

**Sec. 94-94. Injection wells, heat exchange wells.**

(a) Any wells or wells used for the purpose of withdrawal and subsequent reinjection to the Floridan Aquifer shall not alter existing chemical, radiological, physical, or biological water quality.

(b) All reinjected water from any heat exchange/injection well shall meet or exceed all drinking water quality standards.

(c) The owner of any well operated in the city used for the purpose of withdrawal and subsequent reinjection to the Floridan Aquifer shall notify the fire department within 24 hours of any loss or discharge of refrigerants.

(d) All newly installed reinjection wells shall be designed to prevent air entrainment in the reinjection process. All other existing permitted wells must retrofit to prevent air entrainment by January 1, 1995.

(e) All wells used for withdrawal and subsequent reinjection shall be required to sample the withdrawn and reinjected water for the following parameters.

- (1) Volatile organic chemicals (EPA method 8021).
- (2) Total dissolved solids or specific conductance.
- (3) Lead, weekly or monthly.
- (4) Copper, weekly or monthly.
- (5) Iron, quarterly.
- (6) Calcium, quarterly.
- (7) Magnesium, quarterly.
- (8) Temperature, continuous.
- (9) pH, continuous.

(f) *Frequency of sampling and reporting requirements.* All sampling and reporting procedures shall follow those established by the county environmental protection department.

(g) *Injection well/heat exchange well flow.* The system operator shall be required to install a flow meter and flow totalizer and record daily flow in the reinjection well and production well. Flow

information must be provided in addition to the sampling results for the required reporting period to the city.

(h) *Corrective action.*

- (1) If a loss to the reinjection system of any regulated substance occurs or if the reinjection water does not meet all drinking water quality standards, the well owner will be required to remediate the reinjection water and the affected withdrawal water to all drinking water standards at his own expense.
- (2) Remediation must be conducted using sound hydrogeological and engineering principles and must continue until the reinjection water meets all drinking water quality standards.
- (3) All remediation projects are required to keep the city informed of the progress, any problems or changes in status of the remediation process. The city reserves the right to have split sampling done to verify any and all results.

(Code 1988, § 26-5.4)

**Sec. 94-95. Well abandonment and geotechnical borings.**

(a) *Well abandonment.* Under this article, well abandonment procedures are as follows:

- (1) Any excavation (well) that is not being used for removing groundwater from an aquifer, recharge, determining quantity, quality, level or movement of groundwater; and removing or exchanging heat shall be properly abandoned at the property owner's expense following the guidelines established by the South Florida Water Management District (SFWMD) or St. Johns River Water Management District by January 1, 1995.
- (2) In certain circumstances, the well may not need to be abandoned but the evaluation and determination of the necessity of abandonment shall be coordinated through

the South Florida Water Management District or St. Johns River Water Management District.

(b) *Geotechnical borings.*

- (1) No geotechnical boring shall be drilled to a depth greater than 50 feet without the permission of the city.
- (2) All borings deeper than 25 feet shall be neat cement grouted to the surface to prevent downward migration of surface and subsurface contaminants along the borehole to the Floridan Aquifer.
- (3) All borings less than 25 feet deep shall be backfilled with the original drilled soil to the surface to prevent the creation of a sump. Where the boring is advanced through asphalt or concrete, it shall be patched at the surface with a similar impervious material.
- (4) If contamination is detected in any geotechnical boring, the contaminated soil shall not be used as replacement material, and the horizontal and vertical extent of the contamination must be assessed and reported following the applicable sections of this article.

(Code 1988, § 26-5.5)

### **Sec. 94-96. Septic tanks, drainfields.**

(a) The discharge of any substance regulated under this article to a septic system shall be considered a violation of this article.

(b) Septic tank, drainfield and drainfield expansion shall be located no less than 200 feet from public potable water supply wells and no less than 75 feet from private water wells.

(c) If, upon testing, a regulated substance is identified in the septic tank or drainfield, the regulated business will be required to conduct the investigation required by section 94-93.

(d) As of the effective date of the ordinance from which this article derives, the following types of regulated businesses may not be constructed with septic systems:

- (1) Agricultural chemical warehouse and distribution centers.

