

## Florida Department of Environmental Protection

### MODEL ORDINANCE FOR INSTALLATION, MAINTENANCE, AND OPERATION OF SENSING DEVICES ON AUTOMATIC LANDSCAPE IRRIGATION SYSTEMS

December 14, 2009

#### INTRODUCTION

The 2009 Florida Legislature amended Section 373.62, Florida Statutes, to modify the provisions for automatic irrigation systems, including control systems and sensors; to require contractors to perform certain tests and repairs; and to require DEP to create a model ordinance with certain provisions, including penalties. This Model Irrigation Controller Ordinance was developed to implement those statutory changes. Its purpose is to provide a model for local governments to use in developing local ordinances to implement the statute.

This model ordinance, though written as a stand-alone ordinance, is closely related to the January 2009 *Florida-Friendly Landscape Guidance Models for Ordinances, Covenants, and Restrictions* developed by the Department of Environmental Protection and the University of Florida. The Florida-Friendly guidance models are undergoing revision, but on a slower track than this irrigation ordinance. It is anticipated that, at some future date, the irrigation controller ordinance will be considered for integration into the more inclusive Florida-Friendly guidance models.

#### TITLE

*AN ORDINANCE OF THE (MUNICIPALITY/COUNTY OF) AMENDING OR REPLACING ORDINANCE NO.(s) \_\_ OF THE GENERAL REGULATIONS BY REQUIRING REGULATION OF CONTRACTORS THAT PERFORM WORK ON IRRIGATION SYSTEMS; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR AMENDMENT OF EXISTING REGULATIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR ENFORCEMENT AND PROVIDING AN EFFECTIVE DATE.*

#### FINDINGS

WHEREAS, Section 376.62, F.S. requires the proper installation, maintenance, and operation of technology that inhibits or interrupts the operation of automatic irrigation systems during periods of sufficient moisture, and encourages the adoption of ordinances enforcing such provisions; and

WHEREAS, the (Municipality/County) recognizes the need for the efficient use of water as a natural resource through the use of such technology on automatic irrigation systems; and

WHEREAS, the (Municipality/County) recognizes that water conservation in the landscape can be enhanced through the use of such technology on automatic irrigation systems; and

WHEREAS, proper installation, maintenance and operation of such devices on automatic irrigation systems can save significant amounts of water to preserve local water resources; and

WHEREAS, the cumulative benefits of irrigation control devices may reduce or postpone the need for a community to expand potable water supplies;

*NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE (MUNICIPALITY/COUNTY OF \_\_\_\_\_), FLORIDA, as follows:*

**SHORT TITLE**

This ordinance shall be known and may be referred to as the (Municipality/County of \_\_\_\_\_) Ordinance for Installation, Maintenance, and Operation of Sensing Devices on Automatic Landscape Irrigation Systems.

**AUTHORITY**

*This ordinance is adopted by the (Municipality/County of \_\_) under its home rule powers, its police powers to protect the public health, safety, and welfare, and under powers pursuant to the authority granted by Sections 125.568 (Counties) and 166.048 (Municipalities), Florida Statutes, in order to implement and enforce the standards, rules and regulations as set forth herein.*

**ADMINISTRATIVE STANDARDS**

*Whenever, in the course of administration and enforcement of this ordinance, it is necessary and desirable to make any administrative decision, then, unless other standards are in this Ordinance, the decision shall be made so that the result will not be contrary to the spirit and purpose of this ordinance or injurious to the surrounding neighborhood or the community at large.*

**PURPOSE AND INTENT**

This Ordinance requires the proper installation, repair, and operation of moisture sensing devices on automatic lawn and landscape irrigation systems by licensed contractors and property owners or managers, provides for licensing of contractors that work on such irrigation systems, and provides penalties.

## DEFINITIONS

*For the purpose of this ordinance, the following words shall have the meanings respectively ascribed to them by this section unless the context clearly indicates otherwise.*

1. “Licensed Contractor” shall mean any person licensed or registered under chapter 489, Florida Statutes, or authorized under any county or municipal license or tax certificate to design, install, repair, maintain, or adjust a landscape irrigation system within the jurisdiction of (Municipality/County).
2. “Soil Moisture Sensor” means a soil-based device that assesses the available plant soil moisture in order to minimize the unnecessary use of water and optimize the effectiveness of an irrigation system.
3. “Rain Sensor” means a low voltage electrical or mechanical component placed in the circuitry of an automatic landscape irrigation system that is designed to restrict operation of a sprinkler controller when precipitation has reached a pre-set quantity.
4. “Evapotranspiration-based (ET) controller” means a controller that calculates soil moisture from known weather and related inputs. An ET-based controller:
  - a. Receives and monitors weather data or on-site environmental conditions including, but not limited to, solar radiation, wind speed, temperature, relative humidity, rainfall, and soil moisture; and
  - b. Calculates or determines the amount of moisture input to and moisture lost from the soil and plants; and
  - c. Automatically creates or adjusts the irrigation schedule to apply only the amount of water that is necessary to maintain adequate soil moisture.
5. *“Person” means any natural person, business, corporation, limited liability company, partnership, limited partnership, association, club, organization, and/or any group of people acting as an organized entity.*

## APPLICABILITY

This Ordinance shall apply to all licensed contractors within the jurisdiction of (Municipality/County) who install or perform work on automatic irrigation systems, and to any person who purchases, installs or operates an automatic landscape irrigation system on their property.

