

**ORDINANCE NO. 2006-00123**

AN ORDINANCE AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF LUBBOCK, TEXAS, WITH REGARD TO LANDSCAPING IRRIGATION SYSTEMS AND OPERATION OF IRRIGATION SYSTEMS OR DEVICES; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council of the City of Lubbock, Texas deems it in the best interest of the health, safety, and welfare of the citizens of Lubbock to make the following amendments to Chapter 28 of the Code of Ordinances of the City of Lubbock, Texas, with regard to landscaping irrigation systems, and operation of irrigation systems or devices; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

SECTION 1. THAT Section 28-44 of the Code of Ordinances, City of Lubbock, Texas, is hereby amended to read as follows:

Sec. 28-44. Landscaping Irrigation Systems

*The provisions 28-44(a), (b), (c), and (d) set forth below shall be applicable to landscape irrigation systems installed pursuant to a permit prescribed by Article III of Chapter 6, Code of Ordinances, issued after May 1, 2004 and before October 1, 2006.*

(a) Any landscape irrigation system installed pursuant to a permit prescribed by Article III of Chapter 6 of the Code of Ordinances, City of Lubbock, Texas, issued on or after May 1, 2004, shall be designed and installed in a manner that prevents the following:

- (1) System operation during periods of weather, as described in 28-44(d), or in a manner to create a hazard to vehicular or pedestrian traffic;
- (2) Use of spray or rotary sprinkler heads within landscaped areas of 4 feet in width or less, when adjacent to public rights-of-way, or impervious areas that drain to public rights-of-way; and
- (3) System operation outside of the manufacturer's recommended pressure range.
- (4) Intentional sprinkler head/emitter discharge or overspray onto non-landscaped or non-turf areas, including without limitation, public streets, alleys or other impervious areas that drain onto public streets or alleys.

(b) A landscape irrigation system designed and installed by a Licensed Irrigator in accordance with the criteria set forth in this section shall be deemed to be in compliance with subparagraph (a) of this section if said Licensed Irrigator certifies in writing to the city water department that the landscape irrigation system has been designed and installed in accordance with subparagraph (a) of this section. This certification shall be provided to the city water department at the time of requesting final inspection of the system.

(c) Automatic irrigation systems shall:

- (1) Be maintained in compliance with the provisions of this section; and
- (2) Be rendered inoperative by or at the direction of the irrigation system owner or operator pending repairs if damaged in a manner that results in leakage or excessive discharge of water from broken components.

(d) Any person installing automatic sprinkler systems in or on property, other than those listed below, pursuant to a permit to install the irrigation system prescribed by Article III of Chapter 6 of the Code of Ordinances, City of Lubbock, Texas issued on or after May 1, 2004, shall purchase and install separate water meters for irrigation purposes only. Said meter shall not provide water for any other use and shall include a normally closed master valve. The irrigation system shall include a freeze sensor rendering irrigation inoperative at 35 degrees Fahrenheit or higher and shall include rain sensors set to render the irrigation system inoperative at ¼ inch of moisture or more. This subparagraph (d) of this section shall not apply to the following types of properties:

- (1) Properties legally zoned as “R-1” Single Family District, as described in Section 29-7 of the Code of Ordinances, City of Lubbock, Texas;
- (2) Properties legally zoned as “R-1, Specific Use” Single Family District, as described in Section 29-24(c)(1)a. and Section 29-24(c)(2) of the Code of Ordinances, City of Lubbock, Texas;
- (3) Properties legally zoned as “R-2” Two-Family District, as described in Section 29-8 of the Code of Ordinances, City of Lubbock, Texas; or
- (4) Properties legally zoned as “RE” Residential Estates District, as described in Section 29-24(c)(3) of the Code of Ordinances, City of Lubbock, Texas.

*The provisions 28-44(a), (b), (c), and (d) set forth below shall be applicable to landscape irrigation systems installed pursuant to a permit prescribed by Article III of Chapter 6, Code of Ordinances, issued after October 1, 2006.*

(a) Any landscape irrigation system installed pursuant to a permit prescribed by Article III of Chapter 6 of the Code of Ordinances, City of Lubbock, Texas, issued on or after October 1, 2006, shall be designed and installed in a manner that prevents the following:

- (1) System operation during periods of weather, as described in 28-44(c) (3) and (4), or in a manner to create a hazard to vehicular or pedestrian traffic;
- (2) Use of spray, strip or rotary sprinkler heads within landscaped areas of 4 feet in width or less, when adjacent to public rights-of-way, or impervious areas that drain to public rights-of-way;
- (3) System operation outside of the manufacturer’s recommended pressure range;
- (4) Intentional sprinkler head/emitter discharge or overspray onto non-landscaped or non-turf areas, including without limitation, public streets, alleys or other impervious areas that drain onto public streets or alleys;
- (5) Use of spray, strip or rotary sprinkler heads installed in alleys; and
- (6) Significant water runoff.

