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MEMORANDUM

To: Mayor and City Council
From: Michael Smith, Public Works Director
Date: November 22, 2010
Subject: **Adding Water Usage Restrictions as Required by State Law**

BACKGROUND

In its 2010 session, the Georgia General Assembly enacted the "Water Stewardship Act" which includes a requirement for every local government to adopt by ordinance certain outdoor watering restrictions by January 1, 2011. Specifically, the act restricts outdoor landscape watering to between the hours of 4 p.m. and 10 a.m. Notable exceptions include watering for agricultural purposes and athletic fields; watering using soaker hoses, reclaimed water or well water; and watering during the first 30 days of new landscape installation. Enforcement may be carried out by any city police or code enforcement officer.

RECOMMENDATION

Staff recommends adopting the attached amendment to Chapter 24 of the City of Dunwoody Code as required by state law.

**AN ORDINANCE AMENDING CHAPTER 24 OF THE CITY OF DUNWOODY CODE OF ORDINANCES BY
ADDING WATER USAGE RESTRICTIONS AS REQUIRED BY STATE LAW**

WHEREAS, the City of Dunwoody is charged with the power to protect the health, safety and welfare of the inhabitants of the City; and

WHEREAS, the City of Dunwoody has heretofore adopted an ordinance for Offenses and Miscellaneous Provisions, as set forth in Chapter 24 of the Code of the City of Dunwoody (the "Code"); and

WHEREAS, the State of Georgia has adopted Senate Bill 370 (2010), title "Water Stewardship Act," which requires every local government to adopt certain restrictions and exemptions thereto to outdoor water use by January 1, 2011; and

WHEREAS, the Mayor and City Council, in an effort to comply with State law, as well as continue to provide for the health, safety and welfare of its population, and for the purposes of proper sustainability, desires to amend Chapter 24 to include the herein designated outdoor water usage restrictions; now

THEREFORE, Mayor and City Council of the City of Dunwoody hereby ordain as follows:

Section 1: Chapter 24 (Offenses and Miscellaneous Provisions) of the City of Dunwoody Code is amended by revising Article IV (Miscellaneous Offenses), Section 24-107 (Restrictions on Outdoor Water Use) to read as follows:

ADDITIONS -- UNDERLINED
DELETIONS - ~~STRIKETHROUGH~~

Sec. 24-107. Restrictions on Outdoor Water Use.

(a) *Purpose and intent.* The mayor and council of the city have determined that as situations arise which require conservation of outdoor water use, as mandated by rules of the state department of natural resources environmental protection division as well as State law, the city shall preserve the health, safety and welfare of the citizens of the city through enforcement of this section.

~~(b) State mandated requirement.~~

~~(1) Persons may irrigate outdoors daily for purposes of planting, growing, managing, or maintaining ground cover, trees, shrubs, or other plants only between the hours of 4 p.m. and 10:00 a.m.~~

~~(2) Paragraph (1) of this subsection shall not create any limitation, unless otherwise provided in subsection (c), upon the following outdoor water uses:~~

~~(A) Commercial agricultural operations as defined in O.C.G.A. Section 1-3-3;~~

- (B) Capture and reuse of cooling system condensate or storm water in compliance with applicable City of Dunwoody regulations and state guidelines;
- (C) Reuse of gray water in compliance with O.C.G.A. Section 31-3-5.2 and applicable DeKalb County Board of Health regulations adopted pursuant thereto;
- (D) Use of reclaimed waste water by a designated user from a system permitted by the Environmental Protection Division of the Georgia Department of Natural Resources to provide reclaimed waste water;
- (E) Irrigation of personal food gardens;
- (F) Irrigation of new and replanted plant, seed, or turf in landscapes, golf courses, or sports turf fields during installation and for a period of thirty (30) days immediately following the date of installation;
- (G) Drip irrigation or irrigation using soaker hoses;
- (H) Handwatering with a hose with automatic cutoff or handheld container;
- (I) Use of water withdrawn from private water wells or surface water by an owner or operator of property if such well or surface water is on said property;
- (J) Irrigation of horticultural crops held for sale, resale, or installation;
- (K) Irrigation of athletic fields, golf courses, or public turf grass recreational areas;
- (L) Installation, maintenance, or calibration of irrigation systems; or
- (M) Hydroseeding.

(bc) *Adoption of additional restrictions.* The city hereby adopts by reference the outdoor water use rules mandated by the state department of natural resources environmental protection division (EPD) from time to time, as the same are modified by the county water system (the EPD/DeKalb County Restrictions). A copy of the current EPD/DeKalb County Restrictions is incorporated herein, and a current copy of the same as modified shall be maintained in the office of the city clerk. Any violation of the EPD/DeKalb County Restrictions in effect from time to time shall constitute a violation of this section.

(ed) *Enforcement.* Every city police officer, firefighter and code enforcement officer shall be authorized and empowered to enforce the provisions of this section through the issuance of noncriminal or criminal citations. Such officers shall have the authority to enter property for the purpose of inspection for compliance. A record of each citation shall be maintained. If personal contact is made with the violator, the officer shall require immediate compliance.

- (~~de~~) *Civil penalties and fines.* ~~With the exception of any violation of subsection (b) of this section,~~ Any person or entity accused of violating any provision of this section shall, with respect to the first violation, be provided with a written warning. Any person accused of violating any provision of this section for a second time shall be issued a noncriminal citation requiring the payment of a civil penalty to the city in the amount of \$250.00. For a third violation of this section, a violator shall be issued a noncriminal citation requiring a payment of a civil penalty of \$500.00 to the city. All penalties are due and payable on or before ten days following the date of the citation.

- (~~ef~~) *Appeals.* Any alleged violator may appeal a civil citation to the city manager within the ten-day period for the payment of the penalty. All such appeals shall be in writing and shall state the basis for the appeal. If a timely appeal is filed, the penalty shall be stayed until a determination is made by the city manager. If the city manager determines that a violation has not occurred or that a reasonable hardship exists justifying the waiver or reduction of the penalty, the city manager may reduce or waive the penalty. If any penalty is not paid or appealed within ten days of the date of the citation, or paid within three days after the denial of an appeal by the city manager, the violator shall be issued a criminal citation requiring an appearance in municipal court.

- (~~fg~~) *Criminal penalties and fines.* A criminal violation of this ~~article section, as delineated in subsection (e) of this section,~~ shall constitute a n ordinance violation-misdemeanor, and shall be punished in a manner consistent with section 1-6.

Section 2: This Amendment shall become effective immediately upon its adoption by the City Council, and incorporated into the Code of the City of Dunwoody, Georgia. This Amendment hereby repeals any and all conflicting ordinances and amendments.

SO ORDAINED, this 22nd day of November, 2010.

Approved:

Ken Wright, Mayor

ATTEST:

Approved as to Form and Content:

Sharon Lowery, City Clerk
(Seal)

Brian Anderson, City Attorney