

ORDINANCE NO. 861-08-06

AN ORDINANCE AMENDING CHAPTER 11, ARTICLE 11.1900, OF THE CITY OF HONDO, CODE OF ORDINANCES, AND ADOPTING WATER CONSERVATION AND WATER USE REDUCTION MEASURES; PROVIDING A SEVERABILITY CLAUSE.

WHEREAS, the City of Hondo is committed to the protection and conservation of the Edwards Aquifer as a unique natural resource; and

WHEREAS, the City Council of the City of Hondo desires to amend Chapter 11, Article 11.1900 of the City of Hondo, Code of Ordinances, to adopt water conservation measures and certain water use reduction measures;

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

SECTION 1. The City of Hondo, Code of Ordinances, Chapter 11, Article 11.1900, Critical Period Management Rules for Water Conservation, is hereby amended as set forth in the appended text, Exhibit "A," fully incorporated herein verbatim for all purposes.

SECTION 2. If, for any reason, any section, sentence, clause or part of this ordinance is held legally invalid, such judgment shall not prejudice, affect, impair or invalidate the remaining sections of this ordinance, but shall be confined to the specific section, sentence, clause, or part of this ordinance held legally invalid.

PASSED AND APPROVED this 5th day of September, 2006.

/s/ James W. Danner
JAMES W. DANNER, MAYOR

ATTEST:

/s/ Beatrice Cervantez
Beatrice Cervantez, City Secretary

EXHIBIT A

ARTICLE 11.1900 WATER CONSERVATION RULES

Sec. 11.1901 Definitions

The following terms shall have the following meanings:

- 1) Automatic Irrigation Controllers: A device that automatically activates and deactivates an irrigation system at times selected by the operator.
- 2) Commercial dining facility: A business that serves prepared food and beverages to be consumed on the premises.
- 3) Drip irrigation: An irrigation system (drip, porous pipe, etc.) that applies water at low-flow levels directly to the roots of the plant.
- 4) Hose-end sprinkler: A sprinkler that applies water to landscape plants that is piped through a flexible, movable hose.
- 5) Impervious surface: Patios, pathways and other areas where firm footing is desired, constructed in such a way that does not allow water to penetrate the ground. Examples include but are not limited to concrete slab patios, sidewalks and driveways, asphalt streets or pavers set with mortar.
- 6) Irrigation system: A system with fixed pipes and emitters or heads that apply water to landscape plants or grass, including, but not limited to, in-ground and permanent irrigation systems.
- 7) Irrigation system analysis: A zone-by-zone analysis of an irrigation system that, at a minimum, includes a review of the following elements: (1) design appropriateness for current landscape requirements, (2) irrigation spray heads and valves, (3) precipitation rates expressed in inches per hour and, (4) annual maintenance plan that includes irrigation system maintenance, landscape maintenance, and a basic summer and winter irrigation scheduling plan.
- 8) Landscape watering: The application of water to grow or maintain landscaping plants, such as flowers, ground covers, turf or grasses (other than golf courses or athletic fields), shrubs, and trees.
- 9) New landscaping plant: Any plant or seed planted in or transplanted to an area within such period of time as to accomplish a reasonable establishment and maintenance of growth. Application of grass seed to an existing stand of grass or turf is not considered new landscaping for the purposes of this article.

10) Pervious hardscape: Patios, pathways and other areas where firm footing is desired, constructed in such a way that allows for water to penetrate the ground.

11) Rain sensor: A device designed to stop the flow of water to an automatic irrigation system when rainfall has been detected.

12) Summer Dormancy: The ability of turfgrass to survive without water for a period of sixty (60) consecutive days during the months of May through September.

13) Turfgrass: Perennial ground cover plants and grasses that are adapted to regular mowing and traffic through management.

