

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 35, “WATER AND SEWERS,” ARTICLE VI “LAWN AND LANDSCAPE IRRIGATION CONSERVATION,” OF THE CODE OF THE CITY OF FORT WORTH, TEXAS (2015), AS AMENDED, BY AMENDING SECTION 35-155 TO RENAME THE SECTION AND REVISE REGULATIONS PERTAINING TO ENFORCEMENT AND AMENDING SECTION 35-157 TO RENAME THE SECTION AND REVISE REGULATIONS PERTAINING TO THE RESTORATION OF IRRIGATION SYSTEM OR METER SERVICE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER OF THE CITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Fort Worth (“City”) seeks to provide for the health, safety, and welfare of its residents; and

WHEREAS, the City Council finds that conservation of water and protection of water supplies are in the best interest of the residents of the City of Fort Worth; and

WHEREAS, on December 4, 2007, the City Council adopted Ordinance 17901-12-2007 which imposed year-round watering and irrigation restrictions and provided for administrative remedies for certain violations; and

WHEREAS, on April 17, 2014, the City Council adopted Ordinance 21194-04-2014 which imposed permanent, year-round, twice per week watering and irrigation restrictions, and a variance procedure; and

WHEREAS, on April 23, 2024, the City Council adopted a water conservation plan through the adoption of Resolution No. 5943-04-2024; and

WHEREAS, the water conservation plan proposed a water usage goal of 150 gallons per capita per day by 2029 and 146 gallons per capita by 2034; and

WHEREAS, in an effort to increase water conservation efforts, staff recommends amending Chapter 35, Article VI “Lawns and Landscape Irrigation Conservation,” to clarify the process by which the City may impose administrative fees, and place locking devices on irrigation systems or meters; and

WHEREAS, in an effort to preserve the health, welfare, and safety of Fort Worth residents, the City desires to authorize the director of the Water Department to shut off water service to a

customer's irrigation system or meter when there is significant risk to the City's water supply or public health, or in situations causing unsafe conditions or excessive or continuous water loss that causes flooding, infrastructure damage, or waste; and

WHEREAS, to ensure compliance with the City's irrigation ordinance before removing a locking device from an irrigation system or meter, or restoring water service to a customer whose service was terminated due to a previous violation of the irrigation ordinance, the City desires to require verification that the conditions which led to the system lock out or service shut off have been remediated, and, if the Director of the Water Department determines necessary, perform additional inspections; and

WHEREAS, to recover the City's costs in locking out or shutting off water service to irrigation customers, the City desires to assess an administrative fee, when necessary; and

WHEREAS, securing future water supplies will require proving to state permitting agencies that existing water supplies are being used efficiently;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS THAT:

SECTION 1.

Chapter 35, "Water and Sewers," Article VI "Lawn and Landscape Irrigation Conservation," Section 35-155 "Administrative Fee," of the Code of the City of Fort Worth, Texas (2015), as amended, is hereby amended in its entirety to be and read as follows:

~~§ 35-155 ADMINISTRATIVE FEE~~

~~The director or the director's designee may assess an administrative fee, in addition to any criminal penalty assessed for a violation of this article as described below. Each day that a violation occurs shall constitute a separate violation.~~

~~(a) In-ground irrigation systems violations.~~

- ~~(1) The director may install a locking device on a double check valve to the irrigation system found to be operating in violation of this article and shall assess an administrative fee as approved by city council.~~
- ~~(2) Notice shall be left on the premises to advise the owner/operator that the double check valve to the irrigation system has been turned off.~~
- ~~(3) Notice shall also be sent by United States postal service to the person recorded as the city's water customer notifying that person that the irrigation system has been turned off and locked. The notice shall also state the amount of the assessed administrative fee and shall advise the person of the procedures for payment of the fees and the procedure to request a hearing to contest the assessment of the administrative remedy.~~

~~(b) *Violations for systems without double-check valves or in-ground irrigations systems.*~~

~~(1) The director shall leave notice on the premises to advise the owner/operator that the person was in violation of watering restrictions and may assess an administrative fee as approved by city council.~~

~~(2) Notice shall also be sent by United States postal service to the person recorded as the city's water customer notifying that person of the assessment of administrative fees and advising the person of the procedures for payment of the fees and the procedure to request a hearing to contest the assessment of the administrative remedy.~~

~~(c) *Locking device.* It shall be unlawful for any person to tamper with, cause damage to or remove a locking device placed on a check valve by the director or the director's representative.~~

§ 35-155 ENFORCEMENT

The director or the director's designee may enforce violations of this ordinance in his or her discretion. The director or the director's designee may assess administrative noncompliance fees, lock-out fees, and lock tampering fees in addition to any criminal penalty assessed for a violation of this article. Each day that a violation occurs shall constitute a separate violation.

