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## The 2009 Florida Statutes

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[Title XXVIII](#)  
NATURAL RESOURCES; CONSERVATION,  
RECLAMATION, AND USE

[Chapter 373](#)  
WATER  
RESOURCES

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### **373.62 Water conservation; automatic sprinkler systems.--**

(1) Any person who purchases and installs an automatic landscape irrigation system must properly install, maintain, and operate technology that inhibits or interrupts operation of the system during periods of sufficient moisture.

(2) 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 that system. If such devices or switches are not installed in the system or are not in proper operating condition, the contractor must install new ones or repair the existing ones and confirm that each device or switch is in proper operating condition before completing other work on the system.

(3) The department shall create a model ordinance by January 15, 2010, that may be adopted and enforced by local governments. The ordinance must, at a minimum:

(a) Require licensed contractors to report automatic landscape irrigation systems that are not in compliance with this section to the appropriate authority.

(b) Provide penalties for licensed contractors who do not comply with this section. The minimum penalty must be \$50 for a first offense, \$100 for a second offense, and \$250 for a third or subsequent offense.

Regular maintenance and replacement of worn or broken technology which interrupts or inhibits the operation of an automatic landscape irrigation system is not a violation of this section if such repairs are conducted within a reasonable time.

(4) Local governments may adopt the model ordinance by October 1, 2010. Local governments that impose requirements that are more stringent than the model ordinance are exempt from adopting the ordinance.

(5) Funds generated by penalties imposed under the ordinance shall be used by the local government for the administration and enforcement of this section and to further water conservation activities.

(6) For purposes of this section, a licensed contractor includes an individual who holds a specific irrigation contractor's license issued by a county.

(7)(a) The Legislature recognizes that lawn and landscape irrigation systems use a substantial amount of the state's potable water. The Legislature finds that smart irrigation systems that use soil moisture sensors with remote monitoring and adjustment capabilities, if properly installed and monitored, provide more efficient irrigation and save substantially more water than conventional time-controlled irrigation systems. This is because smart irrigation systems apply water to lawns and plants only as necessary to maintain required soil moisture, thus minimizing the overwatering or unnecessary watering that occurs with conventional irrigation systems. However, in order for this technology to optimize the efficient application of water it cannot be subject to day or days-of-the-week watering restrictions. The Legislature, therefore, recognizes that enacting a statewide process to provide an exemption from local water restriction ordinances will accelerate the adoption of this water saving technology. Further, a uniform exemption process will streamline variance procedures and minimize delay in implementing such technology. The longer it takes to approve soil moisture sensor control systems, the more potable water is wasted. A uniform variance process will allow state residents to maintain their property and protect water resources while enjoying their landscapes.

(b) For purposes of this subsection, the term:

1. "Monitoring entity" means a local government, community development district created pursuant to chapter 190, a homeowners' association created pursuant to chapter 720, a condominium association created pursuant to chapter 718, a cooperative created pursuant to chapter 719, or a public or private utility.
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. "Soil moisture sensor control system" is the collective term for an entire soil moisture sensor system that has remote monitoring and adjustment capability.

(c) A variance from day or days-of-the-week watering restrictions, which shall include the maximum soil set point for different soil types within the monitoring entity's jurisdiction, shall be granted by the applicable water management district for any residential, commercial, or recreational user within a monitoring entity's jurisdiction having a soil moisture sensor control system if the monitoring entity certifies that:

1. Each soil moisture sensor control system installed within its jurisdiction will have multiple soil sensors that conform to different soil types and slopes in order to optimize water use for each user, adjust irrigation schedules based on soil moisture requirements, and be installed by a licensed contractor in a manner that is consistent with the Field Guide to Soil Moisture Sensor Use in Florida by the University of Florida IFAS Extension Program for Resource Efficient Communities.

2. It has the ability to monitor the status of each individual user's system and to remotely modify the system settings for irrigation cycles and run times.

3. It will electronically post and update a list of active users of soil moisture sensor control systems within its jurisdiction on a monthly basis and provide Internet access to such listing and the monitoring database to the water management district and the local government.

4. It shall provide notice to a user of noncompliant activity within 48 hours after such activity and, if the user does not take corrective action within 48 hours after such notice, it will remove the posted notice required in subparagraph 5. and remove the user from the active users list required by subparagraph 3.

5. It shall post a notice at each parcel that has installed a compliant soil moisture sensor control system in plain view from the nearest roadway stating: "Irrigating with Smart Irrigation Controller," with the address of the parcel, and shall remove the notice if the user is no longer being monitored by the monitoring entity.

(d) Upon installation of a soil moisture sensor control system, the licensed contractor shall certify to the monitoring entity that subparagraphs (c)1. and (c)2. have been met.

1. The monitoring entity shall post the notice required by subparagraph (c)5. on the user's property and update the Internet listing of users of active soil moisture sensor control systems to include the new user.

2. On an annual basis a professional engineer licensed under chapter 471 or a professional landscape architect licensed under chapter 481 shall perform an annual maintenance review of all soil moisture sensor control systems within the monitoring entity's jurisdiction and certify to the monitoring entity which systems are properly operating and in compliance with paragraph (c). The monitoring entity shall update its Internet listing of users of active soil moisture sensor control systems based on the certification.

(e) Failure by the monitoring entity to ensure continual compliance with the condition of this variance shall be cause for the appropriate water management district to revoke the variance upon proper notice to the monitoring entity.

(f) The variance provided in this subsection applies to day or days-of-the-week watering restrictions of the water management district as preempted by s. [373.217](#). All other applicable local

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government and water management district restrictions related to irrigation, including, but not limited to, a prohibition on irrigation and time-of-day watering requirements and water shortage or emergency orders issued pursuant to s. [373.246\(2\)](#) and (7), remain applicable to the soil moisture sensor control system users within a monitoring entity's jurisdiction.

(g) This subsection does not require a property owner to install a soil moisture sensor control system. This subsection also does not prohibit a property owner from installing soil moisture sensors and seeking an individual variance from the applicable water management district even if such property is located within the jurisdiction of a monitoring entity that has been granted a variance pursuant to paragraph (c).

**History.**--s. 7, ch. 91-41; s. 7, ch. 91-68; s. 6, ch. 2001-252; s. 1, ch. 2009-199.

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