14) Waste: Waste shall be defined to include, but not be limited to the following:

(a) The flowing or producing of groundwater from wells in the Edwards Aquifer if the water flowing or produced is not used for a beneficial use by any user;

(b) The unreasonable loss of groundwater through faulty design or negligent operation of a well or water delivery or application system; or

(c) Using quantities of groundwater for a purpose that otherwise would be considered beneficial in excess of quantities reasonably necessary for that purpose;

(d) Causing, suffering, or permitting a flow of water used for landscape watering to run into any river, creek or other natural water course or drain, superficial or underground channel, bayou, or onto any sanitary or storm sewer, any street, road or highway or other impervious surface area, or upon the lands of another person or upon public lands;

(e) Any discharge of water used for commercial, industrial, municipal or domestic purposes to any storm, sanitary sewer, or septic system without the user first having obtained maximum beneficial use thereof;

(f) Failure to repair any controllable leak on property owned by any registered meter holder.

15) Water Use Reduction Measures : The measures set forth in 11.19401 of this article. Water Use Reduction Measures, unless otherwise specified, shall apply to industrial, commercial and household users of water.

16) Xeriscape: A landscape consisting of a maximum of fifty (50) percent turfgrass, with the remaining percentage of landscape incorporating low water use plants and/or pervious hardscape.

17) Zonal irrigation system: An irrigation system which segregates by station areas of shrubs, ground cover, bedding plants, and turf to accommodate a diversity of watering requirements.

Sec. 11.1901.1 Effective Date of Regulations

The activities set forth in the provisions of this Article, unless otherwise specified, shall be regulated on and after September 15, 2006. A person affected by such regulations may request a variance in the manner set out in Section 11.1907 of this Article.

Sec. 11.1901.2 Regulation of Golf Courses and Athletic Fields

(a) An owner or operator of a golf course or an athletic field who files with the city manager a conservation and reuse plan which plan has been approved by the Director of Public Works may apply groundwater to the filed in accordance with this section. Golf courses and athletic fields that are not covered by an approved conservation and reuse plan must comply with all maximum allowable and specific restrictions provided in these rules.

(b) A conservation and reuse plan for golf courses and athletic fields must contain the following information:

- (1) the name, title, address, and telephone number of the owner or operator of the golf course or athletic field;
- (2) the name, title, address, and telephone number of the persons responsible for the watering of the course/field;
- (3) whether the field is public or private, and the population served by the field;
- (4) the location, dimension, type of athletic field, and type of turf;
- (5) a description of the water delivery system used and how and when it is used;
- (6) a description of management practices relating to watering the field or course that are employed to control the amount of water applied to the field or course;
- (7) a description of any turf areas that are not essential to the functioning of the field or course that are or could be watered in accordance with the specific restrictions on landscape watering contained in these rules;
- (8) a statement of what the owner or operator believes is a minimum amount of water and a minimum watering regimen during critical periods that applies only the amount of water necessary to maintain the viability of the turf without creating a safety hazard to users of the field or course;
- (9) a statement of the cost-effectiveness of utilizing a computer-controlled irrigation system (CCIS) to minimize water use for the athletic field or course;
- (10) a statement of any actions or plans to obtain alternative water supplies such as reuse water, and if applicable a copy of any letter of commitment from a water purveyor regarding supplying such water to the field or course;
- (11) any other information required by the Director of Public Works.

(c) Municipal tenants and lessees of golf courses, sports and athletic playing fields shall be responsible for compliance with this section and subsection. The Director of Public Works shall look directly to such tenants and lessees for compliance unless the City of Hondo concedes by contractual agreement with the tenant/lessee to assume the tenant/lessee's responsibility for compliance. Golf courses and athletic fields owned and operated by the City of Hondo shall not be required to submit a conservation and reuse plan.

Sec. 11.1901.3 Rain Sensor Requirement

Rain sensors shall be installed and maintained on all irrigation systems equipped with automatic irrigation controllers installed after January 1, 2007.

Sec. 11.1901.4 Landscaping Regulations

Except as specifically provided by alternative effective dates approved by the City of Hondo, persons affected by the regulations set out below shall comply on and after January 1, 2007 and may request a variance to such regulations in the manner set out in section 11.1908. It shall be and is hereby declared unlawful for any person to violate, refuse or fail to implement the requirements of this section.