- (2) Asphalt batching plants, pavers, asphalt products.
- (3) Automobile repair facilities using or dispensing fuels, greases, oils or solvents.
- (4) Automobile paint and body shops.
- (5) Boat sales and repair facilities.
- (6) Bus lines and repair shops.
- (7) Cabinetmakers and distributors.
- (8) Chemical manufacturing plants.
- (9) Chemical warehousing and distribution facilities.
- (10) Cleaning supplies manufacturing and distribution facilities.
- (11) Commercial laundries.
- (12) Contamination control companies, waste management service companies.
- (13) Dry cleaning establishments.
- (14) Electrical and electronic manufacturing facilities.
- (15) Electroplaters, circuit board manufacturers, or metal finishers.
- (16) Engine repair facilities (small).
- (17) Equipment rental operations.
- (18) Fiberglass formers or acrylic manufacturers.
- (19) Funeral homes.
- (20) Furniture manufacturers and refinishers.
- (21) Golf courses/country clubs.
- (22) Industrial facilities.
- (23) Laboratories: photo, chemical, industrial, environmental, dental X-ray, and medical.
- (24) Machine shops.
- (25) Manufacturers using acids, caustics, or solvents.
- (26) Medical facilities.
- (27) Paint manufacturers and paint stores.
- (28) Painting shops.
- (29) Pest control operations.

- (30) Petroleum products productions, storage and bulk distribution facilities.
  - (31) Printers, blueprinters, and T-shirt screen printers.
  - (32) Service stations and fuel depots.
  - (33) Sign companies.
  - (34) Tractor sales and service.
  - (35) Transformer use and storage areas.
  - (36) Trucking/transport companies.
  - (37) Wood preserving and treatment facilities.
- (e) Floor drains, grease traps and oil water separators shall be constructed to prevent infiltration of regulated substances to soil, groundwater, or surface water.

(Code 1988, § 26-5.6)

**Sec. 94-97. Inventory; proof of proper disposal or recycling regulated substances.**

(a) *Inventory.* All regulated facilities shall be required to keep an accurate, up-to-date inventory of the types and amounts of regulated substances stored at the facility. Inventory records shall be made available for inspection at reasonable hours during a facility inspection or if an emergency situation exists to provide information on stored regulated substances to emergency personnel.

(b) *Proof of proper disposal.* Inventory/manifest documentation shall be required to be kept by each facility for all substances that are used or considered waste products to ensure that all substances are handled in an environmentally acceptable manner for each regulated substance. Each regulated facility shall provide documentation such as a contract or agreement with a certified waste hauler or documentation that shows that used or waste byproducts are being disposed of using environmentally acceptable procedures or are being recycled.

(Code 1988, § 26-5.7)

**Sec. 94-98. Facility closure requirements.**

(a) *Closure permit required.* Any business that does or did store, handle, use, or produce regulated substances that proposes to abandon, re-

place or retrofit any storage system, or change the property status to a land use not regulated by this article shall be required to obtain a closure permit from the city.

- (b) *Permit fees and information.*
  - (1) The city commission may establish, by resolution, a schedule of fees for the closure permit.
  - (2) In addition to the completed closure permit application form, the following information shall be provided:
    - a. A schedule of events to complete the closure to facilitate inspections and coordination with other agencies;
    - b. The proposed disposition of all regulated substances and contaminated containers; and
    - c. Certification by a registered professional engineer or professional geologist licensed in the state that any cleanup of discovered contamination will follow technically acceptable methods that meet all local, state and federal rules and regulations and shall preclude leaching of unacceptable levels or residual regulated substances into the Floridan Aquifer. Certification may be waived if the applicant provides evidence that all of the following conditions apply to the subject land use or activity:
      - 1. The entire operation is maintained inside the building of the facility;
      - 2. The standard method of removing operation waste is not by septic tank, sewer mains, or floor drains;
      - 3. There is no evidence of spills permeating floors or the environs;
      - 4. There are no outstanding or past notices of violation from any regulatory agency concerned with hazardous, industrial, or domestic waste; and

5. There is no evidence of past contamination in the public drinking water well or site specific monitoring wells if present.

(c) *Indemnification.* A signed agreement must be provided with the permit application form to identify and hold the city harmless from any and all claims, liabilities, causes or action, or damages arising out of issuance of the permit. The city shall provide reasonable notice to the permittee of any claims.

(d) *Contamination.* If contamination is found during site closure, the procedures described in section 94-93 shall be followed.