(a) Except as provided in subsection (b), the director may:

(1) provide written warnings to customers;

(2) after providing a written warning, assess administrative noncompliance fees as approved by City Council for violations of this article;

(3) notify the responsible party, including, but not limited to, the owner or operator of the irrigation system, that the irrigation system may be locked-out if subsequent violations occur after the assessment of administrative noncompliance fees;

(4) place a locking mechanism on an irrigation system if continued violations occur after notifying the responsible party that their irrigation system may be locked-out; and

(5) terminate water service to irrigation systems found to be operating in violation of this article after a lock-out has occurred and service has been restored.

(b) *Immediate enforcement for egregious or hazardous conditions.*

The director or the director's designee may not order the immediate lock-out of an irrigation system for the first violation of this article unless it is necessary to prevent:

(1) Excessive or continuous water loss creating flooding or infrastructure damage;

(2) Unsafe or unsanitary conditions; or

(3) Any other condition determined by the director or the director's designee to pose a significant risk to public health, public safety, or the City's water supply.

Notice of the action taken and the reason for the immediate lock-out of an irrigation

system pursuant to this section shall be provided to the customer as soon as practicable.

(c) Irrigation System Lock-out

- (1) The director or the director's designee may install a locking device on a double check valve to the irrigation system, or at the meter for systems with a dedicated meter, found to be operating in violation of this article and may assess a lock-out fee as approved by the city council.
- (2) Notice of the lock-out shall be left on the premises to advise the individual responsible for the irrigation system.
- (3) Notice shall also be sent by United States postal service to the person identified as the city's water customer notifying that person that the irrigation system has been locked-out. The notice shall indicate the amount of the lock-out fee and the restoration fee. The notice shall provide the procedures for payment of the fees and the procedure to request a hearing to contest the assessment of the fees.
- (4) It shall be unlawful for any person to tamper with, cause damage to, or remove a locking device placed by the director or the director's designee on a double check valve or a meter.

(d) ~~Violations for systems without double-check valves or in-ground irrigation systems:~~

- ~~(1) The director shall leave notice on the premises to advise the individual(s) responsible for the irrigation system that the person was in violation of watering restrictions and may assess an administrative fee as approved by the city council.~~
- ~~(2) Notice shall also be sent by United States postal service to the person recorded as the city's water customer notifying that person of the assessment of the administrative fees and advising the person of the procedures for payment of the fees and the procedure to request a hearing to contest the assessment of the administrative remedy.~~

SECTION 2.

Chapter 35, "Water and Sewers," Article VI "Lawn and Landscape Irrigation Conservation," Section 35-157 "Re-Establishment of Service to Double Check Valves That Have Been Locked Off," of the Code of the City of Fort Worth, Texas (2015), as amended, is hereby retitled and amended to be and read as follows:

§ 35-157 RE-ESTABLISHMENT OF SERVICE TO DOUBLE CHECK VALVES THAT HAVE BEEN LOCKED OFF RE-ESTABLISHMENT OF SERVICE TO LOCKED OR SHUT OFF IRRIGATION SYSTEMS OR METERS

The locking device will be removed by the director or his or her designee within three working days after the customer provides payment and verification that the violation has

been remedied is received from customer. If the director or his or her designee reasonably determines additional inspections of the irrigation system or meter after service is restored are required to ensure compliance with this article, the account holder or individual responsible for the irrigation system or meter shall allow City staff to enter the premises to perform such inspections.

SECTION 3.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (2015), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 4.

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of Code of the City of Fort Worth which have accrued at the time of the effective date of this ordinance and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 5.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 6.

Any person, firm, or corporation, who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation exists shall constitute a separate offense.

SECTION 7.

The City Secretary of the City of Fort Worth, is hereby directed to publish the caption, penalty clause, and effective date of this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas as authorized by Section 52.013(a) of the Texas Local Government Code.

SECTION 8.

This ordinance shall take effect upon adoption and publication as required by law.

APPROVED AS TO FORM AND LEGALITY:

M. Kevin Anders, II
Assistant City Attorney

Jannette S. Goodall
City Secretary

ADOPTED: _____

EFFECTIVE: _____