, 6, 8 or the letters A-M.

(8) “Existing” means any Lawn or Landscape, or portion thereof, which has been in existence in the same location for a period of 60 days or more.

(9) “Frost/Freeze or Heat Stress” means the symptoms caused to plants or crops by extreme cold or hot weather unless an irrigation event occurs; for example, permanent wilt damage, yield reductions and/or plant death.

(10) “Golf Course” means an area of land laid out for the express purpose of playing golf, including all greens, tees, fairways, and roughs.

(11) “Hand Watering” means watering plants or crops with one hand held hose, fitted with a self-canceling or automatic shutoff nozzle, or a watering can or pail.

(12) “Irrigation” means the application of water to plants for the purpose of sustaining plant life, promoting plant growth or to facilitate crop production.

(13) “Landscape” means a section of ground adorned or improved by flowering plants (whether annual or perennial), vines, shrubs, palms, trees, ferns, ornamental grasses and groundcover other than Lawn.

(14) “Landscape Use” means the application of water to Lawns and associated Landscape surrounding homes, commercial or industrial buildings, government or other non-commercial buildings, parks, recreational areas, Cemeteries, non-play areas of Golf Courses, public and private right-of-ways and medians but excluding Athletic Play Areas.

(15) “Lawn” means a plot of Turfgrass, usually tended or mowed, surrounding homes, commercial or industrial buildings, government or other non-commercial

buildings, parks, recreational areas, Cemeteries, and public or private rights-of-way and medians, but excludes Athletic Play Areas, whether such areas are free-standing or within a park or other setting.

(16) “Low-Volume Irrigation” means the use of Hand Watering, Micro-irrigation or other 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 designed to allow that water to be placed with a high degree of efficiency within the root zone of the plant.

(17) “Micro-irrigation” means any Irrigation device that distributes water near or within the root zone through low flow rate and emitters. Examples of Micro-irrigation devices include drip, line source, microspray, microsprinkler, bubbler and similar types of systems. The term specifically includes propagation mist heads, capillary mats and 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.

(18) “New Plant Material” means any Lawn or Landscape, or portion thereof, which has been in existence in the same location for less than 60 days.

(19) “Odd Numbered Address” means an Address ending in the numbers 1, 3, 5, 7, 9 or the letters N-Z.

(20) “Reclaimed Water” means water that has received at least secondary treatment and basic disinfection and is reused after flowing out of a wastewater treatment facility.

(21) “Spot Treatment” is the Hand Watering of isolated areas of turfgrass or other plant material, such as golf course greens, in order to efficiently deliver water needed to provide uniform moisture content. This practice is a water-conserving means of compensating for differences in sun exposure, sprinkler coverage, and other site-specific factors.

(22) “Sprigged turf area” means a turf area being established vegetatively by placing Sprigs in furrows or small holes.

(23) “Sprigs” means individual stems of grass with one to four nodes (joints) from which roots can develop. Sprigs may also be called runners, rhizomes, or stolons. Sprigs are a means of vegetative propagation that is sometimes used to produce Golf Course greens, Golf Course fairways, other Athletic Play Areas, and Lawns. Bermuda grass is the most common type of turfgrass propagated in this manner.

(24) “Syringing” is the watering of turfgrass or other plant material in order to lower the air temperature around the leaf surfaces. This generally involves the use of Hand Watering or “fogging” irrigation equipment. The purpose of the special watering technique is to cool-off the leaf tissue, not to wet the soil.

(25) “Turfgrass” means a dense growth of grass (any of numerous plants of the botanical family Gramineae) being used as a ground cover to provide one or more of the following benefits: erosion control, dust reduction, beautification, or as a playing surface for sports or recreation. Common turfgrasses in Florida include, but are not limited to: Bahiagrass, Bermudagrass, and St. Augustinegrass.

(26) “User” means any person, individual, firm, association, organization, partnership, business trust, corporation, company, agent, employee or other legal entity, the United States of America, and the State and all political subdivisions, regions,

districts, municipalities, and public agencies thereof, which directly or indirectly takes water from the water resource, including but not limited to uses from groundwater wells and private or public utility systems.

(27) “Vertical Mowing” means a form of thatch removal involving the use of special equipment that makes multiple vertical cuts into the Lawn or other turfgrass. Vertical Mowing may also be referred to as verticutting.