(e) *Closure inspection.*

- (1) A closure inspection shall be performed by the city or its designee to ensure compliance with this article.
- (2) The inspection will need to coordinate at a time during closure that provides the best possible access to determine if any potential for groundwater, surface water, or soil contamination has occurred.
- (3) A written acknowledgment of the results of the inspection will be sent to the property owner within five working days of completion of closure activities when the site is not contaminated.

(Code 1988, § 26-5.8)

**Secs. 94-99—94-125. Reserved.**

### **ARTICLE III. ENVIRONMENTALLY SENSITIVE LAND**

**Sec. 94-126. Short title.**

This article shall be known and may be cited as the "Environmentally Sensitive Land Protection Ordinance of the City of Winter Garden, Florida." (Code 1988, § 27-1)

**Sec. 94-127. Jurisdiction.**

This article shall govern all land lying within the corporate boundaries of the city. (Code 1988, § 27-2)

**Sec. 94-128. Purpose.**

The purpose of this article is to protect, preserve and enhance the natural functions of wetlands and other environmentally sensitive areas within the city. It is, also, the intent of this article to apply the standards in this article for development in and adjacent to environmentally sensitive land.

(Code 1988, § 27-3)

**Sec. 94-129. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Clearing* means the removal of vegetation from the land, but does not include mowing of grass.

*Development* means:

- (1) The construction, installation, demolition or removal of a structure, impervious surface, or drainage facility.
- (2) Clearing, scraping, grubbing, killing or otherwise removing the vegetation from a site.
- (3) Adding, removing, exposing, excavating, leveling, grading, digging, furrowing, dumping, piling, dredging, or otherwise significantly disturbing or altering soil, mud, sand, or rock of a site.
- (4) The modification or redevelopment of a site.

*Land* means the earth that lies above mean high water for land adjacent to freshwater bodies.

*Natural system* means the biological and physical components of the undeveloped land and water which predominantly consist of or use those communities of plants, animals, bacteria, and other life systems which naturally occur on the land, in the soil or in the water.

*Site plan* means the plan which shows the means by which the developer will conform with the applicable ordinances. This shall include a subdivision plat.

*Vegetation* means all plant growth, especially trees, shrubs, vines, ferns, mosses, and grasses.

*Wetlands* means those areas saturated by surface water or groundwater at a frequency and duration sufficient to support and that under normal circumstances do support a dominance of vegetation adopted for life in saturated soil conditions.

(Code 1988, § 27-4; Ord. No. 18-25, § 2, 11-8-18)

**Cross reference—**Definitions generally, § 1-2.

### Sec. 94-130. Review of site plan.

(a) During the review of a site plan or any other plan for construction, the city engineer shall use the National Wetlands Inventory maps, the county soil survey, the city and county comprehensive plans, aerial photography, or other applicable data in order to determine the potential existence of wetlands or environmentally sensitive land on or adjacent to the site.

(b) If a review of the documents listed in subsection (a) of this section indicates that wetlands or environmentally sensitive land may exist on or adjacent to the site, an inspection will be performed by the city engineer.

(c) Based on the assessment of the site visit, the city engineer may require the developer to have additional wetland experts inspect the site for jurisdictional limits determination.

(d) No building permit shall be issued by the city until final determination is made by the city.

(e) All proposed development adjacent to Lake Apopka or any other lake will automatically be reviewed under the process in this section as well as any parcel of land characterized by any soil found on the Soils Index List prepared by the St. Johns River Water Management District and utilized to identify wetlands or any parcel designated for conservation use and shown on the future land use plan map.

(Code 1988, § 27-5; Ord. No. 18-25, § 2, 11-8-18)

### Sec. 94-131. Permitted uses in wetlands.

The following uses shall be permitted in wetlands, provided that they are approved by the St. Johns River Water Management District or the applicable environmental agency:

(1) Open space.

(2) Fish and wildlife management.

(3) Recreation.

(4) An approved wetland mitigation bank.

(Code 1988, § 27-6; Ord. No. 18-25, § 2, 11-8-18)

### Sec. 94-132. Prohibited uses in wetlands.

The following uses are specifically prohibited in wetlands:

(1) Residential, commercial, industrial and institutional uses, except as provided for in section 94-131.

(2) Disposal of solid or liquid wastes, and the application or storage of pesticides and herbicides. This shall not apply to the county mosquito control activities.

(3) Any activity which impairs the natural functions of the wetlands.

