

**CITY OF HEATH, TEXAS
ORDINANCE NO. 240312A**

AN ORDINANCE OF THE CITY OF HEATH, TEXAS, AMENDING TITLE IX, "GENERAL REGULATIONS" IN THE CODE OF ORDINANCES BY ADDING AND ESTABLISHING CHAPTER 99, ENTITLED "LANDSCAPING, SCREENING, AND IRRIGATION" TO REGULATE NEW LANDSCAPING AND IRRIGATION SYSTEMS IN THE CITY LIMITS; AMENDING TITLE XV, "LAND USAGE" IN THE CODE OF ORDINANCES TO AMEND SECTION 158.45, "QUALIFIED TREE LIST" IN CHAPTER 158: "SUBDIVISIONS"; PROVIDING REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING A PENALTY FOR EACH OFFENSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Heath (hereinafter referred to as "City") is a Home Rule Municipality, acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Section 580.002, Texas Local Government Code provides that the governing body of each municipality may consider enacting an ordinance requiring the use of xeriscape to conserve water, and if the governing body determines that the water conservation benefits of the required use of xeriscape would be significant relative to the cost of implementing that use, the governing body may adopt a xeriscape ordinance; and

WHEREAS, the City Council acknowledges that a policy to conserve energy, water, and other natural resources through the selection and use of xeriscape and drought-tolerant landscaping materials will help the City achieve its water conservation goals, among other benefits; and

WHEREAS, the City Council has investigated and determined that it is in the best interest of the City to require new plant material to be selected from "Texas SmartScape" program database of trees, turf, and plants listed for the North Central Texas (DFW) region, as published by the North Central Texas Council of Governments Regional Storm Water Management Program ("Texas SmartScape program"); and

WHEREAS, to implement the policy, the City Council desires to amend the Code of Ordinances to add a new Chapter 99 to enact landscaping, screening and irrigation requirements, incorporating the Texas SmartScape program, that apply to subdivisions and developments for residential or non-residential uses within the City limits; and

WHEREAS, further, the City Council desires to amend Section 158.45 in Chapter 158: "Subdivisions" to require replacement trees to be selected from the Texas SmartScape program; and

WHEREAS, the City Council of the City of Heath, in compliance with laws of the State of Texas and the ordinances of the City of Heath, has held and afforded a full and fair public hearing; and

WHEREAS, the City Council hereby determines that the water conservation benefits of the required use of xeriscape set forth in this Ordinance would be significant relative to the cost of implementing that use; and

WHEREAS, after due deliberations and consideration, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City, and the public health, safety, and welfare of its citizens;

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

Section 1. Findings. The above and foregoing findings are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Amendment to add Chapter 99. That the Code of Ordinances, City of Heath, Texas, is hereby amended by adding Chapter 99: "Landscape, Screening, and Irrigation" to read entirely as follows:

§ 99.01 PURPOSE AND APPLICABILITY

The purpose of this section is to establish standards for the installation and maintenance of landscaping and screening according to recognized xeriscape principles and to provide for the protection of native vegetation. The standards are intended to accomplish the following:

- (A) Implement city policy to conserve energy, water, and other natural resources through the selection and use of xeriscape and drought-tolerant landscaping materials; to promote air quality; to improve community aesthetics; and to protect the public health, safety, and general welfare as follows:
- (1) Help achieve City water conservation goals through the selection and use of drought-tolerant plantings;
 - (2) Reduce air pollution and dust by encouraging the use of vegetation for air filtration and absorption of carbon dioxide and production of oxygen;
 - (3) Reduce the heat and glare radiated by the built environment;
 - (4) Reduce soil erosion by slowing stormwater runoff; and,
 - (5) Assist in groundwater recharge.

- (B) Requiring design and installation standards for irrigation systems that abide by all applicable standards established by the State of Texas and that are designed, installed, maintained, altered, repaired, serviced, and operated in a manner that will promote water conservation,
- (C) Establishing a regional plant list of drought-tolerant tree, plant, and ground cover materials,
- (D) Allow plant materials selections that promote a positive rural image, quality development, and enhanced property values.
- (E) Applicability
 - (1) This Chapter 99 applies to a property developer or owner who subdivides or develops land for residential or non-residential uses located within the City limits. Development includes any constructed change to improved or unimproved real estate, including but not limited to, buildings and/or other structures, paving, drainage, utilities, storage, and agricultural activities. However, development does not include a constructed change to improved real estate or structure existing at the passage of this ordinance, such as renovations to residential homes or construction of an accessory building on a residential lot. (Ord. 240312A, passed 03-12-2024)
 - (2) All references to state law code sections refer to the law in existence at the passage of this ordinance and any amendments thereafter.