(28) “Water resource” means any and all water on or beneath the surface of the ground, including natural or artificial water courses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, specifically including water withdrawn from wells, but excluding seawater.

(29) “Water shortage or water shortage emergency” means that situation within all or part of the District when the Governing Board or Executive Director has declared a water shortage pursuant to Sections 373.175 or 373.246, F.S. or Chapter 40D-21, F.A.C.

(30) “Water Use Permit” (WUP) means a permit issued pursuant to Chapter 40D-2, authorizing the use of water.  
 Specific authority 373.044, 373.113, 373.171, FS. Law Implemented 373.171, 373.223, FS. History – New 3-24-92, amended 9-15-03.

**40D-22.201 Year-Round Water Conservation Measures**

(1) General Requirements – The year-round water conservation measures contained in this section are applicable to all water Users, including end Users served by public or private water systems. The water conservation measures contained herein shall be effective throughout all geographical areas within the District. Any restrictions or other measures declared pursuant to Chapter 40D-21, or any Board or Executive Director order that is more restrictive than a water conservation measure contained within this Chapter shall supersede the water conservation measure for the duration of the applicable water shortage declaration.

(2) Wasteful and Unnecessary - In addition to the specific restrictions enumerated below, the following wasteful and unnecessary water uses are prohibited:

(a) Allowing water to flow from an unattended hose, unless that water is discharge from a functional water-to-air air conditioning unit, residential reverse osmosis treatment system, or similar device.

(b) Handwatering a Lawn on an otherwise restricted day or more than once a day, except when used for Spot Treatment or other practices specified in this Rule.

(c) Hosing-down a driveway or other impervious surface to remove grass clippings or other debris that can be removed with a broom or other dry methods.

(d) Hosing-down a building or other structure to remove cobwebs or other material that can be removed with a broom or other dry methods.

(e) Allowing water to flow from a broken sprinkler head, outdoor faucet, or other malfunctioning plumbing or irrigation system component, after receiving verbal or written notice of the malfunction from the District, water utility, or local government.

(3) Irrigation Uses – The following requirements shall apply to all Irrigation except Agriculture, for example: Lawns, Landscapes, Golf Courses, and other Athletic Play Areas.

(a) Irrigation shall be prohibited daily between the hours of 10:00 a.m. and 4:00 p.m., except as otherwise provided herein.

(b) Irrigation systems may be operated during restricted days and/or times for cleaning and maintenance purposes with an attendant on site in the area being tested. Irrigation systems may routinely be operated for such purposes no more than once per week, and the run time for any one test should not exceed 10 minutes.

(c) Irrigation for the purpose of watering-in fertilizers, insecticides, fungicides and herbicides, where such watering-in is required by the manufacturer, or by federal, state or local law, shall not be restricted, with two exceptions when associated with a Lawn or Landscape: In the absence of specific alternative instructions from the manufacturer, such watering-in shall be limited to one application of one-quarter inches; and, such watering-in shall be accomplished during allowable watering times unless a professional applicator has posted a temporary sign containing the date of application and the date(s) of needed watering-in activity.

(d) Landscape may be watered using Low-Volume Irrigation methods on an as-needed basis instead of being restricted to certain days or times.

(e) Lawns may be Spot Treated without regard to the normally allowable watering days or times. Lawns may only be Spot Treated by Hand-Watering or other targeted, manual means.

(f) In order to promote necessary rhizome repair, extra watering of turfgrass may occur on any day of the week for a 14-day period after Vertical Mowing has occurred. An entire zone of an Irrigation system, may only be used for extra rhizome repair watering if the zone in question is for an area that contains at least 50% Turfgrass recovering from Vertical Mowing. If a zone contains less than 50% recovering Turfgrass, or if the recovering Turfgrass area is typically not watered by an Irrigation system, only the recovering Turfgrass is eligible for this 14-day exemption. Targeted watering may be accomplished by Hand Watering, or any appropriate method which isolates and waters only the recovering Turfgrass.

(g) New Plant Material shall only be irrigated as follows:

1. Any New Plant Material may be irrigated on any day of the week as needed, for the purpose of maintaining plant health and encouraging root grow-in, during a 60-day establishment period.

