

ORDINANCE NO.: 2011-13

AN ORDINANCE AMENDING CHAPTER 28 (UTILITIES), ARTICLE XI (YEAR-ROUND WATERING RESTRICTIONS) OF THE HERNANDO COUNTY CODE OF ORDINANCES BY ADDING PROVISIONS WHICH ALLOW THE BOARD OF COUNTY COMMISSIONERS, BY RESOLUTION, TO TEMPORARILY SUSPEND THIS ARTICLE, OR SELECT PORTIONS OF THIS ARTICLE, AND CORRESPONDING ENFORCEMENT HEREOF; DELETING CERTAIN STATUTE AND RULE CROSS-REFERENCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA:

WHEREAS, the Board of County Commissioners ("Board") has previously adopted year-round watering restrictions which limit the watering of established lawns and landscaping to once a week; and,

WHEREAS, when water supply conditions warrants, the Board finds that there may be one or more times a year when it is desirable for the Board to modify the once a week watering restriction for established lawns and landscaping to a twice a week restriction.

**SECTION I. Amending Chapter 28 (Utilities), Article XI (Year-Round Watering Restrictions).** Chapter 28 (Utilities), Article XI (Year-Round Watering Restrictions) is amended to read as follows, with underlined matter added and struck-through matter deleted:

**ARTICLE XI. YEAR-ROUND WATERING RESTRICTIONS**

**Sec. 28-501. Legislative intent.**

(a) It is the policy of the Hernando County to promote and require water conservation during times of average and above average rainfall as well as during declared water shortages. To that end, the purpose of this article is to promote long-term sustainability of the water supplies of the Hernando County through water use efficiency during times when no water shortage has been declared. The measures contained in this article are intended to reduce wasteful irrigation practices and encourage lawn and landscape drought conditioning.

(b) This article applies to all water sources as provided herein and all water users as defined herein engaged in irrigation, including those not subject to permitting.

(Ord. No. 2010-15, § 2, 7-27-10)

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TALLAHASSEE, FLORIDA  
CLERK OF THE STATE

1 **Sec. 28-502. Definitions.**

2  
3 When used in this article:

4  
5 *Address* means the "house number" (a numeric or alphanumeric designation) that, together  
6 with the street name, describes the physical location of a specific property. This includes "rural  
7 route" numbers but excludes post office box numbers. If a lot number in a mobile home park or  
8 similar community is used by the U.S. Postal Service to determine a delivery location, the lot number  
9 shall be the property's address. If a lot number in a mobile home park or similar residential  
10 community is not used by the U.S. Postal Service (e.g., the park manager sorts incoming mail  
11 delivered to the community's address), then the community's main address shall be the property's  
12 address.

13  
14 *Agriculture* means the science and art of production of plants and animals useful to humans,  
15 including to a variable extent the preparation of these products for human use and their disposal by  
16 marketing or otherwise, and includes aquaculture, horticulture, floriculture, zoological and botanical  
17 specimen exhibits, viticulture, forestry, dairy, livestock, pasture, poultry, bees, and any and all forms  
18 of farm products and farm production. Plant nurseries and turfgrass production ("sod farming") are  
19 agriculture; however, the care of new or existing lawns, nonedible landscapes, cemeteries, golf  
20 courses and athletic play areas are not classified as agriculture for the purpose of this article.

21  
22 *Athletic play area* means all golf course fairways, tees, and greens, and other athletic play  
23 surfaces; for example, football, baseball, soccer, polo, tennis and lawn bowling fields, and rodeo,  
24 equestrian and livestock arenas. A turfgrass area in a public park, when used for a festival or other  
25 scheduled event that includes heavy foot traffic, is also considered an athletic play area for a period  
26 ending two (2) weeks after the event.

27  
28 *Cemeteries* means a place dedicated to and used or intended to be used for the permanent  
29 interment of human or pet remains. A cemetery may contain land or earth interment; mausoleum,  
30 vault, or crypt interment; a columbarium, ossuary, scattering garden, or other structure or place used  
31 or intended to be used for the interment or disposition of cremated human or pet remains; or any  
32 combination of one (1) or more of such structures or places.