(b) Any landscape irrigation system shall be designed and installed by a Licensed Irrigator in accordance with the criteria set forth in this section and shall be inspected and approved by the City, by and through the Water Utilities Water Conservation and Education Department, or other department of the City as designated by the City Manager, prior to the operation of the system. Plans for irrigation systems to be installed in or on all property, excepting those described in Section 28-44(d)(1)-(4), shall be submitted to the City, by and through the Water Utilities Water Conservation and Education Department, prior to the beginning of construction.

(c) Automatic irrigation systems shall:

- (1) Be maintained in compliance with the provisions of this section;
- (2) Be rendered inoperative by or at the direction of the irrigation system owner or operator pending repairs if damaged in a manner that results in leakage or excessive discharge of water from broken components;
- (3) Include rain sensors to be installed and maintained on all irrigation systems equipped with automatic irrigation controllers and set to render the irrigation system inoperative at ¼ inch of moisture or more;
- (4) Include freeze sensors to be installed and maintained on all irrigation systems equipped with automatic irrigation controllers, which will render the system inoperative at 35 degrees Fahrenheit or higher;

- (5) Be designed so that spray or rotary heads are at least four (4) inches inside from any curbing, sidewalk, fencing, or building;
  - (6) Be designed so that heads spray only towards pervious surface or landscaped area;
  - (7) Be designed to include a zonal irrigation system; and
  - (8) Be designed to include a master valve.
- (d) Any person installing automatic sprinkler systems in or on property, other than those listed below, pursuant to a permit to install the irrigation system prescribed by Article III of Chapter 6 of the Code of Ordinances, City of Lubbock, Texas issued on or after October 1, 2006, shall purchase and install separate water meters for irrigation purposes only. Said meter shall not provide water for any other use and shall include a normally closed master valve. This subparagraph (d) of this section shall not apply to the following types of properties:
- (1) Properties legally zoned as “R-1” Single Family District, as described in Section 29-7 of the Code of Ordinances, City of Lubbock, Texas;
  - (2) Properties legally zoned as “R-1, Specific Use” Single Family District, as described in Section 29-24(c)(1)a. and Section 29-24(c)(2) of the Code of Ordinances, City of Lubbock, Texas;
  - (3) Properties legally zoned as “R-2” Two-Family District, as described in Section 29-8 of the Code of Ordinances, City of Lubbock, Texas; or
  - (4) Properties legally zoned as “RE” Residential Estates District, as described in Section 29-24(c)(3) of the Code of Ordinances, City of Lubbock, Texas.
- (e) Any request for an alternative system from those required in this section shall be heard and determined by the Water Board of Appeals in accordance with subsection (h), below.
- (f) Violations for this section shall be as follows:
- (1) Any person, landowner, building owner or occupant who shall violate any of the provisions of this section or who shall fail to comply with any of the provisions of this section commits an offense.
  - (2) The owner or owners of any landscape irrigation system, property or part thereof where anything in violation of this section shall exist and any contractor, agent, person, firm or corporation employed in connection with the installation, operation or maintenance of the irrigation landscape system and who have assisted in the commission of such violation commits an offense.
  - (3) A person commits an offense if he installs or operates an automatic sprinkler system or irrigation device in violation of any provision of this section, Chapter 6 of the Code of Ordinances, City of Lubbock, Texas, or of any applicable state or local law.
- (g) Notwithstanding anything herein to the contrary, a Licensed Irrigator installing, operating or maintaining an irrigation landscape system shall not be liable, in any circumstance, for a violation of Section 28-44(f)(2).
- (h) (i) *Establishment.* In order to determine the suitability of alternate materials and methods of construction and to provide for (i) reasonable interpretation of the provisions of Section 28-44; (ii) to determine exceptions to the requirements of subsections 28-45(a) and (b)(2) of this Code; and (iii) to determine variances to the requirements of the Water Use Management Plan - Drought and Emergency contingency Plan and Water Conservation Plan, Section 28-1, there is hereby created a board of appeals, to be known as the Water Board of Appeals, consisting of seven (7) members who are qualified by experience and training to pass upon such matters. The membership of the Water Board of Appeals shall include one or more representatives from the following named areas of expertise:

- 1.) A Licensed Irrigator
- 2.) A Landscape Architect
- 3.) A representative from the public education system
- 4.) A representative from the top 100 water users from the City water system
- 5.) A representative from water related governmental entities or authorities (such as Canadian River Municipal Water Authority, Brazos River Authority, High Plains Underground Water Conservation District Number 1, etc.)
- 6.) Two (2) Citizens of the City of Lubbock

The Director of Water Utilities shall be the ex officio member and shall act as secretary for the Board. The Water Board of Appeals shall be appointed by the governing body of the City. The initial board members shall serve as follows: Three (3) members shall serve for a term of one (1) year and four (4) members shall serve for a term of two (2) years, said terms to be determined by the City Council of the City at the time of appointment. At the expiration of the terms of the initial board members, all terms shall be for two (2) years, or until such time as their successors are appointed. A simple majority of the Water Board of Appeals shall constitute a quorum.