2. This establishment period begins the day the New Plant Material is installed, and is limited to areas containing New Plant Materials only. An entire zone of an Irrigation system may only be used for establishment period watering if the zone in question is for an area that contains at least 50% New Plant Material. If a zone contains less than 50% New Plant Material, or if the New Plant Material is in an area that will be typically not be watered by an Irrigation system, only the New Plant Material is eligible for this 60-day exemption. Targeted watering may be accomplished by Hand Watering, or any appropriate method which isolates and waters only the New Plant Material.

3. On the day any New Plant Material is installed, it may be irrigated once without regard to the normally allowable watering times. Irrigation of the soil immediately prior to the installation of New Plant Material is also allowable without regard to the normally allowable watering times.

4. Irrigation of Sprigged turfgrass areas is allowable without regard to the normally allowable watering times for the entire 60-day establishment period.

5. Irrigation of new Turfgrass areas or other New Plant Material associated with a public works project, when and where conducted using tanker trucks or other vehicles, is allowable without regard to the normally allowable watering times for the entire 60 day establishment period.

6. Landscape may continue to be irrigated on an as-needed basis without regard to the normally allowable watering days or times after the establishment period ends if Low-Volume Irrigation technology is used, pursuant to 40D-22.201 (1) (d).

7. Except as otherwise provided herein, all other such establishment period watering shall occur during normally allowable watering times.

(h) Irrigation using Reclaimed Water shall not be restricted except as further restricted by a local government or other Reclaimed Water provider, as necessary, to promote conservation of this alternative water source. However, all properties should voluntarily conserve Reclaimed Water by not irrigating between the hours of 10:00 a.m. and 4 p.m. In addition, if Irrigation is done with a source that contains a blend of Reclaimed Water and potable water, ground water, pond water or some other supply, the use of this blended water shall be subject to the restrictions that apply to that other supply, except for the following circumstances:

1. The other supply is incidental stormwater runoff that enters a Reclaimed Water storage pond;

2. The other supply is a withdrawal regulated by a District Water Use Permit, provided that the quantity being blended with the Reclaimed Water is specifically authorized for blending purposes. For example, this other supply may be withdrawals from an un-augmented stormwater system or water recovered from a permitted ASR well that stores seasonal diversions from a surface water body, including ASR well testing authorized in preparation for permit issuance;

3. The other supply is water recovered from a Reclaimed Water ASR well permitted by the Florida Department of Environmental Protection, including Reclaimed Water ASR well testing authorized in preparation for permit issuance; or

4. The applicable Reclaimed Water provider is implementing a District-authorized variance from the provisions of 40D-22.201 which addresses use of the reclaimed water blend.

(i) The operation of an Irrigation system for the discharge of water from a water-to-air air conditioning unit or other water-dependent cooling system shall not be subject to the provisions of this Rule.

(j) Irrigation of established Turfgrass and Landscape associated with a public works project, when and where conducted using tanker trucks or other vehicles, is allowable without regard to the normally allowable watering days and times, except that Irrigation of Turfgrass by this method is limited to a maximum of two applications of  $\frac{3}{4}$  inches of water in any seven-day period after conclusion of the establishment period exemption specified above.

(4) Lawn and Landscape Use – The following additional requirements or exceptions to Rule 40D-22.201(1) – (3) shall apply to the Irrigation of Lawns and Landscape.

(a) Except as otherwise specified in this Chapter, Even Numbered Addresses may accomplish necessary Lawn and Landscape Irrigation on only Tuesday and/or Saturday.

(b) Except as otherwise specified in this Chapter, Odd Numbered Addresses and rights-of-way or other locations without an Address may accomplish necessary Lawn and Landscape Irrigation on only Wednesday and/or Sunday.

(c) Cemeteries and other Users irrigating property two acres or greater may water one-half of the property on the days allowed for Even Numbered Addresses and may water the remaining one-half on the days allowed for Odd Numbered Addresses. Each such User is required to maintain a map or sketch on site that indicates which days each part of the property will be watered, and the District or applicable local government may require that a copy of this same map or sketch be provided for verification or enforcement purposes. If a specific property is unable to comply with this schedule, the variance process may be used to register an alternative schedule acceptable to the District.

