

ORDINANCE NO. 2011-030

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, AMENDING TITLE V (PUBLIC WORKS), CHAPTER 51 (WATER CONSERVATION), OF THE CODE OF ORDINANCES IN ORDER TO PROHIBIT WATERING OF LAWNS OR LANDSCAPING OF ANY TYPE, PROVIDING FOR CERTAIN EXCEPTIONS TO SUCH PROHIBITION; AND PROVIDING FINDINGS OF FACT, A REPEALING CLAUSE, TO PROVIDE A SAVINGS AND SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the State of Texas is experiencing extreme and historic drought conditions; and,

WHEREAS, the Texas Drought Preparedness Council prepared a report in July 2011, finding the month was the third-driest July in Texas history; and,

WHEREAS, further, the water levels of areas rivers and creeks, including the Blanco River, continue to recede; and,

WHEREAS, the U.S. Drought Monitor finds that the majority of the State of Texas, including Hays County, is experiencing exceptional drought conditions; and,

WHEREAS, it is critical for the continued public health, safety and welfare of the community that all citizens in the City of Wimberley conserve water and reduce consumption for non-essential life functions; and,

WHEREAS, due to the severe drought conditions, the City Council has deemed it necessary to further reduce the potential effect of a water shortage on those who live, work and visit Wimberley, Texas; and,

WHEREAS, individual area water purveyors have instituted various stages of water conservation requirements on their specific customers; and,

WHEREAS, City Council of the City of Wimberley finds there is a need to adopt provisions that will apply to all users within the City limits regardless of their source of water supply to address the severe drought impact facing all citizens of the City; and,

WHEREAS, the City Council has adopted provisions that provide for the conservation of water; however, due to the severity of the drought and no foreseeable relief in sight, the Council finds the amendments to the regulations are the minimal needed to protect the public and are the least intrusive given the extreme environmental circumstances; and,

WHEREAS, the City is authorized to regulate the public health, safety and welfare of its citizens, and are a valid exercise of the City's broad police powers and based upon the City's

statutory regulatory authority, including but not limited to Texas Local Government Code chapters 51 and 52.

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

Section 1. Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Wimberley and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. Amendment.

A. THAT the City of Wimberley Code of Ordinances, Title V (Public Works), section 51.25 (Implementation of additional water use reduction measures, (“aquifer risk”)) is hereby amended to read as follows:

“§ 51.25 Implementation of additional water use reduction measures

- (A) Implementation of additional water use reduction measures may be imposed based on consideration of aquifer water quality or on other aquifer, seasonal or weather conditions.
- (B) Whenever the aquifer quality measures thirty percent (30%) TDS above the historical average and above the maximum TDS value for any public supply water well, the City Council, may declare additional measures to protect the aquifer as necessary.
- (C) Regardless of consideration of aquifer quality, if the City Council determines environmental or other conditions merit additional restrictions for all water uses, the Council may impose the following water use regulations:
 - (1) Irrigation of landscaped areas shall be limited to Sundays and Thursdays for customers with street addresses ending in an even number (0, 2, 4, 6, or 8) and Saturdays and Wednesdays for customers with street addresses ending in odd numbers (1, 3, 5, 7, 9) between the hours of 6:00 AM and 9:00 AM and between 8:00 PM and 11:00 PM and **shall be by means of hand-held hoses with a positive shut off nozzle, hand-held buckets, or drip or soaker hose irrigation. THE USE OF HOSE-END SPRINKLERS OR PERMANENTLY INSTALLED AUTOMATIC SPRINKLER SYSTEMS ARE PROHIBITED AT ALL TIMES.** This section shall not apply to aerobic septic sprinklers that are in proper working order.

(2) With the exception of commercial car washes, use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited.

(3) Use of water to fill, refill, or add to any indoor and outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited.

(4) Use of water from hydrants shall be limited to fire fighting, related activities, or other activities necessary to maintain public health, safety, and welfare.

(5) All restaurants are prohibited from providing water to patrons except upon request of the patron.

(6) The following uses of water are defined as **NON-ESSENTIAL AND PROHIBITED**:

a. Wash down of any sidewalks, walkways, driveways, parking lots, tennis courts or other hard-surfaced areas with the exception of wash downs required for the purpose of public safety

b. Use of water to wash down buildings or structures for purposes other than immediate fire protection

c. Use of water for dust control

d. Flushing gutters or permitting water to run or accumulate in any gutter or street

e. Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s)

(D) In the event of a conflict between Chapter 51 (Water Conservation) and the foregoing restrictions, the stricter provision shall apply. All other regulations in Chapter 51 that are not affected by the water restrictions listed above shall remain in full force and effect. Failure to abide by the restrictions listed above and regulations in Chapter 51 shall subject the violator to the penalty provisions in section 51.33 of the Wimberley Code of Ordinances.

(E) Additional restrictions. The City Council may impose additional restrictions other than those listed in this section based upon the specific circumstances at the time of implementation.

(F) Duration. The additional restrictions imposed by this Ordinance shall be in effect for an initial period of ninety (90) days from the date of approval of this Ordinance. Prior to the expiration of the ninety (90) days, the City Council shall

determine if conditions necessitate the modification and/or continuation of these additional restrictions. A simple majority vote of City Council amending this Ordinance shall be required to modify or continue these requirements. City staff shall have all authority to enforce and regulate such restrictions.

B. THAT the City of Wimberley Code of Ordinances, Title V (Public Works), section 51.21 (Xeriscape Option) is hereby amended to read as follows:

“§ 51.21 Xeriscape Requirement

From the date of approval of this ordinance, all landscaping installed in conjunction with new residential and commercial construction shall utilize drought tolerant plants chosen from a City approved list of drought tolerant plants.

C. THAT the City of Wimberley Code of Ordinances, Title V (Public Works), section 51.22 (Model Home Xeriscape) is hereby deleted in its entirety.

Section 3. Except as expressly amended herein, the Wimberley Code of Ordinances shall remain in full force and effect.

Section 4. All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed, but only to the extent of any such conflict.

Section 5. Should any sentence, paragraph, 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 any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Ordinances as a whole.

Section 6. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

Section 7. Open Meetings. That it is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meeting Act, Capt. 551, Loc. Gov't. Code.

PASSED AND APPROVED this 20th day of October, 2011, by a vote of 3 (Ayes) to 2 (Nays) 0 (Abstain) vote of the City Council of the City of Wimberley, Texas.

CITY OF WIMBERLEY, TEXAS

Bob Floche

Bob Floche, Mayor

ATTEST:

Cara McPartland

Cara McPartland, City Secretary

APPROVED AS TO FORM:

C. Crosby

C. Crosby, City Attorney

