

9. Ordinance 2024-43, amending the Code of Ordinances, Title XX, Utilities Code, by creating Chapter 205, Water Shortage Emergency, first reading.



## LEGISLATIVE MEMORANDUM

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Lisa Frazier, Growth Management Director

**THRU:** Suzanne Sherman, City Manager

**DATE:** August 8, 2024

**RE:** Ordinance 2024-43, amending the Code of Ordinances, Title XX, Utilities Code, by creating Chapter 205, Water Shortage Emergency, first reading.

### SUMMARY:

The Palm Bay 2045 Comprehensive Plan Future Land Use Element was adopted on May 1, 2023, and became effective on June 10, 2023. The remaining Palm Bay Comprehensive Plan Elements were adopted on May 18, 2023, and became effective on July 20, 2023. To bring the Land Development Code into compliance with the Comprehensive Plan, an update has been drafted for consideration by the City Council.

The proposed update is more concise and only includes requirements pursuant to Chapter 163, F.S. As such, some regulations are proposed to be moved to other parts of the Palm Bay Code of Ordinances as new "Titles", "Chapters", "Sub-Chapters", and "Sections".

To facilitate the relocation, and to retain the City's authority to regulate certain issues, new "Titles", "Chapters", "Sub-Chapters", and "Sections" were created as listed below.

- Title X, Impact Fees Chapter 103 was created for the relocation of Parks, Police, and Fire Impact Fees
- Chapter 103, Closure and Abandonment of Easements and Drainage Rights-of-Way was created and added to Title IX, General Regulations
- Chapter 204, Stormwater Management Utility was created and added to Title XX, Utilities Code
- Chapter 205, Water Shortage Emergency was created and added to Title XX, Utilities Code
- Chapter 102, Public Nudity was created and added to Title IX, General Regulations
- Provisions for emergency power and pumping equipment in residential areas was moved to Title XX, Utilities Code, Chapter 201, Sewer Use, Subchapter Private Lift Stations
- Section 74.25, Regulation of Vehicles In Residential Areas was created and added to Title VII, Traffic and Vehicles, Chapter 74, Stopping, Standing, and Parking, Subchapter Parking Regulation
- Chapter 75, Golf Carts was created and added to Title VII, Traffic and Vehicles
- Subchapter 33, Fire Prevention and Protection; Buildings and Structures was created and added

Honorable Mayor and Members of the City Council

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to Title III, Administration, Chapter 33, Fire Department

Upon repeal and replacement of Title XVII, Land Development Code, the aforementioned regulations will be retained in other sections of the Palm Bay Code of Ordinances.

**REQUESTING DEPARTMENTS:**

City Attorney's Office

City Manager's Office

Utilities

Growth Management

Public Works

**FISCAL IMPACT:**

None

**STAFF RECOMMENDATION:**

Staff recommends approval of the proposed ordinance.

**ATTACHMENTS:**

1. Ordinance

## ORDINANCE 2024-43

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE XX, UTILITIES CODE, BY CREATING CHAPTER 205, WATER SHORTAGE EMERGENCY; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR INCLUSION IN THE CITY OF PALM BAY CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

**SECTION 1.** The City of Palm Bay Code of Ordinances, Title XX, Utilities Code, is hereby amended by creating Chapter 205, Water Shortage Emergency, which shall henceforth read as follows:

### **>>CHAPTER 205: WATER SHORTAGE EMERGENCY**

#### **Section 205.01 DEFINITIONS.**

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**INDIVIDUAL.** Any person, firm, corporation, or other legal entity, whether public or private.

**WATER.** Water taken from:

- (1) The city water system;
- (2) Any groundwater system, including shallow and deep-water wells drawing water from the Florida aquifer;
- (3) Any surface water system; or
- (4) Any other public water supply.
- (5) Including, but is not limited to, any system that uses any groundwater or interconnected surface waters for a water source irrespective of whether such system is publicly or privately owned.

**WATER SHORTAGE EMERGENCY.** A declaration by the city or county of the city that a water shortage exists.

**Section 205.02 APPLICATION.**

The provisions of this chapter shall apply to all individuals who use water, as defined, herein within the city.

**Section 205.03 IMPLEMENTATION.**

The curtailments and restrictions of water uses provided for herein shall be implemented upon a declaration at any time of a water shortage emergency by the City Council and shall remain in effect until such time as the City Council shall declare such emergency to be at an end.

