

ORDINANCE NO. 1988

AN ORDINANCE AMENDING CHAPTER 26 OF THE CODE OF THE CITY OF HURST, TEXAS, ENTITLED, "UTILITIES", ARTICLE II "WATER AND SANITARY SEWERS", BY ADDING SECTIONS 26-46 THRU 26-48; SECTION 26-46 TO BE ENTITLED "LAWN AND LANDSCAPE IRRIGATION RESTRICTIONS"; SECTION 26-47 TO BE ENTITLED "RAIN SENSING DEVICES AND FREEZE GAUGES"; SECTION 26-48 TO BE ENTITLED "VARIANCES"; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council finds that conservation of water and protection of water supplies are in the best interest of its citizens; and

WHEREAS, on **November 8, 2005**, the City Council adopted a water conservation plan through the adoption of **Ordinance No. 1968**; and

WHEREAS, the Water Conservation Plan proposes a goal of reducing water usage considered to be non-essential and continuation of such uses during times of water shortage or when other emergency water supply conditions are deemed to constitute a waste of water; and

WHEREAS, the City Manager or designee is authorized and directed to implement the applicable provisions of the Water Conservation Plan upon determination that such implementation is necessary to protect public health, safety, and welfare.

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

Section 1: The Code of the City of Hurst, Texas, is hereby amended by adding sections, to be numbered Section 26-46 Thru 26-48, under Chapter 26, Article II, Division 2; is hereby further amended to read as follows:

Section 26-46. Lawn and Landscape Irrigation Restrictions.

- (a) Except for hand watering and the use of soaker hoses, a person commits an offense if that person irrigates, waters, or causes or permits 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. during the period from June 1 through September 30 of any year.
- (b) A person commits an offense if he knowingly or recklessly irrigates, waters, or causes or permits the irrigation or watering of a lawn or landscape located on premises owned, leased or managed by the person in a manner that causes:

- (1) a substantial amount of water to fall upon impervious areas instead of a lawn or landscape, such that a constant stream of water overflows from the lawn or landscape onto a street or other drainage area; or
 - (2) an irrigation system or other lawn or landscape watering device to operate during any form of precipitation.
- (c) A person commits an offense if, on premises owned, leased, or managed by that person, he operates a lawn or landscape irrigation system or device that:
- (1) has any broken or missing sprinkler head; or
 - (2) has not been properly maintained in a manner that prevents the waste of water.

Section 26-47. Rain Sensing Devices and Freeze Gauges.

- (a) Any commercial or industrial customer class irrigation system installed within the City on or after **August 1, 2006** must be equipped with rain and freeze sensors.
- (b) Any commercial or industrial customer class irrigation system installed before **August 1, 2006** may not be operated after June 1, 2007 without being equipped with rain and freeze sensors.
- (c) The potable water supply to lawn irrigation system shall be protected against backflow in accordance with the City's Backflow and Cross-connection Control Program, City Code Sections 26-44. **All rain and freeze sensors for commercial customer class lawn irrigation systems shall undergo annual inspection and testing concurrent with current City of Hurst requirements.**
- (d) Any residential customer class irrigation system installed within the City on or after **August 1, 2006** must be equipped with rain and freeze sensors.
- (e) It shall be unlawful for any person to knowingly or recklessly install, operate, or cause or permit the installation of or the operation of, an irrigation system in violation of subsections 26-47(a) through (d) on premises owned, leased, or managed by that person.

Section 26-48. Variances.

- (a) The City Manager or designee may grant variances from the provisions of Article II, Division 2 to persons demonstrating extreme hardship and need as determined by the City Manager or designee and only under the following conditions:
 - (1) The applicant must sign a compliance agreement on forms provided by the City Manager or designee, agreeing to irrigate or water a lawn or landscape only in the

amount and manner permitted by the variance.

- (2) Granting of a variance must not cause an immediate significant reduction in the City's water supply.
- (3) The extreme hardship or need requiring the variance must relate to the health, safety, or welfare of the person requesting it.
- (4) The health, safety or welfare of other persons must not be adversely affected by granting the variance.

(b) The City Manager or designee may revoke a variance granted when the determined that:

- (1) the conditions of subsection (a) are not being met or are no longer applicable;
- (2) the terms of the compliance agreement are being violated; or
- (3) the health, safety or welfare of other persons requires revocation.

Section 2: That all ordinances that are in conflict with the provisions of this Ordinance are, and the same are, hereby, repealed and all other ordinances of the City that are not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section 3: Should any paragraph, sentence, subdivision, clause, phrase, or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid the same shall not affect the validity of this Ordinance as a whole, or part, or any part or provision thereof, other than the part so declared to be invalid, illegal, or unconstitutional.

Section 4: 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 is permitted to exist shall constitute a separate offense.

Section 5: All rights and remedies of the City of Hurst, Texas, are expressly saved as to any and all violations of the provisions of the ordinances amended herein, 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 6: The Ordinance shall take effect immediately from and after its passage and the publication of caption and penalty clause, as the law in such cases provides.

AND IT IS SO ORDERED.

Passed on the first reading on the 27th day of June 2006, by a vote of 6 to -0-.

Passed on the second reading on the day of , 2006, by a vote of to .

CITY OF HURST

By: _____
Richard Ward, Mayor

ATTEST:

Rita Frick, City Secretary

APPROVED AS TO FORM AND LEGALITY:

City Attorney