(1) Xeriscape option. Effective January 1, 2007, homebuilders and/or developers subdividing lots and/or constructing new single family residential homes shall offer a xeriscape option in any series of landscaping options offered to prospective home buyers.

(2) Model. Effective January 1, 2007, homebuilders and/or developers who construct model homes for a designated subdivision shall have at least one model home per subdivision landscaped according to xeriscape design.

(3) Zonal system. In-ground irrigation systems installed on and after January 1, 2007 shall be zonal irrigation systems.

(4) Turfgrass soil support.

a. Turfgrass installed during or associated with new construction on and after January 1, 2007 shall have a minimum of four (4) inches of soil under the turfgrass.

b. Drainage utility projects, water and power utility projects, public property maintenance or repair, and those governmental actions to comply with the Americans with Disabilities Act, shall not be deemed new construction for purposes of this subsection.

(5) Turfgrass dormancy qualities. Turfgrass installed after January 1, 2007 shall have summer dormancy capabilities.

Sec. 11.1902 Reserved.

Sec. 11.1903 Water Waste

It shall be unlawful for any person connected to the municipal water system of the City of Hondo to waste water, including allowing irrigation tailwater or water from vehicle washing at a residence to escape from that person's property in sufficient quantities that the water pools on or flows over an impervious surface. Use of water should be planned and carried out in such a manner so as to obtain the maximum degree of beneficial use.

Sec. 11.1904 Public Awareness of Impending Restrictions

When the aquifer falls to 655 msl as measured at well J-17, the Director of Public Works shall begin preparations for public awareness, education and enforcement of the respective stage provisions, as set out in 11.1905.1 below. Appropriate public awareness, education and enforcement method(s) of the impending measures shall be as determined by the Director of Public Works.

Sec. 11.1905 Emergency Water Use Reduction

(a) Declaration of Emergency Stages. The City Manager shall determine when conditions warrant implementation of the Water Use Reduction Measures set forth in this article. The City Manager, or his/her designee is hereby authorized and directed to implement the applicable Water Use Reduction Measures of this article upon determination that (1) such implementation is necessary to protect the public health, safety, and welfare, or (2) when the Edwards Aquifer reaches the following sea level at the monitored well as determined by the Edwards Aquifer Authority or as otherwise required by the Edwards Aquifer Authority:

- (1) Stage 1 = 650 feet
- (2) Stage 2 = 640 feet
- (3) Stage 3 = 630 feet
- (4) Stage 4 = 627 feet (When the level for Stage 4 is reached, the City Council shall convene an emergency session within 48 hours of reaching the Stage 4 level to consider emergency rules to further restrict uses of water or other appropriate action.)

(b) Public Issuance of Drought Stage Declaration. The declaration of the various stages provided for by subsection (a) of this section shall be publicly issued by the City Manager or his/her designee. Such declaration shall be published a minimum of one (1) time in the Hondo Anvil Herald.

(c) Restricting the Use of Water

(1) Upon the declaration of a critical use stage by the City Manager, compliance with the Water Use Reduction Measures set forth in section 11.1905.1 shall be required and compliance with the voluntary measures shall be encouraged.

(2) Critical Period Surcharges may be imposed by the city as an additional measure to aid in achieving pumping restriction goals.

(d) End of Water Use Reduction Measures.

(1) When the aquifer level at J-17 rises to 650 feet msl during a period when the Water Use Reduction Measures have been declared in effect, the Water Use Reduction Measures and/or each stage may be terminated or changed at the discretion of the City Manager after monitoring the consistency of aquifer levels for at least 30 days to determine if conditions warrant termination of the Water Use Reduction Measures.

(2) Notice of the termination of the Water Use Reduction Measures and each of its various stages, as appropriate, shall be publicly announced and published in the Hondo Anvil Herald for a minimum of one issue. Termination of the measures and each of its stages shall become effective immediately upon publication of the respective notice.

