

ORDINANCE NO. 07-2148

An ordinance of the City of Hoover to amend its Water Emergencies Code for the public health, safety and general welfare of the citizens of the City of Hoover.

WHEREAS, on the 3rd of December 2001, the City Council of the City of Hoover passed Ordinance No. 01-1848, which repealed in its entirety Article VIII, Sections 11-161 through 11-166 as codified in the *Code of Ordinances of the City of Hoover, Alabama*, and replaced such sections with a new Article VIII, Sections 11-161 through 11-164; and

WHEREAS, the City Council of the City of Hoover now desires to further amend Ordinance No. 01-1848, more specifically those portions of the ordinance codified in Article VIII, Sections 11-162, 11-163 and 11-164, for the purpose of prudent drought management strategies;

WHEREAS, a drought condition can cause an emergency to exist in the City of Hoover and its police jurisdiction, due to an impending shortage of water due to a prolonged drought;

WHEREAS, the City Council of the City of Hoover deems revisions to Sections 11-162, 11-163 and 11-164 necessary in order to further protect the public health, safety and general welfare of citizens of the City of Hoover, Alabama; and

WHEREAS, it is the intention of the City Council that all other provisions of Ordinance No. 01-1848 shall remain unchanged and in effect.

NOW, THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Hoover, in regular meeting duly assembled, a quorum being present, that the following amendments be made to Ordinance No. 01-1848, more specifically those portions of the ordinance codified in Article VIII, Sections 11-162, 11-163, and 11-164 of the *Code of Ordinances of the City of Hoover, Alabama* (“Code”).

SECTION I. AMENDMENT TO THAT PORTION OF ORDINANCE NO. 01-1848 AS CODIFIED IN ARTICLE VIII, SECTION 11-162 OF THE CODE. Such portion of Ordinance No.01-1848 as codified in Section 11-162 of the *Code* and entitled “Effective upon declaration of emergency by the mayor,” is hereby repealed and shall be amended to read in its entirety as follows:

Section 11-162. Effective upon declaration of emergency by mayor.

Whenever the mayor of the city determines (in consultation with such officials as he deems appropriate) that a water service emergency exists in the city, and that such emergency requires that certain uses of water not essential to the health, welfare and safety of the citizens of the city be restricted, the mayor may issue and publish a declaration of such findings in a newspaper of general circulation within the city setting forth the applicable water emergency stage to be followed. Such declaration shall be published for a period of three (3) consecutive

days in a newspaper of general circulation in the City of Hoover, Alabama. Thereafter and following publication, the provisions of this article shall be come immediately effective upon those properties as set forth in such declaration. In addition, this declaration shall be (i) announced at all public meetings of the City Council being held during the water service emergency; and (ii) posted during the water service emergency at the City Hall, Hoover Municipal Library, all Hoover Police Department buildings, and all Hoover Fire Department buildings.

SECTION II. AMENDMENT TO THAT PORTION OF ORDINANCE NO. 01-1848 AS CODIFIED IN ARTICLE VIII, SECTION 11-163 OF THE CODE. Such portion of Ordinance No.01-1848 as codified in Section 11-163 of the *Code* and entitled “Prohibited Uses,” is hereby repealed and shall be amended to read in its entirety as follows:

Sec. 11-163. Prohibited uses.

The use and withdrawal of water by any person shall be restricted to the following uses upon the declaration of a water emergency by the mayor as set forth in 11-162. Water restrictions to be imposed on persons and property within the City of Hoover shall be determined according to water shortages predicted and water restrictions established by the local water authorities servicing properties in the City of Hoover (*i.e.*, Birmingham Water Works Board, Shelby County Water Services, Pelham Water Works or Bessemer Water Service). Water restrictions imposed on persons and property within the City shall be limited to those persons and properties serviced by local water authorities predicting water shortages and/or placing restrictions on water usage.

WATER EMERGENCY STAGES.