§ 99.02 DEFINITIONS

For the purpose of this Chapter 99, the below definitions shall apply. To the extent a term is not herein defined, it is assigned the definition provided by state law.

Backflow Prevention: The mechanical prevention of reverse flow, or back siphonage, of non-potable water from an irrigation system into the potable water source.

Backflow Prevention Assembly: Any assembly used to prevent backflow into a potable water system. The type of assembly used is based on the existing or potential degree of health hazard and backflow condition.

Design Pressure: The pressure that is required for an emission device to operate properly. Design pressure is calculated by adding the operating pressure necessary at an emission device to the total of all pressure losses accumulated from an emission device to the water source.

Emission Device: Any device that is contained within an irrigation system and that is used to apply water. Common emission devices in an irrigation system

include but are not limited to, spray and rotary sprinkler heads and drip irrigation emitters.

Head-to-Head Spacing: The spacing of spray or rotary heads equal to the manufacturer's published radius of the head.

Inspector: A licensed plumbing inspector, water district operator, other governmental entity, or irrigation inspector who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor.

Irrigation Plan: A scaled drawing of a landscape irrigation system, which lists the required information and contains the specifications for the installation of the Irrigation System.

Irrigation System: An assembly of component parts that is permanently installed for the controlled distribution and conservation of water to irrigate any type of landscape vegetation in any location and/or to reduce dust or control erosion. This term does not include a system that is used on or by an agricultural operation as defined by Texas Agricultural Code, § 251.002.

Irrigation Technician: A person who works under the supervision of a licensed irrigator to install, maintain, alter, repair, service, or supervise the installation of an irrigation system, including the connection of such system in or to a private or public, raw or potable water supply system or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30 (relating to Occupational Licenses and Registrations).

Irrigation Zone: A subdivision of an irrigation system with a matched precipitation rate based on plant material type (such as turf, shrubs, or trees), microclimate factors (such as sun/shade ratio), topographic features (such as slope) and soil conditions (such as sand, loam, clay, or combination) or for hydrological control.

Irrigator: A person who sells, designs, offers consultations regarding, installs, maintains, alters, repairs, services, or supervises the installation of an irrigation system, including the connection of such system to a private or public, raw or potable water supply system or to any water supply and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30 (relating to Occupational Licenses and Registrations).

Irrigator-in-Charge: The irrigator responsible for all irrigation work performed by an exempt business owner, including, but not limited to, obtaining permits, developing design plans, supervising the work of other irrigators or irrigation technicians, and installing, selling, maintaining, altering, repairing, or servicing a landscape irrigation system.

License: An occupational license that is issued by the Texas Commission on Environmental Quality under Title 30, Texas Administrative Code, Chapter 30, to an individual that authorizes the individual to engage in an activity that is covered by Title 30, Texas Administrative Code, Chapter 30.

Master Valve: A remote control valve located after the backflow prevention device that controls the flow of water to the irrigation system mainline.

Matched Precipitation Rate: The condition in which all sprinkler heads within an irrigation zone apply water at the same rate.

Rainwater Harvesting: (See **Reclaimed Water**)

Reclaimed Water: Captured rainwater or untreated raw water suitable for beneficial use, such as landscape irrigation.

Reduced Pressure Principal Backflow Prevention Assembly: An assembly containing two independently acting approved check valves together with a hydraulically operating mechanically independent pressure differential relief valve located between the two check valves and below the first check valve.

Water Conservation: The design, installation, service, and operation of an irrigation system in a manner that prevents the waste of water, promotes the most efficient use of water, and applies the least amount of water that is required to maintain healthy individual plant material or turf, reduce dust, and control erosion.

Xeriscape: A method of landscaping that emphasizes water conservation, accomplished by following sound horticultural and landscaping practices, such as planning and design, soil improvement, limited turf areas, use of mulches, use of low-water demand plants, efficient irrigation practices, and appropriate maintenance. The use of xeriscaping is intended to promote the prudent use of the City's water resources, reduce the need for additional water system infrastructure, and help ensure the viability of required plantings during periods of drought.

§ 99.03 CITY-WIDE LANDSCAPING STANDARDS

(A) Use of Drought-Tolerant Vegetation

- (1) Except as otherwise provided by this section, all plant material must be selected from the "Texas SmartScape" program database of trees, turf, and plants listed for the North Central Texas (DFW) region as published by the North Central Texas Council of Governments Regional Storm Water Management Program, and which may be amended from time to time. The Texas Smartscape Plant Database is located online at txsmartscape.com.

