

ORDINANCE NO. 09-2925

AN ORDINANCE AMENDING CHAPTER 118 "UTILITIES", ARTICLE IV "RESTRICTIONS ON OUTDOOR USE OF WATER" OF THE CITY OF BEDFORD CODE OF ORDINANCES, AS AMENDED IN ITS ENTIRETY BY THE ADOPTION OF THE REVISED WATER RESOURCE MANAGEMENT ORDINANCE TO PROMOTE RESPONSIBLE USE OF WATER; PROVIDING FOR A FINE OF UP TO \$500 FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE AND/OR DISCONNECTION OF WATER SERVICE FOR NONCOMPLIANCE WITH THE PROVISIONS OF THE WATER RESOURCE MANAGEMENT ORDINANCE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of Bedford, Texas (the "City"), recognizes that the amount of water available to its water customers is limited; and,

WHEREAS, the City recognizes that due to natural limitations, drought conditions, system failures and other acts of God which may occur, the City cannot guarantee an uninterrupted water supply for all purposes at all times; and,

WHEREAS, the Water Code and the regulations of the Texas Commission on Environmental Quality (the "Commission") require that the City adopt a Drought Contingency Plan and a Water Conservation Plan; and,

WHEREAS, the City has determined an urgent need in the best interest of the public to adopt a Drought Contingency Plan and Water Conservation Plan; and,

WHEREAS, pursuant to Chapter 54 of the Local Government Code, the City is authorized to adopt such Ordinances necessary to preserve and conserve its water resources.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEDFORD TEXAS:

SECTION 1. That all matters stated hereinabove are found to be true and correct and are incorporated herein by reference.

SECTION 2. That the City of Bedford Code of Ordinances Chapter 118 "Utilities", Article IV "Restrictions on Outdoor Use of Water", is hereby amended in its entirety to read as follows:

ARTICLE IV. WATER RESOURCE MANAGEMENT

DIVISION 1. GENERAL PROVISIONS

Section 118-111. 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. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

City is the City of Bedford.

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

TCWSP is the Tarrant County Water Supply Project.

TRA is the Trinity River Authority.

TRWD is the Tarrant Regional Water District.

Water is water from the City water system.

Section 118-112. Application of Regulations

The provisions of this article shall apply to all persons using water from the water system of the city. The provisions of this article shall not apply to those functions necessary for the public health, safety and welfare, such as emergency fire protection.

Section 118-113. General Restrictions on Water Use

- (a) All new irrigation systems must be in compliance with ordinances 08-2912 and 08-2913 of the City Code of Ordinances, as the same may be from time to time amended, including but not limited to system design and installation requirements and the prohibition of irrigation systems that spray directly onto impervious surfaces or other non-irrigated areas.
- (b) Except for hand watering and the use of soaker hoses, it shall be unlawful for any person to irrigate, water, or cause or permit the irrigation or watering of any lawn or landscape located on premises owned, leased, or managed by that person between the hours of 10:00 a.m. and 6:00 p.m. It is an affirmative defense to prosecution that the irrigation or watering of any lawn or landscape during the prohibited time was done for the purpose of establishing hydromulch, grass sod, grass seed; dust control for sport fields; or for the maintenance, repair, or testing of an irrigation system. The escape of water through defective plumbing, which shall mean the knowing permission for defective plumbing to remain out of repair, is hereby prohibited.

DIVISION 2. DROUGHT CONTINGENCY PLAN

Section 118-114. Emergency Water Restrictions

- (a) **Purpose and scope.** The purpose of this section is to establish the city's policy in the event of shortages or delivery limitations in the city's water supply and to establish water restrictions to be enforced in case of drought or emergency conditions.
- (b) **Drought contingency plan.** The drought contingency plan, as the same may be from time to time amended, is attached hereto as Exhibit A and is incorporated herein by reference.
- (c) **Authority.** The City Manager or official designee is authorized to implement measures prescribed when required by this section and by the drought contingency plan approved by the city council. The Public Works Director is authorized to enforce the measures implemented and to promulgate regulations, not in conflict with this section or state and federal laws, in aid of enforcement.
- (d) **Initiation of plan stages.** When a trigger condition has been reached, the city will notify the public through publication of articles in the Fort Worth Star Telegram and announcements on local radio and television. Signs will also be posted at public places throughout the city such as the library, post office, city hall, etc. Notices will also be posted on the city website.