(ii) *Scope.* The Water Board of Appeals shall, except as provided herein, be subject to the rules and regulations as adopted by the Board of Appeals as set forth in Section 6-19 of the Code of Ordinances, regarding the conduct of its investigations, meetings, hearings, and rendering of all decisions and findings.

(iii) *Jurisdiction.* The Water Board of Appeals shall have the authority and is vested with the jurisdiction to hear and determine:

- a. Requests for substitution of alternate systems from those provided in this Section 28-44 of the Code of Ordinances;
- b. Requests for exceptions to the watering times and/or conditions than that set forth in subsections 28-45(a) and 28-45(b)(2) of the Code of Ordinances; and
- c. Requests for variances to the requirements of the Water Use Management Plan - Drought and Emergency Contingency Plan set forth in subsection 28-1(b)(2).

(iv) *Hearings.* Application for hearings shall be as follows:

a. The owner of property intending to install, alter, change, convert, repair or operate a landscape irrigation system on said property in conformance with pertinent governing ordinances of the City, shall in cases when compliance with such codes presents a practical difficulty or unnecessary hardship, prior to such installation, reparation, alteration, change, conversion, or operation, make written application to the Water Board of Appeals, on forms to be furnished by the Director of Water Utilities, for a recommendation of an alternate system or alternate watering times and/or conditions to that required by Sections 28-44, 28-45(a) or 28-45(b)(2) of the Code of Ordinances.

b. Each applicant for an alternate system to that prescribed by Section 28-44 of the Code of Ordinances shall, upon making such application, submit to the Water Board of Appeals sufficient technical data and other information to demonstrate that the new method or device is equivalent in quality, strength, effectiveness and safety to that prescribed in Section 28-44 of the Code of Ordinances.

c. Each applicant for exceptions to the watering times and/or conditions to that prescribed by subsection 28-45(a) and 28-45(b)(2) of the Code of Ordinances shall, upon making such application, submit to the Water Board of Appeals sufficient technical data and

other information to demonstrate that due to special conditions, a literal enforcement of subsection 28-45(a) or 28-45(b)(2) would result in unnecessary hardship and that the requested exception is not contrary to the public interest. The Water Board of Appeals may grant such exception subject to any conditions deemed necessary or advisable by the Water Board of Appeals.

d. Each applicant for variance to the Water Use Management Plan – Drought and Emergency Contingency Plan and Water Conservation Plan, subsection 28-1(b)(2), shall, upon making such application, submit sufficient information and technical data, as described in subsection 28-1(b)(2), to the Water Board of Appeals. The Water Board of Appeals may grant such variance upon findings as described in subsection 28-1(b)(2), subject to any conditions deemed necessary or advisable by the Water Board of Appeals.

(v) *Limitation of Authority.* The Water Board of Appeals shall have no authority relative to interpretation of the administrative provisions or requirements as set forth in Section 28-1, Section 28-44 and 28-45, either expressed or by reference, nor, except as set forth herein, be empowered to waive requirements set forth in the Code of Ordinances. Notwithstanding the above, the Water Board of Appeals may grant exceptions to subsection 28-45(a), subsection 28-45(b)(2), and/or subsection 28-1(b)(2) in the event appropriate findings, as set forth in subsection 28-44(h)(iv)(c) and (d), respectively,, are made.

SECTION 2. THAT Section 28-45 of the Code of Ordinances, of the City of Lubbock, Texas, is hereby amended to read as follows:

Sec. 28-45. Operation of irrigation systems or devices.

(a) From April 1 to September 30, landscape irrigation utilizing water, in whole or in part, obtained from the city water system, is prohibited except during the times between 6:00 p.m. and 10:00 a.m. The City Manager, or his or her designee, may, in the event he or she deems necessary the further restriction of landscape irrigation to certain days of the week or other restrictive irrigation schedules, recommend to the City Council of the City of Lubbock the adoption of an Order adopting such restrictive landscape irrigation schedule. This subparagraph (a) of this section shall not apply to the following irrigation activities:

- (1) Subsurface or soaker hose type irrigation systems;
- (2) Irrigation using hand held hoses that are manually attended at all times of operation;
- (3) Short term operation of an automatic irrigation system solely for the purposes of testing the proper operation of said system; or
- (4) Irrigation of new landscape material by an automatic irrigation system or irrigation device for a period no longer than three (3) weeks after the landscape material has been installed.