- (2) For maximum reduction in water usage, xeriscape plants, as defined in this Chapter 99, shall not be interspersed in plant groupings with plants requiring higher water usage. Property owners and developers shall design irrigation systems and watering schedules that supply the appropriate amount of water for plantings without overwatering.
- (3) Plants not listed on the "Texas SmartScape" program plant database may be used as follows:
 - (a) Existing trees and shrubs may be incorporated into a landscaped area;
 - (b) Plants grown for human consumption on a personal household basis, such as vegetables, fruits, and herbs; and
 - (c) Plants grown in above ground pots or planters.

§ 99.04 IRRIGATION STANDARDS

(A) The provisions of this section are to be in compliance with Title 30, Texas Administrative Code, Chapter 344 (Landscape Irrigation), as amended, which is incorporated herein by reference. Title 30, Texas Administrative Code, Chapter 344 (Landscape Irrigation) sets standards for irrigation system design, installation, operation, water conservation, and duties and responsibilities of licensed irrigators and irrigator inspectors, and also exempts certain irrigation systems from permitting requirements.

(B) Valid license required:

- (1) Any person who connects an irrigation system to the City's water supply within the City limits must hold a valid license in accordance with state law, which includes but is not limited to: Title 30 Texas Administrative Code, Chapter 30 (Occupational Licenses and Registration), Chapter 1903 (Irrigators) of the Texas Occupations Code, Title 22 Texas Administrative Code Chapter 365 (Licensing and Registration), and Chapter 1301 (Plumbers) of the Texas Occupations Code.

(2) Exemptions:

A property owner is not required to be licensed in accordance with state law if he or she is performing irrigation work in a building or on premises owned or occupied by the property owner as the property owner's residence. A property owner who installs an irrigation system must meet the same standards as a licensed irrigator as set forth in this Chapter 99 and state law.

(C) *Permit Required:*

- (1) Any person installing an irrigation system within the corporate limits of the City is required to obtain an irrigation permit from the City. Any irrigation plan submitted to the City must be in compliance with the requirements of this section in order to be approved for a permit. Irrigation permit applications and irrigation plans shall be submitted to the Building Official. All irrigation permit applications and irrigation plans must conform to the Building Official's requirements as set forth in the permit application.
- (2) An irrigation system used on or by an agricultural operation, as defined by Section 251.002 of the Agriculture Code, as amended, is exempt from this permit requirement.

(E) Backflow Prevention Methods and Devices

- (1) Any irrigation system that is connected to the potable water supply must be connected through a backflow prevention method approved by the Texas Commission on Environmental Quality (TCEQ) and equipped with a master valve. The backflow prevention device shall conform to the TCEQ requirements and City of Heath ordinances.
 - (2) Reduced pressure principle backflow prevention assemblies may be used if:
 - (a) The device is installed at a minimum of twelve (12) inches above ground in a location that will ensure that the assembly will not be submerged; and
 - (b) drainage is provided for any water that may be discharged through the assembly relief valve.
- (F) Backflow prevention devices used in applications designated as health hazards must be lead-free and tested upon installation and annually thereafter by the irrigator, as required by the City Building Official.
- (G) If there are no conditions that present a health hazard, double-check valve backflow prevention assemblies may be used to prevent backflow if the device is tested upon installation, and test cocks are used for testing only.
- (H) If an irrigation system is designed or installed on a property that is served by an on-site sewage facility, as defined in Title 30, Texas Administrative Code, Chapter 285 (On-Site Sewage Facilities), then:
- (1) All irrigation piping and valves must meet the separation distances from the On-Site Sewage Facilities system as required for a private water line in Title 30, Texas Administrative Code, Section 285.91(10);
 - (2) Any connections using a private or public potable water source that is not the City's potable water system must be connected to the water source through a reduced pressure principal backflow prevention assembly as defined in Title 30, Texas Administrative Code, Section 344.50; and

- (3) Any water from the irrigation system that is applied to the surface of the area utilized by the On-Site Sewage Facility system must be controlled on a separate irrigation zone or zones to allow complete control of any irrigation to that area so that there will not be excess water that would prevent the On-Site Sewage Facilities system from operating effectively.

(I) Water Conservation

- (1) All irrigation systems shall be designed, installed, maintained, altered, repaired, serviced, and operated in a manner that will promote water conservation as defined in this Chapter 99.

