

ORDINANCE 1736

AN ORDINANCE AMENDING SEC. 9-10.1 OF THE CITY CODE AND ADOPTING BY REFERENCE THE "DROUGHT MANAGEMENT PLAN" OF THE BIRMINGHAM WATER WORKS BOARD AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF

BE IT ORDAINED by the City Council of the City of Mountain Brook, Alabama, that the City Code of the City of Mountain Brook shall be and hereby is amended as follows:

1. **Amendatory Provision.** Chapter 9, Article I, Section 9-10.1 of the City Code of the City of Mountain Brook, Alabama, shall be and hereby is amended by replacing said section with the provisions set forth below:

Sec. 9-10.1. Water service emergency; certain uses of water prohibited when emergency declared; enforcement; penalty for violation.

(a) *Definitions.* For the purposes of this section, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Board means the water works and sewer board of the City of Birmingham.

City is the City of Mountain Brook.

City council is the city council of the City of Mountain Brook.

Mayor is the mayor of the City of Mountain Brook.

Person is any person, firm, partnership, association, corporation, company or organization of any kind.

Water is water supplied by the water works and sewer board of the City of Birmingham either directly or indirectly by the board through another entity.

(b) *Declaration of emergency by the mayor.* Whenever, upon request of the board or upon other determination by the mayor in consultation with such officials as he deems appropriate, the mayor determines that a water service emergency exists in the city

and the mayor issues and publishes a declaration of the existence of such water service emergency, this section shall become effective immediately upon the publication of such declaration in a daily newspaper of general circulation in the city.

(c) *Application of section.* Upon the publication of a declaration of a water service emergency under subsection (b) hereof, the provisions of this section shall apply to all persons using water in the city except as may be hereinafter exempted or permitted.

(d) *Certain uses prohibited.* Upon such publication of a declaration of a water service emergency, as provided hereinbefore, the use and withdrawal of water by any person for the following purposes shall be prohibited except as may be hereinafter exempted or expressly permitted, with or without qualification, by the terms of this ordinance or under the terms of the Drought Management Plan described in subsection (g) below and incorporated herein by reference:

- (1) *Watering yards.* The sprinkling, watering or irrigating of shrubbery, trees, lawns, grass, ground cover, plants, vines, gardens, vegetables, flowers or any other vegetation. Notwithstanding any other provision of this section, water may be used for the watering of shrubs, trees, grass, plants, vegetables, flowers and other vegetation grown at, or held in inventory for sale at, a garden shop or nursery provided that garden shops and nurseries shall be required to use practicable and commercially reasonable methods to limit the use of water to the minimum necessary to maintain viable stock.
- (2) *Washing mobile equipment.* The washing of automobiles, trucks, trailers, mobile homes, railroad cars, or any other type of mobile equipment, except as to motor vehicles where such washing is accomplished by a commercial automatic car wash installation engaged in the business of washing motor vehicles.
- (3) *Cleaning outdoor surfaces.* The washing of sidewalks, driveways, porches and other outdoor surfaces, excluding filling station aprons.
- (4) *Cleaning buildings.* The washing of the outside of dwellings; the washing of the inside and outside of office buildings.
- (5) *Cleaning equipment and machinery.* The washing and cleaning of any business or industrial equipment and machinery.
- (6) *Ornamental fountains.* The operation of any ornamental fountain or other structure making a similar use of water.

- (7) *Swimming pools.* Swimming pools and wading pools not employing a filter and recirculating system.
- (8) *Escape through defective plumbing.* The escape of water through defective plumbing, which shall mean the knowing permission for defective plumbing to remain out of repair.

(e) Permitted uses of water. Any other provisions of this section to the contrary notwithstanding, water may be used as follows:

- (1) The Jefferson County health officer shall have the authority to permit a reasonable use of water in any case necessary to maintain adequate health and sanitation standards, but such reasonable use shall not include any use prohibited by subsection (d) of this section.
- (2) Water initially drawn or used in accordance with the terms and provisions of this section may be reused or stored for reuse provided that such reuse or storage for reuse does not create a health hazard or is not undertaken for the purpose of avoiding restrictions otherwise imposed herein (e.g., excess water may not be drawn and stored at permitted usage times in order to be used at times or under circumstances that would otherwise be prohibited).
- (3) Water may be used to irrigate parks, playgrounds, and athletic fields owned, operated, controlled, or maintained by the City or any of its boards, agencies, or departments, including the Mountain Brook Board of Education, or by any organization, the principal purpose of which is to provide public athletic and/or recreational opportunities and activities and that fulfill such purpose through lease, license, or other agreement with the City; provided, however, that the use of water for the applications hereby permitted shall be limited to that reasonably necessary to maintain the viability and utility of the fields, grounds, and playing surfaces for their intended purposes, and prudent conservation measures shall be employed at all times with respect to any use of water permitted hereby.

(f) *Enforcement.* Upon publication of a declaration of a water service emergency by the mayor under subsection (b) hereof, every police officer of the city shall diligently enforce the provisions of this section.

(g) Where not inconsistent with the terms of this ordinance, the provisions, standards, requirements, and restrictions set forth in the Drought Management Plan of the Water Works and Sewer Board of the City of

Birmingham as revised on June 29, 2006 (“Drought Management Plan”) are hereby adopted and incorporated herein by reference.

(h) *Penalties.* Any person who shall violate any provisions of this section or shall do any act prohibited hereby shall upon conviction thereof be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment not to exceed one hundred eighty (180) days or by both such fine and imprisonment. Each day on which a violation occurs or continues shall be deemed to be a separate offense.

2. **Repealer.** All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama, that are inconsistent with the provisions of this ordinance are hereby expressly repealed.

3. **Severability.** If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

4. **Effective Date.** This ordinance shall become effective immediately upon adoption and publication as provided by law.

ADOPTED: The 25 day of June, 2007.



Virginia Carruthers Smith, Council President

APPROVED: The 26 day of June, 2007.



Lawrence T. Oden, Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook, Alabama, as its meeting held on June 25, 2007, as same appears in the minutes of record of said meeting, and published by posting copies thereof on June 26, 2007, at the following public places, which copies remained posted for five (5) days as required by law.

City Hall, 56 Church Street
Gilchrist Pharmacy, 2850 Cahaba Road
The Invitation Place, 3150 Overton Road

Joe Muggs Newsstand, 2037 Cahaba Road
Piggly Wiggly Food Store 4, 93 Euclid Av.



Steven Boone, City Clerk