

ORDINANCE NO. 1230

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COLEMAN, TEXAS AMENDING AND SUPERSEDING ORDINANCE NO. 979, BY CLOSING PUBLIC ACCESS TO CITY OWNED LAKE SCARBOROUGH AND ITS SURROUNDING PROPERTY; PROVIDING A PENALTY CLAUSE; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Coleman owns Lake Scarborough and the property surrounding it (hereinafter "Lake Property"); and

WHEREAS, the Lake Property is very primitive and rough with limited access, posing a danger to boaters, swimmers and other users of the Lake Property; and

WHEREAS, the Lake Property is used as a municipal water supply and has expensive pumps, electronics and other equipment located on the property that have been vandalized and/or disrupted by certain users of the Lake Property, along with the pumps posing a potential danger to swimmers; and

WHEREAS, the Lake Property, because of its remote location, has become difficult to police and the property has become a haven for nefarious uses, including drugs and other unlawful behaviors; and

WHEREAS, the City of Coleman does not have the financial ability to make improvements, secure and/or police the Lake Property to make it safe for users of the property at this time; and

WHEREAS, Section 1.04.059(b) of the City of Coleman Code of Ordinances provides that public access to the Lake Property shall be limited to the times and conditions "as posted" and on file in the office of the city secretary; and

WHEREAS, the City of Coleman enacted Ordinance No. 979 that established the hours of public access to the Lake Property as 6:00 a.m. to 9:00 p.m. daily; and

WHEREAS, the City of Coleman desires to amend Ordinance No. 979, and close the Lake Property to public access to protect the health, safety and welfare of the users of the Lake Property; and

WHEREAS, the City of Coleman City Council finds that this Ordinance promotes public safety and is in the best interests of the public health, safety and welfare of the citizens of Coleman; and

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

Section 1. Findings. That the findings, facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct.

Section 2. Ordinance. Ordinance No. 979 is hereby amended and superseded by the following: On or after the effective date of this Ordinance, Lake Scarborough shall be closed to public access until further notice is given. The City staff shall be directed to post signage at any entry points to the Lake indicating "Closed to the Public."

Section 3. Penalty.

Violators of this Ordinance shall be punishable by a fine of not less than \$1.00 nor more than \$200.00 upon conviction.

Section 4. Cumulative Repealer. This Ordinance shall be cumulative of all other ordinances and shall not repeal any of the provisions of other ordinances, except Ordinance No. 979 and instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time of this Ordinance shall continue to be in effect and ordinances or parts thereof that are inconsistent with this Ordinance are hereby repealed, including Ordinance No. 979, to the extent that they are inconsistent with this Ordinance.

Section 5. Severability. If any section, article, paragraph, sentence, clause, phrase 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 the Ordinance, and the City Council hereby declares it would have passed such remaining portions of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 6. Savings Clause. All rights and remedies of the City of Coleman are expressly saved as to any and all violations of the provisions of any ordinances affecting and which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 7. Effective Date. This Ordinance shall be in full force and effect from and after its date of passage and publication of its caption, in accordance with law.


PASSED AND APPROVED on first reading on this 1st day of December, 2022.

PASSED, APPROVED AND ADOPTED on second reading on this 15th day of December, 2022.

By: 
Tommy Sloan, Mayor

ATTEST:

Betty Bivins, City Secretary

APPROVED AS TO FORM

William P. Chesser, City Attorney