

ORDINANCE NO. _____

DROUGHT CONTINGENCY PLAN

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIBERTY HILL, TEXAS AMENDING CHAPTER 13.05 OF THE CODE OF ORDINANCES ADDING DIVISION 3, RELATING TO THE DROUGHT CONTINGENCY PLAN; ESTABLISHING CRITERIA FOR THE INITIATION AND TERMINATION OF DROUGHT RESPONSE STAGES; ESTABLISHING RESTRICTIONS ON CERTAIN WATER USES; ESTABLISHING PENALTIES FOR THE VIOLATION OF AND PROVISIONS FOR ENFORCEMENT OF THESE RESTRICTIONS; ESTABLISHING PROCEDURES FOR GRANTING VARIANCES; PROVIDING A SEVERABILITY CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Liberty Hill, Texas recognizes that the amount of water available to the City and its water utility customers is limited and subject to depletion during periods of extended drought; and

WHEREAS, Section 11.1272 of the Texas Water Code and Chapter 288 of the Texas Administrative Code require all Texas public water supply systems providing retail public water service to prepare a drought contingency plan; and

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

SECTION 1. GENERAL PROVISIONS

The facts and recitations contained in the preamble of this ordinance are hereby found and declared to be true and correct and are incorporated by reference herein and expressly made a part hereof, as if copied verbatim. The City Council hereby amends Ordinance No. 12-O-20 by adopting a new Division 3 "Drought Contingency and Emergency Water Demand Management Plan" in Chapter 13.05 of the Code of Ordinances, which new Division 3 is attached hereto as *Exhibit "A,"* and which exhibit is incorporated herein by reference as if set forth in full.

SECTION 2. SEVERABILITY

It is hereby declared that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, because the same would have been enacted by the City Council without the incorporation of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 3. REPEALER

All ordinances and parts thereof in conflict herewith are hereby expressly repealed insofar as they conflict herewith.

SECTION 4. PUBLICATION

The City Council hereby directs the City Secretary to publish this ordinance in accordance with the Texas Local Government Code.

SECTION 5. EFFECTIVE DATE

This ordinance shall take effect immediately from and after its adoption and it is accordingly so ordained.

SECTION 6. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

PASSED & APPROVED on this, the ____ day of September 2021, by a vote of ____ (*ayes*) to ____ (*nays*) to ____ (*abstentions*) of the City Council of Liberty Hill, Texas.

CITY OF LIBERTY HILL:

by: _____
Mayor Liz Branigan

ATTEST:

by: _____
City Secretary Nancy Sawyer

EXHIBIT A

Division 3. Drought Contingency and Emergency Water Demand Management Plan

Sec. 13.05.061 Introduction

The goal of this plan is to cause a reduction in water use in response to drought or emergency conditions so that the water availability can be preserved. Since emergency conditions can occur rapidly, responses must also be enacted quickly. This plan has been prepared in advance considering conditions that will initiate and terminate the rationing program.

The plan will be implemented according to the four stages of rationing as imposed by the Council. Section 13.05.042 describes the conditions that will trigger these stages and Section 13.05.043 describes the restrictions for each trigger stage.

Sec. 13.05.062 Public Involvement

Opportunity for the public to provide input into the preparation of the Plan was provided by the Council by scheduling and providing public notice of a public meeting to accept input on the Plan. Notice of the meeting was provided to all customers. In the adoption of this plan, the Council considered all comments from customers.

Sec. 13.05.063 Public Education

The City will periodically provide the public with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by means of press releases, City website postings, or utility bill inserts.

Sec. _____ Initiation and termination of water conservation and drought response phases

- a) The city administrator or city administrator's designee is hereby authorized and directed to implement the applicable provisions of this Plan. The city administrator or city administrator's designee shall monitor the water supply and/or demand conditions on a daily basis and determine when conditions warrant initiation or termination of each phase of the plan. The base water conservation plan, outlined in phase 1, shall be in force at all times unless subsequent phases are enacted. Water supply conditions will be determined by the source of supply, system capacity, and weather conditions. Water demand will be measured by the peak daily demands on the system.
- b) The city administrator or city administrator's designee shall implement the applicable provisions of this article upon determination that such implementation is necessary to protect public health, safety and welfare.
- c) The triggering criteria described below are based on information provided by known system capacity limits and trigger conditions listed throughout _____.
- d) Public notification of the initiation or termination of water conservation and drought response phases shall be by one or more combination of methods which may include, but is not limited to, media releases, bill inserts, website announcements, digital platform messages, automated telephone calls, and signs posted at service area entry points.

Sec. _____ Conservation phase 1 - base conditions

(a) Water use requirements. Phase 1 base conditions will be in effect year-round.

Notice(s) will be designed to increase customer awareness of water conservation and encourage the most efficient use of water. The city shall keep a copy of the current public announcement on water conservation awareness on file and available for inspection by TCEQ.

(b) City actions. To manage supply, the city will:

(1) Continually review system operations, identify ways to improve system efficiency and accountability, and actively promote water conservation.

(2) Request water customers to voluntarily limit and reduce the use of water for nonessential purposes and to practice water conservation.

(3) Establish mechanisms to remind water customers to practice water conservation year-round.

(c) Customer actions. Under threat of penalty for violation, the following conditions shall apply to all retail water customers:

(1) It is unlawful for any customer to waste water through use that serves no practical purpose. Such water waste includes the failure to repair a leak, either inside or outside a home, building, or facility, within a reasonable time, not to exceed 60 days from the date that a notice was provided about the leak resulting in water runoff or accumulation in a street, gutter, or parking lot.