(b) A person commits an offense if he knowingly or recklessly, on premises owned, leased, or managed by the person, operates a lawn or landscape irrigation system or device that:

- (1) Irrigates at any time prohibited by Section 28-45(a);
- (2) Irrigates during periods of freezing weather or during precipitation events described in Section 28-44(a)(1), Code of Ordinances, City of Lubbock, Texas.
- (3) Does not have backflow prevention as required in Sections 6-100.1 – 6-100.3, Chapter 6 of the Code of Ordinances, City of Lubbock, Texas;
- (4) Has any controllable leak, including without limitation, broken or missing sprinkler head(s), leaking valve(s), or leaking or broken pipes;
- (5) Creates a misting due to excessive water pressure; or

(6) Causes significant water runoff.

(c) A person, prior to conducting the subject irrigation activities, may request an exception to the watering times and/or conditions than that set forth in Sections 28-45(a) and 28-45(b)(2) to the Water Board of Appeals, as set forth in Section 28-44(h).

(d) For the purposes of Sections 28-44 and 28-45 of this Chapter, the following definitions shall apply:

Golf course: An irrigated and landscaped playing area made up of greens, tees, fairways, roughs and related areas used for the playing of golf.

Hand-held hose: A hose attended by one person, fitted with a manual or automatic shutoff nozzle.

Hose-end sprinkler: A sprinkler that applies water to landscape plants that is piped through a flexible, movable hose.

Impervious surface area: any structure or any street, driveway, sidewalk, patio or other surface area covered with asphalt, concrete, brick, paving, tile, or other material preventing water from penetrating the ground.

Irrigation device: any manually operated or automated sprinkler head, hose, faucet, hose-end sprinkler, or a soaker hose, or combination thereof, that sprays water in the air or any other device capable of irrigating, in whole or in part, landscape lawns or landscape plants.

Irrigation system: also referred to as an in-ground or permanent irrigation system, a system with fixed pipes and emitters or heads that apply water to landscape plants.

Landscape irrigation or Landscape irrigation use: water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf course greens, tees, and fairways, parks, athletic fields, street or alley rights-of-way and medians.

Landscape plant: any member of the Kingdom Plantae, including any tree, shrub, vine, herb, flower, succulent, groundcover or grass species, that grows or has been planted out-of-doors.

New landscape plant or material: 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.

Park: a tract of land, other than a golf course, maintained by a city, private organization, or individual, as a place of beauty or of public recreation.

Pervious surface: any ground surface which can absorb water or other liquids.

Soaker hose: plastic or flexible hose that weeps water across the entire length, based on water pressure, directly to the plants' roots. Connects directly to a flexible hose or spigot.

Sprinkler or Sprinkler Head: an emitter that applies water to the landscape plants in a stream that travels through the air. Sprinkler irrigation can be applied by an irrigation system or hose-end sprayer or a soaker hose that sprays water in the air.

Turf: a surface layer of earth containing maintained grass with roots.

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

SECTION 3. THAT violation of any provision of this ordinance, as set forth herein, shall be deemed a misdemeanor punishable as provided by Section 1-4 of the Code of Ordinances of the City of Lubbock, Texas. Additionally, a violation of any provision of this Ordinance shall be deemed to be a nuisance under Section 12-101(b) of the Code of Ordinances of the City of Lubbock.

In considering the amount of fine to be assessed upon conviction of an offense under Sections 28-44 and/or 28-45, the Court may consider the following:

- (a) the volume of water released;
- (b) the degree of hazard, including hazard to health, safety or welfare of the citizens of the city, and/or the environment or natural resources;
- (c) the number of prior violations or complaints of violations of Sections 28-44 and/or 28-45;
- (d) the person's cooperation with the city to eliminate the release or runoff;
- (e) the weather conditions at the time the subject violation occurred;  
and
- (f) the site plan and shape of the subject property.

SECTION 4. THAT should any paragraph, section, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of the Ordinance shall not be affected thereby.

SECTION 5. THAT the City Secretary of the City of Lubbock, Texas, is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative means of publication provided by law.

**AND IT IS SO ORDERED.**

Passed by the City Council on first reading this 21st day of November, 2006.  
Passed by the City Council on second reading this 7th day of December, 2006.

/S/ DAVID A. MILLER  
DAVID A. MILLER, MAYOR

ATTEST:

/s/ Rebecca Garza  
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

/s/ Thomas L. Adams  
Thomas Adams, Deputy City Manager

APPROVED AS TO FORM:

/s/ Richard Casner  
Richard K. Casner  
First Assistant City Attorney