- (1) *Stage 2 – Drought Watch water warning:* This water warning stage shall be voluntary and shall be implemented when severe water shortage conditions are reported by the local water authority serving properties within the City of Hoover and voluntary conservation measures have not sufficiently reduced system demands. At this stage, the city ordinance for a water warning will be implemented with a declaration by the mayor.
 - a. The watering of established lawns and landscaping is limited to the hours between 6:00 p.m. and 10:00 a.m. on the allowable watering day. Addresses ending in an even number (meaning the house address, box number, or rural route ends with the numbers 0, 2, 4, 6, 8, or letters A – M, or at located with no address at the even-numbered side of the street) should water established lawns and landscaping on Mondays and Thursdays. Addresses ending in an odd number (meaning the house address, box number, or rural route ends with the numbers 1, 3, 5, 7, 9, or letters N – Z, or at located with no address at the odd-numbered side of the street) should water on Tuesdays and Fridays. Commercial accounts receiving multiple bills with different addresses should select either the even or odd days.

- b. New lawns and landscaping are exempt from the day of the week restrictions for the first thirty (30) days after installation. Watering shall be limited to the minimum necessary and shall only be conducted between the hours of 6:00 p.m. and 10:00 a.m. and is limited to only new lawns and new plants. Documentation to verify date of planting shall be made available to municipal representatives upon request.
 - c. Watering for the purpose of applying insecticides, fungicides, and herbicides where such watering is required by the manufacturer or by federal, state or local law shall not be restricted by days of the week. However, such watering shall be limited to the minimum necessary and shall not be conducted between the hours of 10:00 a.m. and 6:00 p.m. Documentation to verify the date of application shall be made available to municipal representatives upon request.
 - d. The washing of private motor vehicles, trucks, trailers, mobile homes, campers, boats, or any other type motor vehicle or equipment shall be permitted by means of a “bucket” and “sponge” and a hose with a shut-off nozzle.
 - e. Hosing down of porches, sidewalks, driveways, and other hard surfaces, except for health and safety reasons, should be suspended unless performed by a commercial pressure washer business.
 - f. Golf courses should water the front nine (9) holes on Mondays and Thursdays, and the back nine holes should be watered on Tuesdays and Fridays.
 - g. Commercial nurseries are exempt from “day of the week” watering (as set forth above in paragraph 2(a)), but are requested to limit use and only water as needed.
 - h. Newly constructed or existing public and private swimming pools, which include outdoor hot tubs, spas and Jacuzzis, may be filled once upon completion. A one-time draining and subsequent re-filling of swimming pools is allowed only for repairs if conditions threaten the integrity of the pool and/or its supporting infrastructure.
 - i. Persons watering from private lakes, streams, wells or ponds must post visible signs if deviating from the schedule set forth above.
- (2) *Stage 3 – Drought Warning water emergency:* This water emergency stage shall be mandatory and will be implemented when extreme drought conditions exist. Under Stage 3, the use and withdrawal of water by any person for the following purposes shall be prohibited unless expressly permitted herein:

- a. *Outdoor watering.* The hand watering (with a hose or bucket) of established lawns and landscaping is limited to the hours between 6:00 p.m. and 10:00 a.m. on the allowable watering day. Addresses ending in an even number (meaning the house address, box number, or rural route ends with the numbers 0, 2, 4, 6, 8, or letters A – M, or at located with no address at the even-numbered side of the street) should hand-water established lawns and landscaping on Mondays and Thursdays only. Addresses ending in an odd number (meaning the house address, box number, or rural route ends with the numbers 1, 3, 5, 7, 9, or letters N – Z, or at located with no address at the odd-numbered side of the street) should hand-water on Tuesdays and Fridays only.
- b. New lawns and landscaping are exempt from the day of the week restrictions set out in 3(a) above for the first twenty-one (21) days after installation of the lawn or landscaping. Watering shall be limited to the minimum necessary and shall only be conducted between the hours of 6:00 p.m. and 10:00 a.m. and is limited to only new lawns and new plants. After the first twenty-one (21) days and up to the thirtieth (30) day, watering is restricted to two (2) days per week on the even or odd address days and times listed in 3(a) above. No grass watering shall take place on Wednesday, Saturday or Sunday. After the thirtieth (30) day, watering shall be in accordance with 3(a) above. For new lawns and new plants, documentation to verify the date of planting shall be made available to municipal representatives upon request.
- c. Hand-watering for the purpose of applying insecticides, fungicides, and herbicides where such watering is required by the manufacturer or by federal, state or local law shall be coordinated with the schedule in 3(a) above and hand-watering shall be limited to the minimum amount necessary and shall not be conducted between the hours of 10:00 a.m. and 6:00 p.m. Documentation to verify the date of application shall be made available to municipal representatives upon request.
- d. The use of fire hydrants for any purpose except fire fighting or flushing sewers for health protection purposes shall be suspended.
- e. The watering of any portion of golf courses, except for tees and greens, shall be suspended. The watering of tees and greens is allowed on Mondays, Wednesdays and Fridays between the hours of 1:00 a.m. and 5:00 a.m. Hand syringing/misting is permitted for no more than five (5) minutes per green on other days of the week when ambient temperature is equal to or greater than 94 degrees Fahrenheit .