33  
34 *Domestic and other sanitary uses* means the use of water for the individual personal  
35 household purposes of drinking, bathing, cooking, laundry, household cleaning, or other sanitation.  
36 Other uses often associated with domestic activities, such as lawn irrigation are classified elsewhere  
37 in this article within appropriate use classes.

38  
39 *Driving range* is the turfgrass at a practice or instructional facility that provides a simulated  
40 golf fairway, simulated golf tee and simulated golf green. The simulated golf green associated with  
41 a simulated golf fairway is primarily a visual target instead of a regulated play surface, and so does

1 not receive the foot traffic and related turfgrass damage normally associated with an actual golf green

2  
3 *Even-numbered* address means an address ending in the numbers zero (0), two (2), four (4),  
4 six (6), eight (8) or the letters A–M.

5  
6 *Existing* means any lawn or landscape, or portion thereof, which has been in existence in the  
7 same location for a period of sixty (60) days or more.

8  
9 *Frost/freeze or heat stress* means the symptoms caused to plants or crops by extreme cold  
10 or hot weather unless an irrigation event occurs; for example, permanent wilt damage, yield  
11 reductions and/or plant death.

12  
13 *Golf course* means an area of land laid out for the express purpose of playing golf, including  
14 all greens, tees, fairways, and roughs.

15  
16 *Hand watering* means watering plants or crops with one (1) hand-held hose, fitted with a self-  
17 canceling or automatic shutoff nozzle, or a watering can or pail.

18  
19 *Irrigation* means the application of water to plants for the purpose of sustaining plant life,  
20 promoting plant growth or to facilitate crop production.

21  
22 *Landscape* means a section of ground adorned or improved by flowering plants (whether  
23 annual or perennial), vines, shrubs, palms, trees, ferns, ornamental grasses and ground cover other  
24 than lawn.

25  
26 *Landscape use* means the application of water to lawns and associated landscape surrounding  
27 homes, commercial or industrial buildings, government or other noncommercial buildings, parks,  
28 recreational areas, cemeteries, non-play areas of golf courses, public and private rights-of-way and  
29 medians but excluding athletic play areas.

30  
31 *Lawn* means a plot of turfgrass, usually tended or mowed, surrounding homes, commercial  
32 or industrial buildings, government or other noncommercial buildings, parks, recreational areas,  
33 cemeteries, and public or private rights-of-way and medians, but excludes athletic play areas,  
34 whether such areas are freestanding or within a park or other setting.

35  
36 *Low-volume irrigation* means the use of hand watering, micro-irrigation or other equipment  
37 and devices specifically designed to allow the volume of water delivered to be limited to a level  
38 consistent with the water requirement of the plant being irrigated and designed to allow that water  
39 to be placed with a high degree of efficiency within the root zone of the plant.

40  
41 *Micro-irrigation* means any irrigation device that distributes water near or within the root  
42 zone through low flow rate and emitters. Examples of micro-irrigation devices include drip, line

1 source, microspray, microsprinkler, bubbler and similar types of systems. The term specifically  
2 includes propagation mist heads, capillary mats and soaker hoses. The term also includes water use  
3 in mist houses and similar establishments for plant propagation and production, but excludes any  
4 form of turf irrigation other than in a sod production ("turf farming") setting.  
5

6 *New plant material* means any lawn or landscape, or portion thereof, which has been in  
7 existence in the same location for less than sixty (60) days.  
8

9 *Odd-numbered address* means an address ending in the numbers one (1), three (3), five (5),  
10 seven (7), nine (9) or the letters N--Z.  
11

12 *Reclaimed water* means water that has received at least secondary treatment and basic  
13 disinfection and is reused after flowing out of a wastewater treatment facility.