- (e) **Duration of stage; change.** A stage will remain in effect until the conditions that triggered initiation of the stage have been eliminated. If the stage is initiated because of excessive demands, all initiated actions will remain in effect through September 30 of the year in which they were triggered unless the City Manager or official designee determines that conditions exist that will allow termination of the stage before September 30. Upon recommendation of the Public Works Director, the City Manager or official designee may terminate, upgrade or downgrade the stage. Any such change must be made in the same manner prescribed in subsection (d).

DIVISION 3. WATER CONSERVATION PLAN

Section 118-115 Adoption of Water Conservation Plan

- (a) **Purpose and scope.** The purpose of this section is to establish the city's policy on water conservation measures.
- (b) **Water conservation plan.** The water conservation plan, as the same may be from time to time amended, is attached hereto as Exhibit B and is incorporated herein by reference.
- (c) **Authority.** The City Manager or official designee is authorized to implement measures prescribed when required by this section and by the water conservation plan approved by the city council. The Public Works Director is authorized to enforce the measures implemented and to promulgate regulations, not in conflict with this section or state and federal laws, in aid of enforcement.

DIVISION 4. RAIN AND FREEZE SENSORS

Section 118-116. Irrigation System Rain and Freeze Sensors.

- (a) **Any irrigation system installed within the City on or after August 1, 2008 must be equipped with rain and freeze sensors.**
- (b) **Any irrigation system installed before August 1, 2008 may not be operated after August 1, 2010 without being equipped with rain and freeze sensors. This requirement does not apply to a single family residential or duplex property, or an individual metered townhome or condominium unit.**
- (c) **It shall be unlawful for any person to knowingly install, or cause or permit the installation of an irrigation system that does not comply with this section.**
- (d) **It shall be unlawful for any person on premises owned, leased, or managed by that person to knowingly or recklessly operate, or cause or permit the operation of an irrigation system that does not comply with this section.**
- (e) **It shall be unlawful for any person to operate an irrigation system with broken or missing heads after receiving notification from the building official and such representative as they may designate.**
- (f) **It shall be unlawful for any person to operate an irrigation system which causes significant runoff.**

DIVISION 5. ENFORCEMENT

Section 118-117. Criminal responsibility.

A person commits an offense of inappropriate use of water by any of the following actions:

- (a) A person may not knowingly make, cause or permit a use of an irrigation system contrary to the requirements of this article.**
- (b) A person may not knowingly make, cause or permit a use of water contrary to the measures implemented by the city manager or official designee as prescribed in the water conservation plan.**
- (c) A person may not knowingly make, cause or permit a use of water contrary to the measures implemented by the city manager or official designee as prescribed in the drought contingency plan. It is presumed that a person has knowingly made, caused or permitted a use of water contrary to the measures implemented if the mandatory measures have been formally ordered consistent with the terms of section 118-114(d) and:
 - (1) The manner of use has been prohibited by the drought contingency plan;**
 - (2) The amount of water used exceeds that allowed by the drought contingency plan; or**
 - (3) The manner or amount used violates the terms and conditions of a compliance agreement made pursuant to a variance granted by the Public Works Director pursuant to section 118-118.****

Section 118-118. Variances.

Variances will be considered only under extreme circumstances for health or public safety reasons. The City Manager or official designee will be responsible for making this determination.

Sections 118-117—118-145 Reserved.

SECTION 2. That any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined up to \$500.00 and/or discontinuance of water service by the City. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

SECTION 3. That all ordinances or any parts thereof in conflict with the terms of this ordinance shall be and hereby are deemed repealed and of no force or effect; provided, however, that the ordinance or ordinances under which the cases currently filed and pending in the Municipal Court of the City of Bedford, Texas, shall be deemed repealed only when all such cases filed and pending under such ordinance or ordinances have been disposed of by a final conviction or a finding not guilty or nolo contendere, or dismissal.

SECTION 4. That if any section, article, paragraph, sentence, clause, phrase or word in this ordinance, or application thereto any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance; and the City Council hereby declares it would have passed such remaining portions of the ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 5. That this ordinance shall be in full force and effect after its passage and publication as required by law, and it is so ordained.

PRESENTED AND PASSED on this 14th day of April 2009, by a vote of 7 ayes, 0 nays and 0 abstentions, at a regular meeting of the City Council of the City of Bedford, Texas.

Jim Story, Mayor

ATTEST:

Shanae Jennings, City Secretary

APPROVED AS TO FORM:

Stan Lowry, City Attorney