(Code 1988, § 27-7)

### Sec. 94-132.5. Wetland buffer requirements.

(a) *Applicability.* This section does not apply to projects which have received PUD, PID or PCD zoning approval, or which have current preliminary plat or site plan approvals prior to November 8, 2005.

(b) *New development.* An average of 25-foot (with a minimum of 15 feet) vegetative buffer from a wetland, lake, or creek to any proposed lot or road must be provided or maintained for all new development. The buffer may either be in the form of a conservation tract dedicated to the homeowners' or property owners' association, or other appropriate entity as determined by the City of Winter Garden.

(c) *Type of buffer.* The vegetation planted in buffer must be upland or traditional species.

(d) *Stormwater facilities.* Not more than five percent of the required wetland, lake, or creek buffer may be used for stormwater facilities.

(e) *Enforcement.* Violation of this section, to include the filling in or otherwise harming an existing wetland, lake, or creek buffer is a class I violation as defined in division III of chapter 2. (Ord. No. 05-46, § 2, 11-10-05; Ord. No. 18-25, § 2, 11-8-18)

**Sec. 94-133. Violations, notification and enforcement.**

(a) *Violations.* Procedures for violation of this article are as follows:

- (1) *Noncompliance.* Failure to comply with the requirements of this article shall be considered a violation of this article.
- (2) *Notice of violation.* Whenever a violation has occurred, the inspector shall immediately issue written notice to the person in violation, identifying the nature and location of the violation and shall specify that remedial action is necessary to bring the violation into compliance. The person in violation shall have 30 calendar days after receipt of the notice or such longer time as may be specified in the notice to complete the remedial actions required to bring the activity into compliance with this article.
- (3) *Failure to comply after notice of violation.* If the person in violation, including the property owner, fails to complete recommended remedial action within the time allowed, the city may suspend or revoke the building permit and refuse to issue a certificate of occupancy or the city may refer such matter to the city's code enforcement board and may initiate any other enforcement action authorized by law.
- (4) *Immediate corrective actions.* Whenever it is determined by the city that a violation may result in danger to life or property, the city may require immediate corrective action. Initiation of any required remediation activities shall commence within 24 hours and shall be completed within a time specified by the city. Failure to take such immediate corrective action shall constitute a violation of this article. If immediate corrective measures are not taken and there is danger or hardship to the public, the city may enter upon lands, take corrective actions, and place a lien on the real property of such person or persons to recover the costs of the corrective measures.

(b) *Notice of violation.* A copy of any notice of violation issued pursuant to this article shall be served upon the affected persons by either personal delivery or certified mail and shall be posted on the site. A notice of violation may be directed to the person owning the land upon which the noncompliance is occurring or to any person actually physically committing the violation. When immediate corrective actions are warranted under subsection (a)(4) of this section, reasonable effort shall be made to provide notice as specified in this section, but where such notice cannot be immediately effected thereby, sufficient notice may be given by physically leaving a copy of the notice or order at the address of the owner of the property or with any person at such address who is 18 years of age or older and informing such person of the contents of the notice or order.

(c) *Penalties.*

- (1) *Generally.* Any person violating any section of this article shall be punished according to law or in accordance with the findings of the city's code enforcement board. Each day any violation continues shall be a separate offense.
- (2) *Injunctions.* The city may seek an injunction against any violation of this article and recover from the violator such damages as the city may suffer, including costs and attorney's fees.

(d) *Enforcement.* This article shall be strictly enforced in accordance with the enforcement procedures established in division 2 of article II of chapter 2 and any established federal or state enforcement procedures.

(Code 1988, § 27-8)

## ARTICLE IV. WATER SHORTAGE REGULATIONS

### Sec. 94-134. Intent and purpose.

It is the intent and purpose of this article to protect the water resources of the city from the harmful effects of overutilization during periods of water shortage and allocate available water supplies by assisting the St. Johns River Water Management District in the implementation and enforcement of its water shortage plan.

(Ord. No. 01-11, § I, 2-22-01)

### Sec. 94-135. Definitions.

For the purpose of this article the following terms, phrases, words and their derivatives shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word is always mandatory and not merely directory.