14 *Spot treatment* is the hand watering of isolated areas of turfgrass or other plant material, such as golf  
15 course greens, in order to efficiently deliver water needed to provide uniform moisture content. This  
16 practice is a water-conserving means of compensating for differences in sun exposure, sprinkler  
17 coverage, and other site-specific factors.  
18

19 *Sprigged turf area* means a turf area being established vegetatively by placing sprigs in  
20 furrows or small holes.  
21

22 *Sprigs* means individual stems of grass with one (1) to four (4) nodes (joints) from which  
23 roots can develop. Sprigs may also be called runners, rhizomes, or stolons, sprigs are a means of  
24 vegetative propagation that is sometimes used to produce golf course greens, golf course fairways,  
25 other athletic play areas, and lawns. Bermuda grass is the most common type of turfgrass propagated  
26 in this manner.  
27

28 *Syringing* is the watering of turfgrass or other plant material in order to lower the air  
29 temperature around the leaf surfaces. This generally involves the use of hand watering or "fogging"  
30 irrigation equipment. The purpose of the special watering technique is to cool off the leaf tissue, not  
31 to wet the soil.  
32

33 *Turfgrass* means a dense growth of grass (any of numerous plants of the botanical family  
34 Gramineae) being used as a ground cover to provide one (1) or more of the following benefits:  
35 erosion control, dust reduction, beautification, or as a playing surface for sports or recreation.  
36 Common turfgrasses in Florida include, but are not limited to: Bahia grass, Bermuda grass, and St.  
37 Augustine grass.  
38

39 *User* means any person, individual, firm, association, organization, partnership, business  
40 trust, corporation, company, agent, employee or other legal entity, the United States of America, and  
41 the state and all political subdivisions, regions, districts, municipalities, and public agencies thereof,

1 which directly or indirectly takes water from the water resource, including, but not limited to, uses  
2 from groundwater wells and private or public utility systems.

3  
4 *Vertical mowing* means a form of thatch removal involving the use of special equipment that  
5 makes multiple vertical cuts into the lawn or other turfgrass. Vertical mowing may also be referred  
6 to as verticutting.

7  
8 *Water resource* means any and all water on or beneath the surface of the ground, including  
9 natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating,  
10 standing, or flowing beneath the surface of the ground, specifically including water withdrawn from  
11 wells but excluding seawater.

12  
13 *Water shortage or county water shortage emergency* means that situation within all or part  
14 of Hernando County when the ~~Governing Board or Executive Director of the Southwest Water~~  
15 ~~Management District~~ board of county commissioners has declared a water shortage pursuant to  
16 section 73.175 or 373.246, Florida Statutes or F.A.C. ch. 40D-21 applicable law. A water shortage  
17 or water shortage emergency may also be declared by the Southwest Water Management District as  
18 may be authorized pursuant to applicable state law.

19  
20 *Water use permit (WUP)* means a permit issued by the Southwest Water Management District  
21 pursuant to ~~F.A.C. ch. 40D-2 authorizing the use of water.~~

22  
23 (Ord. No. 2010-15, § 2, 7-27-10; Ord No. 2011-\_\_\_\_\_)

24  
25 **Sec. 28-503. Year-round water conservation measures and restrictions.**

26  
27 (a) *General requirements.* The year-round water conservation measures and restrictions  
28 contained in this article section are applicable to all water users, including end users served by public  
29 or private water systems. The water conservation measures and restrictions contained herein shall  
30 be effective throughout unincorporated Hernando County. The water conservation measures and  
31 restrictions herein are intended to be in addition to, and not in lieu of, any water conservation  
32 measure(s), restriction(s) or order(s) of the Southwest Florida Water Management District, including  
33 those provisions set forth in Chapters 40D-21 and 40D-22, Florida Administrative Code, as such  
34 provisions may be amended or renumbered from time to time.

35  
36 (b) ~~Rule 40D-22.201, Florida Administrative Code. F.A.C. ch. 40D-22.201, as may be~~  
37 ~~amended, is hereby adopted and incorporated herein as fully as if set forth in haec verba and from~~  
38 ~~the date upon which this article shall take effect, the provisions thereof, except as otherwise provided~~  
39 ~~herein, shall be controlling within the unincorporated areas of the county. A copy of F.A.C. ch. 40D-~~  
40 ~~22.201 is attached hereto as exhibit "A."~~

1           (c) *Wasteful and unnecessary.* In addition to the specific restrictions enumerated below,  
2 the following wasteful and unnecessary water uses are prohibited:

- 3
- 4           (1) Allowing water to flow from an unattended hose, unless that water is  
5 discharge from a functional water-to-air air-conditioning unit, residential  
6 reverse osmosis treatment system, or similar device.
- 7
- 8           (2) Hand watering a lawn on an otherwise restricted day or more than once a day,  
9 except when used for spot treatment or other practices specified in this  
10 article.
- 11
- 12           (3) Hosing down a driveway or other impervious surface to remove grass  
13 clippings or other debris that can be removed with a broom or other dry  
14 methods.
- 15
- 16           (4) Hosing down a building or other structure to remove cobwebs or other  
17 material that can be removed with a broom or other dry methods.
- 18
- 19           (5) Allowing water to flow from a broken sprinkler head, outdoor faucet, or other  
20 malfunctioning plumbing or irrigation system component.

21

22           (d) *Irrigation uses.* The following requirements shall apply to all lawn and landscape  
23 irrigation:

- 24
- 25           (1) The irrigation of established lawns and landscaping is allowed only as  
26 follows: properties under two (2) acres may water from 12:01 a.m. to 8:00  
27 a.m. or after 6:00 p.m. to 11:59 p.m.; properties with two (2) acres and  
28 greater may water from 12:01 a.m. to 10:00 a.m. or after 4:00 p.m. to 11:50  
29 p.m. on each allowable watering day. A user may irrigate established lawns  
30 and landscaping during only one (1) of the specified time periods on any  
31 allowable watering day.
- 32
- 33           (2) Irrigation of established lawns and landscaping shall be limited year round as  
34 follows:
- 35
- 36           a. Once per week watering restriction. Irrigation of established lawns  
37 and landscaping shall be limited to once per week as follows: at  
38 addresses ending in the number zero (0) or one (1) only on Mondays;  
39 at addresses ending in the number two (2) or three (3), only on  
40 Tuesdays; at addresses ending in the number four (4) or five (5), only  
41 on Wednesdays; at addresses ending in six (6) or seven (7), only on  
42 Thursdays; at addresses ending in the number eight (8) or nine (9) or

1 locations with no addresses, only on Fridays. Users are prohibited  
2 from irrigating established lawns and landscaping when rain has  
3 occurred on the applicable property within the last twenty-four (24)  
4 hours.

5  
6 **b.** Modification to once per week watering restriction for established  
7 lawns and landscaping as initiated by the board of county  
8 commissioners

9  
10 **i.** When water supply conditions warrant, the board of county  
11 commissioners, upon their own initiative or at the request of  
12 the utilities director, may schedule and conduct a public  
13 hearing, following notice and advertising, and adopt a  
14 resolution granting a modification to the irrigation schedule  
15 above by restricting the irrigation of established lawns and  
16 landscaping to twice (2) per week; provided, however, such  
17 modification to the irrigation schedule does not conflict with  
18 the then current conservation measures, restrictions and  
19 orders of the Southwest Florida Water Management District.

20  
21 **ii.** In the event that the board of county commissioners adopts a  
22 resolution under this provision, the board shall advertise a  
23 summary of the action taken and the period covered. At a  
24 minimum, public notice shall be provided on the county's  
25 website, published at least once in a newspaper of general  
26 circulation, and advertised in any other appropriate medium  
27 designed to educate individuals in the affected area(s). At the  
28 option and judgment of the utilities director, a notice may be  
29 included in the mailed utilities bills.

30  
31 **iii.** Any resolution adopted by the board pursuant to this  
32 provision shall be temporary in nature and may not exceed  
33 one hundred and eighty (180) days in duration.

34  
35 (3) Irrigation systems may be operated during restricted days and/or times for  
36 cleaning and maintenance purposes with an attendant on site in the area being  
37 tested. Irrigation systems may routinely be operated for such purposes no  
38 more than once per week, and the total run time for each zone shall not  
39 exceed ten (10) minutes during the test.