Sec. 11.1905.1 Water Use Reduction Measures

(1) Irrigation Restrictions

During any period when stages 1, 2 or 3 have been declared to be in effect, irrigation with a sprinkler or irrigation system of existing landscape on any property (other than golf courses, parks and athletic fields for which a conservation and reuse plan has been approved) may occur only on the designated days and times as follows:

(a) For stage 1, the landscape and irrigation days for residential and commercial properties will be permitted according to the street address and according to the following schedule:

Odd Street Address: Watering is permitted on Sunday, Tuesday and Thursday
(Last number ending in
1, 3, 5, 7 or 9)

Even Street Address: Watering is permitted on Monday, Wednesday and Friday
(Last number ending in
0, 2, 4, 6 or 8)

No watering on Saturday with hose-end sprinkler or in-ground irrigation system.

(b) For Stage 1 the following times and associated irrigation methods apply:

(1) Irrigation with a hose-end sprinkler or in-ground irrigation system is allowed on the day specified in subsection (a) between 12 a.m. to 10 a.m. and 8 p.m. to midnight. Landscape irrigation with a soaker hose, handheld hose, drip irrigation system or five (5) gallon bucket is allowed at any time on any day.

For stages 2 and 3, the landscape irrigation days for residential and commercial properties will be permitted according to the street address and according to the following schedule; if the last digit of the address ends in:

0 or 1 the irrigation day is Monday,

2 or 3 the irrigation day is Tuesday,

4 or 5 the irrigation day is Wednesday,

6 or 7 the irrigation day is Thursday,

8 or 9 the irrigation day is Friday.

If there is no street address associated with the property such as a parkway or if there is more than one street address associated with a single contiguous property the irrigation day is Wednesday.

(c) For Stage 2 the following times and associated irrigation methods apply:

(1) Irrigation with a soaker hose, hose-end sprinkler or in-ground irrigation system is allowed on the day specified in subsection (a) between 3 a.m. and 8 a.m. and 8 p.m. to 10 p.m. Landscape irrigation with a handheld hose, drip irrigation system or five (5) gallon bucket is allowed between 3 a.m. to 8 a.m. and 8 p.m. to 10 p.m. on any day.

(d) For Stage 3 the following times and associated irrigation methods apply:

(1) Irrigation with a soaker hose, hose-end sprinkler or in-ground irrigation system is allowed on the day specified in subsection (a) every other week beginning on the Monday after the Stage 3 has been declared, between the hours of 3 a.m. to 8 a.m. and 8 p.m. to 10 p.m. Landscape irrigation with a handheld hose, drip irrigation system or five (5) gallon bucket is allowed on every Tuesday, Thursday and Saturday between 3 a.m. to 8 a.m. and 8 p.m. to 10 p.m.

(e) The use of gray water, treated wastewater or recycled water is a defense to prosecution for a violation of this section.

(f) For Stages 1-3, landscape watering shall be permitted to maintain adequate growth until established for New Landscaping Plants which shall generally be three (3) weeks. Property owners are encouraged to submit by mail, facsimile or e-mail, to the Director of Public Works, their name, address where the new landscape is to be installed

and the date of installation in order to receive a confirmation letter from the Director of Public Works. After the period allowed by this subsection (f) for adequate growth, landscape watering shall be permitted as provided for in subsections (a) through (d) above.

(2) Vehicle Washing

(a) During Stages 1-3, vehicle washing at home is limited to designated landscape sprinkling watering days and times. Residents are encouraged to not wash their cars more than twice a month for months in which Stages 1, 2 or 3 have been declared.

(b) Vehicle washing at a commercial facility is permitted any day.

(3) Swimming Pools

(a) During Stages 1-3, all swimming pools other than public swimming pools must be covered with an effective evaporation cover or screen or evaporation shields covering at least 25% of the surface of the pool when the pool is not in active use. Active use includes necessary maintenance that requires removal of the cover, screen or shields. Active use of public, commercial and apartment pools is whenever the pool is not officially closed.