(J) Design and Installation: Minimum Requirements

- (1) A separate irrigation meter shall be required for all new in-ground irrigation systems connected to a private or public potable water source.
- (2) No irrigation design or installation shall require the use of any component, including the irrigation meter, in a way that exceeds the manufacturer's published performance limitations for the component.

(3) Spacing

- (a) The maximum spacing between emission devices must not exceed the manufacturer's published radius or spacing of the device(s). The radius or spacing is determined by referring to the manufacturer's published specifications for a specific emission device at a specific operating pressure.
- (b) New irrigation systems shall not utilize aboveground spray emission devices in landscapes that are less than 48 inches, not including the impervious surfaces in either length or width and which contain impervious pedestrian or vehicular traffic surfaces along two or more perimeters. If pop-up sprays or rotary sprinkler heads are used in a new irrigation system, the sprinkler heads must direct flow away from any adjacent surface and shall not be installed closer than four (4) inches from a hardscape, such as, but not limited to, a building foundation, fence, concrete, asphalt, pavers, or stones set with mortar.
- (c) Narrow paved walkways, jogging paths, golf cart paths, or other small areas located in cemeteries, parks, golf courses, or other public areas may be exempted from this requirement if the runoff drains into a landscaped area.

(K) Water pressure

- (1) Emission devices must be installed to operate within the sprinkler head pressure range as published by the manufacturer for the nozzle and head spacing that is used. Methods to achieve the water pressure requirements include, but are not limited to, flow control valves, a pressure regulator, or pressure compensating spray heads.

(L) Irrigation Zones

- (1) Irrigation systems shall have separate zones based on plant material type, microclimate factors, topographic features, soil conditions, and hydrological requirements.

(M) Matched precipitation rate

- (1) Zones must be designed and installed so that all of the emission devices in that zone irrigate at the same precipitation rate.

(N) Irrigation systems shall not spray water over surfaces made of concrete, asphalt, brick, wood, stones set with mortar, or any other impervious material, such as, but not limited to, walls, fences, sidewalks, and streets.

(O) Rain or moisture shut-off devices or other technology

- (1) All new irrigation systems must include sensors or other technology designed to inhibit or interrupt the operation of the irrigation system during periods of moisture or rainfall. Rain or moisture shut-off technology must be installed according to the manufacturer's published recommendations. Repairs to existing automatic irrigation systems that require the replacement of an existing controller must include a sensor or other technology designed to inhibit or interrupt the operation of the irrigation system during periods of moisture or rainfall.

(P) Reclaimed water may be utilized in landscape irrigation systems if:

- (1) There is no direct contact with edible crops unless the crop is pasteurized before consumption;
- (2) The irrigation system does not spray water across property lines that do not belong to the irrigation system's owner;
- (3) The irrigation system is installed using purple components; and
- (4) Backflow prevention on the reclaimed water supply line shall be in accordance with the regulations of the City's water provider.

Section 3. Amendment to Section 158.45. That the Code of Ordinances, City of Heath, Texas, Section 158.45: "Qualified Tree List" in Chapter 158: "Subdivisions" of Article XV: "Land Usage" in the Code of Ordinances, City of Heath, Texas, is hereby amended to read entirely as follows:

§ 158.45 QUALIFIED TREE LIST.

(A) All replacement trees shall be selected from the "Texas SmartScape" program database for the North Central Texas (DFW) region as published by the North Central Texas Council of Governments Regional Storm Water Management Program, and which may be amended from time to time. The Texas Smartscape

Plant Database is located online at txsmartscape.com. Additional tree varieties may be approved by either city staff or the City Council.

Section 4. Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed Ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the Ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

Section 5. Severability. Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Heath hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

Section 6. Penalty. That a violation of this Ordinance shall be a misdemeanor and upon conviction, the penalty for violating this Ordinance shall be as provided for in Sec. 10.99 of the Code of Ordinances. Each day a violation exists shall be a separate offense.

Section 7. Effective Date; Publication. This Ordinance shall take effect immediately from and after its passage and its publication as the law and Charter of the City in such cases provides.

Section 8. Open Meetings. That it is hereby found and determined that the meeting at which this Ordinance was passed was open to the public as required by law and that public notice of the time, place, and purpose of said meeting was given, all as required by Article 551.041, Texas Government Code.

PASSED AND APPROVED by the City Council of the City of Heath, Texas, on this the 12th day of March 2024.



Kelson Elam, Mayor

ATTEST:



Norma Duncan, City Secretary

APPROVED AS TO FORM:



Cynthia Kirchoff, Assistant City Attorney