40  
41 (4) Irrigation for the purpose of watering in insecticides, fungicides, and  
42 herbicides is restricted to designated days and times for that address, except

1 for applications by a professional who is in the business of applying such  
2 products for remuneration, so long as a chemical advisory marker containing  
3 the day, month and year of application is posted on the landscape, and where  
4 such watering is required by the manufacturers or by federal, state, or local  
5 law; however, such watering shall be limited to the minimum necessary and  
6 shall only be accomplished during the hours allowed above unless immediate  
7 watering is required by the manufacturer.  
8

9 (5) Low-volume micro-irrigation (i.e., drip irrigation, misters, soaker hoses) or  
10 hand watering (using a hose with a self-canceling or shut-off nozzle, or both)  
11 of trees, shrubs, landscaping beds, flower beds, vegetable gardens and other  
12 nonlawn plant material shall not be restricted by days of the week; however,  
13 such low-volume micro-irrigation or hand watering shall be limited to the  
14 minimum necessary and only during the hours allowed above.  
15

16 (6) Lawns may be spot treated without regard to the normally allowable watering  
17 days or times. Lawns may only be spot treated by hand watering or other  
18 targeted, manual means.  
19

20 (7) In order to promote necessary rhizome repair, extra watering of turfgrass may  
21 occur on any day of the week for a fourteen-day period after vertical mowing  
22 has occurred. An entire zone of an irrigation system may only be used for  
23 extra rhizome repair watering if the zone in question is for an area that  
24 contains at least fifty (50) percent turfgrass recovering from vertical mowing.  
25 If a zone contains less than fifty (50) percent recovering turfgrass, or if the  
26 recovering turfgrass area is typically not watered by an irrigation system, only  
27 the recovering turfgrass is eligible for this fourteen-day exemption. Targeted  
28 watering may be accomplished by hand watering, or any appropriate method  
29 which isolates and waters only the recovering turfgrass.  
30

31 (8) New turf grass (sod, plugs, and sprigs) and new landscaping are exempt from  
32 day-of-the-week restrictions for the first sixty (60) days after installation;  
33 days one (1)–thirty (30) may water daily. From day thirty-one (31) through  
34 day sixty (60) of this establishment period, irrigation is limited to one (1)  
35 application on each of three (3) specified days, except as otherwise provided  
36 herein. The three (3) allowable days shall be as follows: even-numbered  
37 addresses may provide establishment period irrigation on Tuesday, Thursday  
38 and Sunday and odd-numbered addresses may provide establishment period  
39 irrigation on Monday, Wednesday and Saturday, however, such watering  
40 shall be limited to the minimum necessary, shall only be accomplished during  
41 the hours allowed above, and is limited to only new turfgrass and new

1 landscaping. Users shall curtail irrigation when rain has occurred in the past  
2 twelve (12) hours.  
3

4 (e d) The rules, regulations, and orders promulgated from time to time by the Southwest  
5 Florida Water Management District which are more stringent than the provisions of this article are  
6 hereby adopted by reference and made part hereof and shall be subject to the same enforcement and  
7 penalty provisions of this article. In the case of the more stringent rules, a petition for variance shall  
8 be filed with the Southwest Florida Water Management District.  
9

10 (f e) The utilities director shall have the authority to promulgate rules and regulations  
11 pertaining to water use restrictions not less restrictive than those promulgated by the Southwest  
12 Florida Water Management District. Any user who violates such rules or regulations or who refuses  
13 to comply with a directive from an officer enforcing such rules and regulations shall be deemed to  
14 have violated this article.  
15

16 (Ord. No. 2010-15, § 2, 7-27-10; Ord. No. 2011-\_\_\_\_)

17  
18 Editor's note: F.A.C. ch. 40D-22.201, referred to as exhibit "A", is not set out at length herein but  
19 is kept on file in the offices of the county.  
20

21 **Sec. 28-504. Variances from water use conservation measures and restrictions.**  
22

23 (a) *Application of provisions.* These provisions shall apply to petitions for variances filed  
24 with the county.  
25

26 (b) *Criteria for issuance upon petition by a water user.* No petition for variance shall  
27 be granted unless the petitioner affirmatively demonstrates that one (1) or more of the following  
28 circumstances exists:  
29

- 30 (1) The variance is essential to protect public health or safety;
  - 31
  - 32 (2) Compliance with this section will require measures which, because their  
33 extent or cost, impose undue hardship, cannot be accomplished within the  
34 anticipated duration of the shortage or will not ensure equitable distribution;  
35
  - 36 (3) Alternative restrictions, which achieve the same level of demand reduction  
37 as the restrictions from which a variance is sought, are available and are  
38 binding and enforceable.  
39
- 40 a. These alternative restrictions shall be summarized within a short-term  
41 water reduction plan, prepared by the petitioner, to be submitted to  
42 the county for consideration.