(5) Golf Courses – The following additional requirements or exceptions to Rule 40D-22.201 (1) – (3) shall apply to Golf Course Irrigation as appropriate:

(a) Users whose uses require and are authorized by a WUP have been evaluated by the District and required to maintain compliance with all WUP conditions and terms, including those designed to require the utilization of water conserving practices. Compliance with all WUP conditions and terms shall constitute compliance in lieu of other measures specified in subsections 40D-22.201(2) - (5).

(b) Except as excluded by 40D-22.201(5)(a), all individual Users for Golf Course Irrigation shall use:

1. Best Management Practices For Florida Golf Courses, University of Florida, Institute of Food and Agricultural Sciences, Cooperative Extension Service, Department of Environmental Horticulture, 1993, as amended; or

2. The following measures:  
 a. Irrigation shall be limited to the times specified in 40D-22.201(3).  
 b. Fairways, roughs and Driving Ranges, shall be watered no more than two times per week.  
 c. Tees and greens shall be watered no more than three times per week.

d. The Irrigation of tees and greens shall not be restricted when such Irrigation is for plant protection, including Frost/Freeze or Heat Stress, except as limited by 40D-22.201(2).

e. Spot Treatment and Syringing are not restricted.

f. Irrigation related to overseeding that is a component of a fall transition program shall not be restricted to a certain number of applications each week.

(6) Other Athletic Play Area Irrigation – The following additional requirements or exceptions to Rule 40D-22.201(1)-(3) shall apply to the play areas of Athletic Play Areas:

(a) Operation of an Irrigation system for plant protection of Athletic Play Areas turfgrass fields, including Frost/Freeze or Heat Stress prevention, shall not be restricted, except in accordance with Rule 40D-22.201(2);

(b) The wetting of clay tennis courts, baseball/softball infields, livestock or rodeo areas and other non-turf grass Athletic Play Areas immediately prior to play is allowable to ensure athlete/animal safety, comply with sport standards and control dust.

(c) Baseball, softball, football, soccer, polo and other similar turfgrass playing field surfaces may receive one extra Irrigation application immediately after heavy league play if necessary to encourage turf repair needed to maintain safe play conditions.

(d) Spot Treatment and Syringing are not restricted.

(e) One-half of Athletic Play Areas may be irrigated on Mondays and/or Thursdays; the other half may be irrigated on Tuesdays and/or Fridays for the purpose of meeting normal supplemental Irrigation needs. A map or sketch shall be maintained on site that indicates which days each part of the property will be watered, and the District or applicable local government may require that a copy of this same map or sketch be provided for verification or enforcement purposes. If a specific property is unable to comply with this schedule, the variance process may be used to register an alternative schedule acceptable to the District.

(7) Agriculture - The following additional requirements or exceptions to Rule 40D-22.201(1) shall apply to Agriculture as appropriate:

(a) Users whose uses require and are authorized by a WUP have been evaluated by the District and required to maintain compliance with all WUP conditions and terms, including those designed to require the utilization of water conserving practices. Compliance with all WUP conditions and terms shall constitute compliance in lieu of other measures specified in subsections 40D-22.201(1)-(2) and (7).

(b) Except as excluded by 40D-22.201(7)(a), all individual Users for Agricultural Irrigation shall follow these measures:

1. Use of Micro-irrigation and other Low-Volume Irrigation methods shall not be restricted.

2. Operation of an Irrigation system for plant protection, including Frost/Freeze or Heat Stress prevention, shall not be restricted.

3. Irrigation for the purpose of watering-in fertilizers, insecticides, fungicides and herbicides, where such watering-in is required by the manufacturer, or by federal, state or local law, shall not be restricted.

4. All other Irrigation shall be prohibited daily between the hours of 10:00 a.m. and 4:00 p.m.

5. The variance process may be used to register an alternative Irrigation program acceptable to the District, such as the ability to irrigate in accordance with a published document detailing Best Management Practices for the applicable crop or commodity.

Specific authority 373.044, 373.113, 373.171, FS. Law Implemented 373.171, 373.223, FS. History – New 3-24-92, amended 9-15-03.

**40D-22.301 Variances**

Specific authority 373.044, 373.113, 373.171, FS. Law Implemented 373.171, FS. History – New 3.24.92, Repealed 7-2-98.