- (a) "*District*" is the St. Johns River Water Management District.
- (b) "*Person*" is any person, firm, partnership, association, corporation, company, or organization of any kind.
- (c) "*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.
- (d) "*Water shortage condition*" will be as declared by the district or, alternatively, in the absence of such declaration when sufficient water is not available to meet present or anticipated needs of persons using the water resource, or when conditions are such as to require temporary

reduction in total water usage within a particular area to protect the water resource from harm.

- (e) "*Water shortage emergency*" will be declared by the district, or alternatively, in the absence of such declaration, a situation when the powers which can be exercised under part II of chapter 40C-21, Florida Administrative Code, are not sufficient to protect the public health, safety, or welfare, or the health of animals, fish or aquatic life, or a public water supply, or commercial, industrial, agricultural, recreational or other reasonable uses.

(Ord. No. 01-11, § I, 2-22-01)

### Sec. 94-136. Application of article.

The provisions of this article shall apply to all persons using the water resource within the jurisdictional limits of the city and any persons located in Orange County and any adjoining counties which receive any water resources or water related services from the city subject to the or whether from public or privately owned water utility systems, private wells, or private connections with surface water bodies.

(Ord. No. 01-11, § I, 2-22-01)

### Sec. 94-137. Amendments to water shortage plan.

Chapter 40C-21, Florida Administrative Code, as same may be amended from time to time, is incorporated herein by reference as a part of the Code of the City of Winter Garden.

(Ord. No. 01-11, § I, 2-22-01)

### Sec. 94-138. Declaration of water shortage; water shortage emergency.

The declaration of a water shortage or water shortage emergency within all or any part of the city or in Orange County and any adjoining counties which receive any water resources or water related services from the city by the governing board or the executive director of the district shall invoke the provisions of this article. Upon such declaration all water use restrictions or other measures adopted by the district applicable to the city or any portion thereof, shall be subject to

enforcement action pursuant to this article. Any violation of the provisions of Chapter 40C-21, Florida Administrative Code, or any order issued pursuant thereto, shall be a violation of this article.

(Ord. No. 01-11, § I, 2-22-01)

#### **Sec. 94-139. Enforcement.**

The provisions of this article may be enforced under chapter 2, article II of the Code of Ordinances of the City of Winter Garden, including, without limitation, Division III, the Code Enforcement Citation Program of said chapter 2, article II.

(Ord. No. 01-11, § I, 2-22-01)

#### **Sec. 94-140. Penalties.**

Violation of any provision of this article shall constitute a Class I violation as defined under chapter 2, article II of the Code of Ordinances of the City of Winter Garden. Each day in violation of this article shall constitute a separate offense. Officials shall provide violators with no more than one written warning. The city, in addition to the civil sanctions contained herein, may take any other appropriate legal action, including but not limited to injunctive action, to enforce the provisions of this article. In addition to any other remedies or penalties provided herein, a violation of the provisions of this article IV by any person shall permit the discontinuation of water service to such person by the city until the violation or violations have ceased. Prior to any resumption of service after such discontinuation, a reinstatement charge in the amount of \$150.00 may be imposed in addition to any other charges applicable to such service under the Code of Ordinances of the City of Winter Garden, Florida.

(Ord. No. 01-11, § I, 2-22-01)

#### **Secs. 94-141—94-160. Reserved.**

### **ARTICLE V. WATER CONSERVATION ORDINANCE FOR LANDSCAPE IRRIGATION**

#### **Sec. 94-161. Intent and purpose.**

It is the intent and purpose of this article to adopt an ordinance to enforce St. Johns River

Water Management District Rule 40C-2.042(2)(a), F.A.C. by adopting a landscape irrigation ordinance which 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.

(Ord. No. 09-11, § 2, 5-14-09)

#### **Sec. 94-162. Definitions.**

For the purpose of this article, the following terms, phrases, words and their derivatives shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural.

*Address* means the house 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 the numbers 0, 2, 4, 6, 8 or the letters A—M. An "odd numbered address" means an address ending in the numbers 1, 3, 5, 7, 9 or the letters N-Z.

*District* means the St. Johns River Water Management District.

*Person* means any person, firm, partnership, association, corporation, company, or organization of any kind.

*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 agricultural crops, nursery plants, cemeteries, golf course greens, tees, fairways, primary roughs, and vegetation associated with recreational areas such as playgrounds, football, baseball and soccer fields.

*Nonresidential landscape irrigation* means the irrigation of landscape not included within the definition of "residential landscape irrigation,"