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b. Any user who has submitted a short-term water reduction plan in compliance with the county's rules and regulations shall, upon approval, be bound by such plan unless good cause exists for changes to such plan and the plan is amended accordingly.

(c) *Petitions for variance submitted by a water user - contents*. The petition shall contain the following:

- (1) The petitioner's name, address and telephone number;
- (2) The specific section of the Code, ordinance, rules or regulations from which the petitioner is requesting relief;
- (3) A detailed statement of the facts which the petitioner believes demonstrates that the request qualifies for a variance, which may include reports by qualified technical experts;
- (4) A description of the relief desired;
- (5) The period of time for which the variance is sought, including the reasons and facts in support thereof;
- (6) The damage or harm resulting or which may result to petitioner from compliance with the Code, ordinance, rules or regulations;
- (7) The restrictions which petitioner can meet and the date when petitioner can comply with such restrictions;
- (8) A short-term water use reduction plan, describing any and all alternative reductions implemented in lieu of the restrictions for which variance is sought, if applicable;
- (9) The steps the petitioner is taking to meet the Code, ordinance, rules, regulations or specific restrictions from which the variance is sought and when compliance will be achieved; and
- (10) Any other information the petitioner believes is material.

(d) *Administrative variances upon petition by a water user*. The utilities director shall have the authority to grant a variance when the terms of this section are met. When the terms of the section are not met, the utilities director shall deny the request, at which time the petitioner shall have all rights of appeal as set forth in this section.

1 (e) *Application for variance appeal.* The governing body shall hear and decide appeals  
2 from the utilities director's decision to either approve or deny a variance upon submittal of a petition  
3 for a variance by a water user. The application for the appeal shall be in the form prescribed by the  
4 governing body and shall be filed within thirty (30) days of rendition of the order to be reviewed.  
5 The individual filing an appeal shall include any additional data supporting the appeal at the time  
6 of filing.

7  
8 (Ord. No. 2010-15, § 2, 7-27-10; Ord. No. 2011-\_\_\_\_)

9  
10 **SECTION II.** Severability. It is declared to be the intent of the Board of County Commissioners  
11 that if any section, subsection, clause, sentence, phrase, or provision of this ordinance is for any  
12 reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the  
13 remaining portions of this ordinance.

14  
15 **SECTION III.** Repeal of Conflicting Provisions. The provisions of any other Hernando county  
16 ordinance that are inconsistent or in conflict with the provisions of this Ordinance are repealed to  
17 the extent of such inconsistency or conflict.

18  
19 **SECTION IV.** Inclusion in the Code. It is the intention of the Board of County Commissioners of  
20 Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall  
21 become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end,  
22 any section or subsection of this Ordinance may be renumbered or relettered to accomplish such  
23 intention, and the word "ordinance" may be changed to "section," "article," or other appropriate  
24 designation.

25  
26 **SECTION V.** Effective date. This ordinance shall take effect upon filing with the Florida  
27 Department of State.

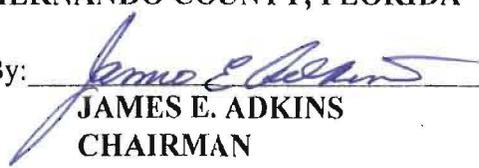
28  
29 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO  
30 COUNTY in Regular Session this 19<sup>th</sup> day of July, 2011.

31  
32 **BOARD OF COUNTY COMMISSIONERS**  
33 **HERNANDO COUNTY, FLORIDA**

34  
35 Attest:

36   
37 **KAREN NICOLAI**  
38 **CLERK**

By:

39   
40 **JAMES E. ADKINS**  
41 **CHAIRMAN**

42  
  
(SEAL)

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

BY 

7/2/11  
County Attorney's Office 