**Section 205.04 RESTRICTION OR CURTAILMENT OF WATER USES.**

Nonessential uses of water shall be restricted or curtailed during the existence of a water shortage emergency. These restrictions shall include, but are not limited to, the following:

(A) The sprinkling, watering, or irrigating of shrubbery, trees, lawns, grass, ground covers, plants, vines, and gardens shall be limited to the hours of 7:00 a.m. through 9:00 a.m. and 7:00 p.m. through 9:00 p.m. Further, such uses of water shall be authorized for the following categories of users on the following days of the week:

(1) Residential property owners whose street addresses (house numbers) end in an odd number shall be authorized to use water for the above purposes only on odd numbered days during a declared water shortage or water shortage emergency;

(2) Residential property owners whose street addresses (house numbers) end in an even number shall be authorized to use water for the above uses only on even numbered days during a declared water shortage or water shortage emergency;

(3) All commercial uses (such as nurseries, apartments, condominiums, homeowners' associations, golf courses, shopping centers, farmers, and other commercial users) of water shall use water for the above purposes only as provided herein:

(a) Such commercial users whose business addresses (street numbers) end in an odd number shall be authorized to use water for the

above purposes only on odd numbered days during a declared water shortage or water shortage emergency;

(b) Such commercial users whose business addresses (street numbers) end in an even number shall be authorized to use water for the above purposes only on even numbered days during a declared water shortage or water shortage emergency.

(4) Industrial properties shall use water for the above purposes only as provided herein:

(a) Industrial properties whose business addresses (street numbers) end in an odd number shall be authorized to use water for the above purposes only on odd numbered days during a declared water shortage or water shortage emergency;

(b) Industrial properties whose business addresses (street numbers) end in an even number shall be authorized to use water for the above purposes only on even numbered days during a declared water shortage or water shortage emergency.

(B) The escape of water through defective plumbing, which means to knowingly allow water to escape through any water system that is in disrepair;

(C) The washing of sidewalks, driveways, porches, exterior of homes, apartments or other outdoor surfaces;

(D) The washing of business or industrial equipment and machinery, except as required for the public health;

(E) The operation of any ornamental fountain or other structure using water with or without a recirculating system;

(F) The filling of swimming pools and wading pools not using a filter and recirculating system;

(G) The washing of automobiles, trucks, trailers, railroad cars, mobile homes, campers, or any other type of mobile equipment, except at a business enterprise established for such purpose which recycles at least seventy-five percent (75%) of water used;

(H) The use of water for dust control, except as required for the public health;

(I) The use of water for hydrant flushing except for the purpose of maintaining chlorine residuals;

(J) The use of water for a water-to-air air conditioning system except where a return well has been provided to recycle water back to the shallow aquifer.

**Section 205.05 ENFORCEMENT.**

(A) Every police officer or city enforcement officer, including but not limited to inspectors from the Fire Department who have arrest power pursuant to state law, or other enforcement personnel of the city who have such powers, shall be authorized and empowered to enforce the provisions of this chapter.

(B) In addition to the penalties for violations, provided herein, the City Manager may enforce the provisions of this chapter by ordering discontinuance of service to any person violating the provisions hereof for the third and each successive violation during any declared water shortage. If any person's water supply is discontinued under the provisions of this subchapter, such person will be required to pay all charges necessary for reconnection before the city will reconnect such person's water supply.

**Section 205.06 EXCEPTION TO MAINTAIN SANITATION.**

The City Manager shall have the authority to permit a reasonable use of water in any case necessary to maintain adequate health and sanitation standards as set forth in the Brevard County Health Code. These permits shall be issued only upon the showing of good cause for the uses requested when supported by the aforesaid county health and sanitation standards.<<"

**SECTION 2.** It is the intention of the City Council of the City of Palm Bay that the City of Palm Bay Code of Ordinances be revised to delete the language as specified above.

**SECTION 3.** If any portion, clause, phrase, sentence, or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative, or void, then such declaration shall not be construed to affect other portions of the ordinance; it is hereby declared to be the express opinion of the City Council of the City of Palm Bay that any such unconstitutional, invalid, inapplicable, inoperative, or void portion or portions of this ordinance did not induce its passage, and that without the

inclusion of any such portion or portions of this ordinance, the City Council would have enacted the valid constitutional portions thereof.

**SECTION 4.** The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting 2024-xx, held on \_\_\_\_\_, 2024; and read in title only and duly enacted at Meeting 2024-xx, held on \_\_\_\_\_, 2024.

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Rob Medina, Mayor

ATTEST:

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Terese M. Jones, City Clerk

Reviewed by CAO: \_\_\_\_\_

***Strikethrough words shall be deleted; highlighted words shall be included and will be placed in between two arrow symbols (>> <<). Deletions and additions constitute the proposed amendment. Words remaining are now in effect and remain unchanged.***