- f. Commercial nurseries are exempt from day of the week watering set out in 3(a), but commercial nurseries shall refrain from watering between 10:00 a.m. and 4:00 p.m. and shall restrict watering to the minimum amount necessary to maintain plants.
 - g. *Washing mobile equipment.* The washing of automobiles, trucks, trailers, trailer houses, railroad cars or any other type of mobile equipment is prohibited.
 - h. *Cleaning outdoor surfaces.* The washing of sidewalks, driveways, gas station aprons, porches and other outdoor surfaces is prohibited.
 - i. *Cleaning buildings.* The washing of the outside of dwellings, the washing of the inside or outside of office buildings is prohibited.
 - j. *Cleaning equipment and machinery.* The washing and cleaning of any business or industrial equipment and machinery is prohibited.
 - k. *Ornamental fountains.* The operation of any ornamental fountains or other structures making similar use of water is prohibited.
 - l. *City owned or controlled athletic fields.* City owned or controlled athletic fields may be watered Wednesdays and Saturdays between the hours of 4 a.m. and 9 a.m.
 - m. Newly constructed or existing public and private swimming pools, which include outdoor hot tubs, spas and Jacuzzis, may be filled once upon completion. A one-time draining and subsequent re-filling of swimming pools is allowed only for repairs if conditions threaten the integrity of the pool and/or its supporting infrastructure.
 - n. Persons watering from private lakes, streams, wells, or ponds must post visible signs if deviating from the prohibitions set forth above. If necessary, documentation to verify the presence of such water sources shall be made available to municipal representatives upon request.
- (3) *Stage 4 – Drought Emergency and/or Water system failure.* The city strongly endorses and recommends that the various water systems serving the city establish reciprocal emergency water use agreements and install adequate connections to allow the transfer of water from one system to another in the event of drought or other disasters causing water shortages. Furthermore, it is recommended that similar agreements be established with other water systems that are geographically located to make such agreements workable and beneficial.

This stage could result from drought intensity or other unrelated causes for the potable water supply system failure. In this stage, a significant or total failure of a water distribution system will have a disastrous effect on the city. At this juncture, notification of the federal and state agencies for assistance may be required. An emergency operation center may be opened for the duration of the event. Priority will be placed on public safety and public health. This Stage 4 drought emergency stage shall ban all outdoor water usage within areas in the City of Hoover that are serviced by local water authorities experiencing drought conditions and placing restrictions on water usage.

The use and withdrawal of water by any person for the following purposes shall be prohibited.

- a. *All outdoor watering.* The watering or irrigating of shrubbery, trees, lawns, grasses, ground covers, plants, vines, gardens, vegetables, flower or any other vegetation shall be prohibited.
- b. *Washing mobile equipment.* The washing of automobiles, trucks, trailers, trailer houses, railroad cars, or any other type of mobile equipment is prohibited.
- c. *Cleaning outdoor surfaces.* The washing of sidewalks, driveways, gas station aprons, porches and other outdoor surfaces.
- d. *Cleaning buildings.* The washing of outside of dwellings and the washing of the inside and/or outside of office buildings.
- e. *Cleaning equipment and machinery.* The washing and cleaning of any business or industrial equipment machinery.
- f. *Ornamental fountains.* The operation of any ornamental fountain or other structure making similar use of water.
- g. *Golf courses.* The watering of any portion of golf courses shall be prohibited.
- h. *Swimming and wading pools* not employing a filter and re-circulating system are prohibited.