*[Guidance: Local government may adopt additional or more stringent provisions to the model ordinance.]*

## **General Provisions**

*[Guidance: In 2009, Section 373.62, Florida Statutes, was amended to add provisions requiring installation, maintenance, and operation of technology that interrupts the operation of automatic irrigation systems during periods of sufficient soil moisture.]*

1. In accordance with section 373.62(1), Florida Statutes, devices, such as soil moisture sensors, evapotranspiration-based controllers or rain sensors, shall be required on automatic irrigation systems to prevent irrigation during periods of sufficient moisture. Any person who purchases, installs or operates an automatic landscape irrigation system on their property must properly install, maintain, and operate, in accordance with manufacturer specifications, technology that inhibits or interrupts operation of the system during periods of sufficient moisture.
  - a. In accordance with section 373.62(2), Florida Statutes, a licensed contractor who installs or performs work on an automatic landscape irrigation system must test for the correct operation of each inhibiting or interrupting device or switch on the system. If such devices are not installed, or are not functioning properly, the contractor must install new devices or repair the existing ones and insure that each is operating properly before completing other work on the system.
  - b. In accordance with section 373.62(3)(a) and (b), Florida Statutes, a licensed contractor performing work on an automatic landscape irrigation system shall report systems that are not in compliance with section 373.62, Florida Statutes, to the (appropriate city/county authority). Failure of a contractor to report non-compliant systems within five business days is punishable by fines as specified in the Violations and Penalties section of this ordinance. A system that is repaired by the contractor is brought into compliance and need not be reported.
  - c. In accordance with section 373.62(3)(b), Florida Statutes, regular maintenance and replacement of worn or broken moisture sensing equipment, such as soil moisture or rain sensors, is not a violation of section 373.62, Florida Statutes, or this ordinance if such repairs are made within thirty days from the time non-compliance is noted.

## **LICENSING OF CONTRACTORS PERFORMING WORK ON IRRIGATION SYSTEMS**

All contractors performing work on irrigation systems within the (un)incorporated area of (Municipality/County), shall be licensed or registered under chapter 489, Florida Statutes, or hold a county or municipally-issued license or business tax certificate that permits work on irrigation systems.

## **VIOLATIONS AND PENALTIES**

*[Guidance: Fines in this section reflect the minimum penalty suggested in section 373.62(3)(b), Florida Statutes. Local governments should consider making penalties consistent with their other fines and penalties.]*

*[Guidance: Though beyond the scope of the model ordinance required by section 373.62(3), a local government may also wish to consider fines for system owners or operators who fail to bring systems into compliance. Language similar to the following could be included: Failure of any person who purchases, installs, or operates an automatic landscape irrigation system on their property, or property managed by them, to properly install, maintain, and operate technology that inhibits or interrupts operation of the system during periods of sufficient moisture is guilty of a violation of section 373.62, Florida Statutes and this ordinance, and shall be subject to a fine of (insert appropriate penalty). ]*

Failure of a licensed contractor to report to (appropriate municipal/county authority) automatic landscape irrigation systems that are not in compliance with this ordinance and section 373.62, Florida Statutes, which requires properly operating devices to inhibit or interrupt the operation of the irrigation system during periods of sufficient moisture, shall be subject to a fine of not less than \$50.00 for a first offense, \$100.00 for a second offense, and \$250.00 for a third or subsequent offense. Funds generated by penalties imposed under this section shall be used by (Municipality/ County) for the administration and enforcement of section 373.62, Florida Statutes, and the corresponding sections of this ordinance, and to further water conservation activities.

## **CONFLICTS AND RELATIONSHIP TO OTHER LAWS**

*Whenever regulations or restrictions imposed by this ordinance conflict with other ordinances or regulations, or are either more or less restrictive than regulations or restrictions imposed by any governmental authority through legislation, rule or regulation, the regulations, rules or restrictions which are more restrictive or which impose the highest standards or requirements shall govern.*

## **SEVERABILITY**

*This ordinance and the various parts, sections, subsections and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the ordinance shall not be affected thereby. If any part, sentence, paragraph, subsection, section or clause be adjudged unconstitutional or invalid as applied to a particular property, building, or other structure, it is hereby provided that the application of such portion of the ordinance to other property, buildings, or structures shall not be affected thereby.*

## **INCLUSION IN CODE, CODIFICATION, SCRIVENERS ERRORS**

*The provisions of this ordinance shall become and be made a part of or replace the existing landscape regulations of the (Municipality/County of \_\_\_\_\_). Sections of the ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "chapter", "article," or such other appropriate word or phrase in order to accomplish such intentions. Sections of this ordinance may require the correction of typographical errors which do not affect the intent. Such corrections may be authorized without need of a Public Hearing, by filing a corrected or recodified copy of same with the clerk of the (Municipality/County of \_\_\_\_\_).*

## **REPEAL**

*The existing regulations of the (Municipality/County of \_\_\_\_\_), being Chapter \_\_\_\_\_ of the Municipality/County Code as amended, are hereby repealed. The adoption of this ordinance; however, shall not affect nor prevent any pending or future prosecution of, or action to abate, any existing violation of said Chapter , as amended, if the violation is also a violation of the provisions of this ordinance.*

**[Guidance:** repeal is only necessary if existing ordinances conflict with the new ordinances.]

***EFFECTIVE DATE***

*This ordinance shall take effect \_\_\_\_\_, 20\_\_.*

*PASSED ON FIRST READING \_\_\_\_\_ (Date)*

*PASSED ON SECOND AND  
FINAL READING AND ADOPTED \_\_\_\_\_ (Date)*

\_\_\_\_\_  
*(Signature) (Name)*  
*Mayor-Commissioner or Chairman*

*Attest:*  
\_\_\_\_\_  
*(Signature)(Name)*  
*City Clerk or Clerk of Circuit Court*

*Approved as to form and correctness:*  
\_\_\_\_\_  
*(Signature)(Name)*  
*City or County Attorney*