(b) During Stages 2-3 the filling of all new and existing swimming pools is prohibited unless at least 30 % of water used to fill the pool is obtained from a source other than the Edwards Aquifer. Replenishing to maintenance level is permitted. Groundwater may be used to replenish swimming pools to maintenance level. Drainage of swimming pools is permitted only on to a pervious surface, or onto a pool deck where the water is transmitted directly to a pervious surface, only if necessary to:

- (i) Remove excess water from the pool due to rain in order to lower the water to the maintenance level;
- (ii) Repair, maintain, or replace a pool component which had become hazardous; or
- (iii) Repair a pool leak.

(4) General Restrictions

(a) Essential and Emergency Services.

There shall be no restrictions on fire-fighting, medical uses or any essential municipal uses of water. Voluntary water conservation measures are strongly encouraged.

(b) Agricultural.

Reduction of water use by any means available is encouraged during Stage 1. During Stages 2 and 3, the escape of irrigation tailwater and water loss through

percolation in transmission canals is prohibited. The City Council may impose additional reductions if conditions warrant during Stage 3.

(c) Livestock

Reduction of water use by any means available is encouraged during Stages 1-3.

(d) Ornamental Outdoor Devices

No person may use groundwater for an ornamental outdoor fountain or similar feature in Stages 1-3, unless the water is recycled and the only additional groundwater used for the feature is compensate for evaporative losses.

(e) Washing of Impervious Surfaces

No person may use groundwater to wash in impervious outdoor ground covering such as a parking lot, driveway, street, or sidewalk unless for health or safety reasons.

(5) Public Health or Safety

Notwithstanding any provisions of these rules, groundwater may be used when and to the extent it is necessary to prevent danger to public health, safety, or welfare, or to the extent required by state or federal law.

Sec. 11.1906 Penalties

(a) A person who violates the provisions of this chapter shall be deemed guilty of a misdemeanor offense and upon conviction be punished by a fine as provided for in the general penalty provision found in Section 1.106 of this code.

(b) Any violation and conviction under this section is provided in addition to any other penalties under this article.

Sec. 11.1907 Enforcement

Citizens are encouraged to call City Hall to report violations of this article. The city manager and/or his designee is granted the authority to enforce this article in the manner and to the extent allowed by law, including the filing of complaints with the municipal prosecutor's office of violations. The city manager may undertake any other enforcement and/or education initiatives as the city manager deems appropriate or necessary to achieve compliance with the article.

Sec. 11.1908 Variances

(a) Request for Variance.

(i) A person may file a written request for a variance from these rules with the city council's designated representative for variances to this article. The request must contain the following information:

(A) the specific nature of the variance requested;

(B) a detailed explanation of why the person believes he/she should be granted the variance, including any supporting documentation;

(C) a signed statement that the facts contained in the request are true and with the person's personal knowledge.

(ii) The mayor, or his/her designated representative, may request the person to provide additional information, which must be filed within ten (10) days of the request or as otherwise directed in the request. Failure to timely submit additional information as requested shall constitute a withdrawal of the variance request.

(b) When Variances May be Granted.

(i) the variance is necessary to avoid an unusual, direct, and substantial hardship;

(ii) there are no other reasonably available means for avoiding the hardship without a variance;

(iii) granting the variance is consistent with the goals of this article; and

(iv) granting the variance will not cause significant harm to any other person or group of persons or result in the city being in violation of regulatory requirements.

(c) Terms and Conditions of Variance.

(i) The city council may grant a variance for such a term and in accordance with any conditions the city council, or the city council's designated representative, deem appropriate.

(ii) It is a term of every variance granted by the city council that the variance may be rescinded based on changed circumstances, new information, or failure of the holder of the variance to abide by the terms and conditions of the variance or to comply with these rules or any other order or rule of the city council.

(iii) The city council, or the city council's designated representative, may require a person granted a variance to file reports with the city manager containing such information as the city council believes relevant to monitoring the continuing appropriateness of the variance.

Sec. 11.1909 Severability

If, for any reason, any section, sentence, clause or part of this article is held legally invalid, such judgment shall not prejudice, affect, impair or invalidate the remaining sections of this article, but shall be confined to the specific section, sentence, clause, or part of this article held legally invalid.