

ORDINANCE NO. 1758

AN ORDINANCE OF THE TOWN OF LITTLE ELM, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF LITTLE ELM, TEXAS, BY REPEALING THE EXISTING COMBINED WATER CONSERVATION AND DROUGHT CONTINGENCY PLANS AND ADOPTING A COMBINED WATER CONSERVATION AND WATER RESOURCE MANAGEMENT PLAN FOR THE TOWN OF LITTLE ELM TO PROMOTE RESPONSIBLE USE OF WATER AND TO PROVIDE FOR PENALTIES AND/OR THE DISCONNECTION OF WATER SERVICE FOR NONCOMPLIANCE WITH THE PROVISIONS OF THE WATER CONSERVATION AND WATER RESOURCE MANAGEMENT PLAN; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING A SAVINGS AND A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Little Elm, Texas (the "Town"), is a home-rule city possessing the full power of local self-government pursuant to Article 11, Section 5 of the Texas Constitution, Section 51.072 of the V.T.C.A., Local Government Code, and the Home Rule Charter for the Town of Little Elm, Texas; and

WHEREAS, the Town is a member of the North Texas Municipal Water District ("NTMWD") and receives wholesale water from NTMWD; and

WHEREAS, the Town recognizes that the amount of water available to its water customers is limited; and

WHEREAS, the Town recognizes that due to natural limitations, drought conditions, system failures and other acts of God which may occur, the Town cannot guarantee an uninterrupted water supply for all purposes at all times; and

WHEREAS, the and regulations of the Texas Water Development Board ("TWDB") and the Texas Commission on Environmental Quality ("TCEQ") require that the Town adopt a WATER CONSERVATION AND WATER RESOURCES MANAGEMENT PLAN; and

WHEREAS, the Town has determined an urgent need in the best interest of the public to adopt a WATER CONSERVATION AND WATER RESOURCES MANAGEMENT PLAN; and

WHEREAS, pursuant to Chapter 54 of the Local Government Code, the Town is authorized to adopt such Ordinances necessary to preserve and conserve the Town's water resources; and

WHEREAS, the Town Council of the Town of Little Elm ("Town Council") desires to adopt the NTMWD Model WATER CONSERVATION AND WATER RESOURCES MANAGEMENT PLAN as official Town policy for the conservation of water; and

WHEREAS, the Appendix E included in the WATER CONSERVATION AND WATER RESOURCES MANAGEMENT PLAN contains information of when residents can water and dates when the plan begins and ends; and

WHEREAS, the Town Council; has investigated and determined that Ordinance numbers 837 and 838, approved on June 19, 2007, and Ordinance numbers 722 and 721 approved on September 13, 2005, Ordinance number 1052 approved on May 17, 2011, Ordinance number 1229 approved on September 16, 2014, and Ordinance number 1498 approved on April 16, 2019, should be repealed and replaced with the combined WATER CONSERVATION AND WATER RESOURCES MANAGEMENT PLAN; and

WHEREAS, the Town Council has investigated and determined that it will be advantageous and beneficial to the citizens of Little Elm and will protect health, safety, and welfare to adopt a combined WATER CONSERVATION AND WATER RESOURCES MANAGEMENT PLAN.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LITTLE ELM, TEXAS, THAT:

Section 1. Incorporation of Premises. All of the above premises are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. Repeal. Ordinances 721, 722, 837, 838, 1052, 1229, and 1498 of the Town of Little Elm, Texas, are hereby repealed in their entirety.

Section 3. Adoption. The Town Council hereby approves and adopts the North Texas Municipal Water District Water Conservation and Water Resource Management Plan (hereinafter referred to as the "Plan"), as modified by the Town of Little Elm, which is attached hereto and incorporated herein for all purposes as *Exhibit A*. The Town commits to implement the requirements and procedures set forth in the adopted Plan.

Section 4. Penalty Provision. Any customer, defined pursuant to 30 Texas Administrative Code Chapter 291, failing to comply with the provisions of the Plan shall be subject to a fine not to exceed Two Thousand Dollars (\$2,000) and/or discontinuance of water service by the Town. Proof of a culpable mental state is not required for a conviction of an offense under this Ordinance. Each day a customer fails to comply with the Plan is a separate offense. The Town's authority to seek injunctive or civil relief available under the law is not limited by this section.

Section 5. Enforcement. Mandatory water use restrictions will be enforced by any combination of warnings, reconnection fees, suspension of service, citations, monetary penalties and other fees. An escalation of warnings will be used to warn, educate and the enforce restriction if warnings are not followed. Penalties mentioned in Section 4 of this Ordinance in addition to reconnections fees may be given to those that violate the Water Conservation and Water Resource Management Plan. The Town maintains the right, at any level of violation, to disconnect irrigation system(s) and/or total water service to a customer with reconnection fees

and possible monetary penalties. Code Enforcement Officer or other Town Staff as designated by the Town Manager, or his designee, may implement any provision of the enforcement process of the Water Conservation and Water Resource Management Plan.

Section 6. Filing Ordinance and Plan with TCEO. The Town Manager or his designee is hereby directed to file a copy of the Plan and this Ordinance with the Texas Commission on Environmental Quality in accordance with Title 30, Chapter 288 of the Texas Administrative Code.

Section 7. Repealer Clause. Any provision of any prior ordinance, of the Town whether codified or un-codified, which are in conflict with any provision of the Ordinance, are hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the Town whether codified or un-codified, which are not in conflict with the provision of this ordinance, shall remain in full force and effect.

Section 8. Savings. This Ordinance shall be cumulative of all other ordinances of the Town, 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 any complaint, notice, action, cause of action, or claim which prior to the effective date of this Ordinance has been initiated or has arisen under or pursuant to such other ordinance(s) shall continue to be governed by the provisions of that ordinance or those ordinances, and for that purpose that ordinance or those ordinances shall be deemed to remain and shall continue in full force and effect.

Section 9. 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 circumstance 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 Town 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 10. Effective Date. This Ordinance shall take effect immediately upon its adoption and publication in accordance with and as provided by law and the Town Charter.

PASSED, APPROVED AND ADOPTED by the Town Council of the Town of Little Elm, Texas, on this the 21st day of May, 2024.

Curtis J. Cornelious, Mayor

ATTEST:

Caitlan Biggs, Town Secretary

APPROVED AS TO FORM:

ORDINANCE NO. 1758

Page 3

Robert Brown, Town Attorney