Persons watering from private lakes, streams, wells or ponds must post visible signs if deviating from the schedule set forth above. If necessary, documentation to verify the presence of such water sources shall be made available to municipal representatives upon request.

SECTION III. AMENDMENT TO THAT PORTION OF ORDINANCE NO. 01-1848 AS CODIFIED IN ARTICLE VIII, SECTION 11-164 OF THE CODE. Such portion of Ordinance No.01-1848 as codified in Section 11-164 of the *Code* and entitled “Enforcement” is hereby repealed and shall be amended to read in its entirety as follows:

Section 11-164. Enforcement.

- (1) Upon implementation of the provisions of this article as provided in section 11-162, any person who shall violate any provisions of this article shall, upon conviction thereof, be punished by a fine of up to two hundred dollars (\$200) and costs of court, or by imprisonment not to exceed thirty (30) days, or by both fine and imprisonment. Each day on which a violation occurs shall be deemed to be a separate offense.
- (2) Violations. Any person, including a person in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation but any such person shall have the right to rebut that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a minor child, occurred on property within the parent's control shall constitute a rebuttable presumption that the parents committed the violation, but any such parent may be excused if he/she provides that he/she has previously directed the minor child not to use water as it was used in violation of this Ordinance and that the parent could not have reasonably known of the violation.

SECTION IV. EXCEPTION TO MAINTAIN SANITATION, HEALTH, AND SAFETY. The mayor or county health department officer shall have the authority to permit reasonable use of water in any case necessary to maintain adequate public health, safety and sanitary standards. However, this reasonable use shall not include any of the restrictions enumerated in the applicable stage set forth in Section III above. Additionally, notwithstanding any other provisions of this Ordinance, the mayor may permit the watering of City owned or controlled athletic fields when the mayor, in his sole discretion, determines that said athletic fields are hazardous to the health and safety of children, by being too hard by virtue of a lack of water. The mayor may permit the watering of such athletic fields to the extent necessary to abate the hazard to the health and safety of such children.

SECTION V. APPLICATION OF THE ORDINANCE. Upon the issuance and publication of a Declaration by the mayor announcing that a water service emergency exists in the City of Hoover, the provisions of this Ordinance shall apply to all persons using water on properties serviced by local water authorities predicting water shortages and/or placing restrictions on water usage.

SECTION VI. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City of Hoover hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof,

irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional. Any provision found herein to be in direct contravention with state law either presently existing or enacted after the date of passage of this ordinance shall be superseded by state law and rendered unenforceable without effect to those provisions found herein that are not in contravention with state law.

SECTION VII. LEGAL RIGHTS NOT IMPAIRED. That nothing in this ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

SECTION VIII. ORDINANCE CUMULATIVE. This Ordinance shall not be construed to modify or to repeal any other provisions of the *Municipal Code of the City of Hoover, Alabama*, except as set forth herein. Instead, this Ordinance shall be held to be in addition to and cumulative to all ordinances found in *Municipal Code of the City of Hoover, Alabama*.

SECTION IX. PUBLICATION OF ORDINANCE. That the City Clerk of the City of Hoover is hereby ordered and directed to cause this ordinance to be published and that a copy of this Ordinance be entered upon the Minutes of the meeting of the City Council.

SECTION X. EFFECTIVE DATE OF ORDINANCE. That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect upon publication thereof and shall continue in full force and effect from month to month and year to year from its effective date until repealed.

THEREFORE, BE IT RESOLVED, that the City Council of the City of Hoover does hereby ordain, resolve, and enact the foregoing Ordinance for the City of Hoover.

Done this the 18th day of June 2007.

Gary M. Ivey
President of the City Council

APPROVED:

Tony Petelos, Mayor

ATTESTED:

Linda Crump, City Clerk