**40D-22.303 Variances and Waivers**

(1) Users may request relief from the provisions of this Chapter 40D-22 by filing a petition for variance or waiver pursuant to Section 120.542, Florida Statutes and Rule 28-104, F.A.C. Examples of circumstances, which, subject to the above referenced statute and Rule and the provisions below, may be candidates for the issuance of a variance or waiver are:

(a) Properties with Irrigation systems that water both Odd and Even Numbered Addresses at the same time.

(b) Two or more properties which share a common source of water.

(c) A local government providing water to Users or a Reclaimed Water provider providing Reclaimed Water blend to Users that desires to sponsor an alternative year-round irrigation conservation plan approved by the District.

(d) A public or private water system experiencing, or anticipating, pressure problems associated with 40D-22.201(4)

(2) A variance is invalid if it has expired or if the property owner or agent violates terms of the variance.

(3) Users requiring relief from measures in a local government's alternative year-round Irrigation conservation plan approved by the District must petition that local government for relief.

(4) Variances and plans issued in accordance with Board Orders 92-12, 92-21, 92-60, 93-105, SWF 01-83 and Executive Director Order 00-18 are hereby ratified and affirmed, and shall remain in full force and effect except that they shall expire 10 years after the original issuance, or one (1) year from [effective date of rule], whichever is later, unless an earlier date is specified in the letter granting the original variance or plan.

These variances and plans are also subject to the following provisions:

(a) Any property with a valid District variance issued after March 2, 1992 but prior to April 26, 2000 may use both of the two watering days specified for each section of the property.

(b) Any property with a valid District variance issued after April 26, 2000 but prior to October 30, 2001, which contained provisions for a second water day for each section of property may also use the second watering day.

(c) Any property with a valid District variance issued after April 26, 2000 that did not specify a second watering day for each section of the property is modified as follows: each section of the property may also be irrigated on the day of the week that occurs three days following the originally specified day. (For example, if an alternative Irrigation plan stipulates that a certain section of property can be watered on Fridays, it may now also be watered on Mondays).

Specific authority 120.542, F.S., 373.044, 373.113, 373.171, FS. Law Implemented 120.542, 373.119, 373.171, 373.175(4), 373.246(7), 373.609, FS. History -- New 9-15-03.

**40D-22.401 Enforcement**

(1) This Chapter shall be effective year round. Provided, however, that in the event of conflict, the measures, provisions and restrictions imposed when a water shortage has been declared pursuant to Chapter 40D-21, or related Board or Executive Director order that is more restrictive than a water conservation measure contained within this Chapter, shall supersede the water conservation measures contained in this Chapter 40D-22, F.A.C. for the duration of the applicable water shortage declaration.

(2) As required by Section 373.609, F.S., but only upon specific request by the District, each county and city commission, state and county attorney, sheriff, police officer or other appropriate local government official shall assist the District in enforcing this Chapter. Local governments may voluntarily elect to provide additional local enforcement assistance, such as a violation reporting telephone number for citizens' use or a system of proactive enforcement patrols. The District shall continue to only request assistance with address-specific or location-specific violation complaints that do not involve a Water Use Permit holder and constitute either an emergency or a repeat violation situation.

(3) Irrigation of Lawns and Landscapes, as described in this Chapter, may be further restricted by local governments in response to a local water supply system concern. In the event any county or city within the District adopts or implements such local measures, the measures contained therein shall be at least as restrictive as those imposed by this Chapter and the county or city shall promptly notify the District of all local measures imposed and the effective date. Irrigation of established lawns and landscaping, as established above, may be further restricted by local governments.

(4) In enforcing the provisions of this Chapter the District will utilize any of the enforcement remedies available pursuant to Sections 120 or 373, F.S., or applicable District rule, including for example:

(a) Enforcement action may be initiated by the District as provided in Section 373.603, F.S., against violators of this Chapter;

(b) The Executive Director may assign District personnel for the purpose of initiating enforcement action pursuant to Section 373.603, F.S.;

(c) The Executive Director may take appropriate action pursuant to Sections 373.119, 373.175(4), 373.246(7) and 120.69, F.S., to enforce the provisions of this Chapter.

Specific authority 373.044, 373.113, 373.171, FS. Law Implemented 373.119, 373.171, 373.175, 373.246, 373.603, 373.609, FS. History – New 3-24-92, amended 9-15-03.