

TOWN OF ADDISON, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING THE CODE OF ORDINANCES, APPENDIX A – ZONING, ARTICLE XXI BY ADDING LANDSCAPING REGULATIONS RELATED TO RAIN SHUT-OFF DEVICES FOR IRRIGATION SYSTEMS AND GRANTING ENFORCEMENT AUTHORITY TO THE DIRECTOR OF THE PARKS DEPARTMENT; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Addison, Texas (the “City”) is a home rule municipality having full power of local self-government pursuant to Article 11, Section 5 of the Texas Constitution and its Home Rule Charter; and

WHEREAS, the Texas Commission of Environmental Quality promulgated regulations related to irrigation systems installed throughout the State of Texas; and

WHEREAS, the Texas Administrative Code requires all irrigators, installers, irrigation technicians, and inspectors to conform to the current adopted rules of the State of Texas and any local rules that do not conflict with the State’s rules, or that are more stringent than the State rules; and

WHEREAS, installation of water conservation technology in irrigation systems preserves a finite resource and allows the City to plan for efficient use of water resources; and

WHEREAS, irrigations systems that operate during freezing temperatures create a hazard to the public by icing roads and sidewalks; and

WHEREAS, the City Council, acting pursuant to law, deems it advisable to adopt regulations requiring the installation of rain, moisture, and freeze shut-off devises on irrigations systems and determines that such devices can efficiently be installed on existing irrigations systems when repairs or maintenance occur;

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

Section 1. The Code of Ordinances (the “Code”) of the Town of Addison, Texas Appendix A (Zoning), Article XXI (Landscaping Regulations), Section 10 (Landscape Maintenance) of the Code is hereby amended to add a new Subsection (C) which shall read in its entirety as follows:

(C) Rain, Moisture, and Freeze Shut-Off Devices

- (1) All automatically controlled irrigation systems required to be installed by a Landscape or Irrigation Plan must include rain, moisture, and freeze shut-off devices and sensors or other technology designed to inhibit or interrupt operation of the irrigation system during periods of moisture, rainfall, or freezing temperatures. Following adoption of this ordinance, all properties identified in Subsection 10(C)(3) where a new certificate of occupancy is requested will be required to submit a letter from a licensed irrigator that the irrigation system complies with the provisions of this ordinance and includes an operational sensor or other technology designed to inhibit or interrupt operation of the irrigation system during periods of freezing weather and moisture or rainfall. Repairs to existing automatic irrigation systems on all properties identified in Subsection 10(C)(3) that require replacement of an existing controller must include an operational sensor or other technology designed to inhibit or interrupt operation of the irrigation system during periods of freezing weather and moisture or rainfall.

(2) It shall be unlawful to permit or allow any irrigation system to spray water over surfaces made of concrete, asphalt, brick, wood, stones set in mortar, or any other impervious material such as, but not limited to, walls, fences sidewalks, and streets. Irrigation systems adjacent to any street, sidewalk, alley, highway or parking lot shall not operate so as to cause damage to other property or to interfere with the free movement of any vehicle or pedestrian.

(3) This Subsection applies to all property within the city limits of the Town of Addison.

Section 2. The Code of Ordinances (the “Code”) of the Town of Addison, Texas Appendix A (Zoning), Article XXI (Landscaping Regulations), Section 11 (Enforcement) is hereby amended to read in its entirety as follows:

Section 11. - Enforcement.

(A) The provisions of this Article may be enforced against any property owner or property manager or tenant or person or entity in possession of the property for violation of the provisions contained herein. In addition to the issuance of a citation as provided in subsection (B) below which does not require notice, following continued violation after ten days’ written notice of the violation to any of the responsible parties identified above, the Town shall have the right to:

- (1) Revoke any building permits, certificates of occupancy, or other approvals or permits previously issued for the premises.
- (2) Withhold approval for building permits, certificates of occupancy, and other permits or approvals relating to the premises.

- (3) Enter onto the premises and perform care and maintenance. The property owner and tenants of any part of the premises on which such work is performed shall jointly and severally be liable for the costs of such work and shall promptly reimburse the town for such costs. If such property owner or tenant shall fail to reimburse the town within 30 days after receipt of a statement for such work from the town, the said indebtedness shall be a debt of all of said persons jointly and severally, and shall constitute a lien against the premises on which the work was performed. The lien may be evidenced by an affidavit of costs filed in the real property records.

(B) Any person that violates any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not to exceed \$2,000.00 and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

- (C) Enforcement of this Article shall be the responsibility of the Building Official, code enforcement officer, police officer or other designee of the City Manager. It shall be unlawful for any person to interfere or prevent authorized enforcement personnel in the performance of their duties.

Section 3. Recitals. The above and foregoing recitals are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 4. Savings; Repealer. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance. Provided, however, that the repeal of such ordinances or parts of such ordinances and the amendments and changes made by this Ordinance, shall not affect any right, property or claim which was or is vested in the City, or any act done, or right accruing or accrued, or established, or any suit, action or proceeding had or commenced before the time when this Ordinance shall take effect; nor shall said repeals, amendments or changes affect any offense committed, or an penalty or forfeiture incurred, or any suit or prosecution pending at the time when this Ordinance shall take effect under any of the ordinances or sections thereof so repealed, amended or changed; and to that extent and for that purpose the provisions of such ordinances or parts of such ordinances shall be deemed to remain and continue in full force and effect.

Section 5. Severability. The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstances 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 that it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 6. Penalty. Any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense and each and every such day such offense shall continue shall be deemed to constitute a separate offense.

Section 7. Effective Date. This Ordinance shall take from and after its adoption and publication as required by law.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the _____ day of _____, 2015.

Todd Meier, Mayor
Town of Addison, Texas

ATTEST:

Laura Bell, City Secretary

APPROVED AS TO FORM:

Brenda N. McDonald, City Attorney