(2) Residential water customers who choose to use water for landscape irrigation may only do so in accordance with a twice-weekly watering schedule on designated days, shown below, and designated times, shown in part (5) of this section, as determined by the city:

(A) Properties with a street address number ending in 1, 5, or 9 may water on Tuesday and/or Friday.

(B) Properties with a street address number ending in 2, 4, 6, or 8 may water on Wednesday and/or Saturday.

(C) Properties with a street address number ending in 0, 3, or 7 may water on Thursday and/or Sunday.

(3) Commercial, multi-family, and homeowners association water customers who choose to use water for landscape irrigation may only do so in accordance with a once-weekly watering schedule on designated days, shown below, and designated times, shown in part (5) of this section, as determined by the city:

(A) Properties with a street address number ending in 1, 5, or 9 may water on Tuesday.

(B) Properties with a street address number ending in 2, 4, 6, or 8 may water on Saturday.

(C) Properties with a street address number ending in 0, 3, or 7 may water on Thursday.

(4) Landscape irrigation by way of automatic systems or hose-end sprinklers is not allowed on Monday.

(5) Landscape irrigation by way of automatic systems or hose-end sprinklers is limited to the hours from 12:00 a.m. (midnight) to 10:00 a.m. and from 7:00 p.m. to 12:00 a.m. (midnight), in accordance with the applicable watering schedules and designated watering days as determined

by the city.

(6) Landscape irrigation limits do not apply if the irrigation is performed:

(A) By means of a hand-held hose, soaker hose, or drip irrigation system.

(B) At a commercial plant nursery.

(C) During the testing of new irrigation system installation or existing irrigation system repair.

(7) Requests for one-time exceptions to phase 1 landscape irrigation limits would be considered by the city on a case-by-case basis and may be granted for up to 21 days for new lawn installations.

Sec. _____ Conservation phase 2 - water use reduction

(a) Triggers. Customers shall adhere to phase 2 conditions when one or more of the following occurs:

(1) Total daily water demand equals or exceeds 90% of the total operation system treatment capacity for 3 consecutive days;

(2) Total daily water demand equals or exceeds 90% of the firm capacity of key pump stations for 3 consecutive days;

(3) The city administrator or city administrator's designee determines that phase 2 response measures are necessary to protect public health, safety, and welfare.

(b) Demand reduction target. Phase 2 response measures are designed to achieve a 20% reduction in water use.

(c) City actions. To manage supply, the city will:

(1) Discontinue water main and line flushing unless necessary for public health reasons.

(2) Visually inspect lines on a regular basis and repair leaks.

(3) Suspend hydrant testing.

(4) Suspend use of potable water for the following city operations:

(A) Vehicle washing.

(B) Street cleaning.

(C) Landscape irrigation in city parks except by hand-held hose or drip irrigation. The city may continue irrigation by way of automatic systems or hose-end sprinklers for up to 21 days only when necessary to salvage new installations.

(5) Increase efforts to inform the public on water conservation strategies including:

(A) Conduct a monthly review of customer use records;

(B) Contact customers with unusually high usage to help identify potential leaks and provide customers with water saving tips and practices to better manage water use and reduce monthly costs.

(d) Customer actions. Under threat of penalty for violation, the following phase 2 response measures shall apply to all retail water customers:

(1) Residential water customers who choose to use water for landscape irrigation may

only do so in accordance with a once-weekly watering schedule on designated days, shown below, and designated times, shown in phase 1, as determined by the city:

(A) Properties with a street address number ending in 1, 5, or 9 may water on Friday.

(B) Properties with a street address number ending in 2, 4, 6, or 8 may water on Wednesday.

(C) Properties with a street address number ending in 0, 3, or 7 may water on Sunday.

(2) Commercial, multi-family, and homeowners association water customers who choose to use water for landscape irrigation may only do so in accordance with a once-weekly watering schedule on designated days, shown below, and designated times, shown in _____, as determined by the city:

(A) Properties with a street address number ending in 1, 5, or 9 may water on Tuesday.

(B) Properties with a street address number ending in 2, 4, 6, or 8 may water on Saturday.

(C) Properties with a street address number ending in 0, 3, or 7 may water on Thursday.

(3) Landscape irrigation limits do not apply if the irrigation is performed:

(A) By means of a hand-held hose, soaker hose, or drip irrigation system.

(B) At a commercial plant nursery.

(C) During the testing of new irrigation system installation or existing irrigation system repair.

(4) Other nonessential water uses are prohibited except under the following circumstances:

(A) Use of water from hydrants or flush valves for construction purposes.

(B) The addition of water to a pool or splash pad where necessary to maintain the water purification system in service or to maintain structural integrity of the pool.

(C) The washing of vehicles or boats at a commercial car wash facility, or as part of a charity or fundraising event held on a commercial property during the property's designated watering day as defined in subsection (d) of this section.

(e) Wholesale. The city will keep wholesale treated water customers informed about demand and current and projected supply conditions. The city will initiate discussions with wholesale treated water customers about potential curtailment and implementation of mandatory measures to reduce all nonessential water uses.

(f) Termination. Phase 2 may be rescinded when one or more of the following occurs:

(1) The city administrator or city administrator's designee determines that the applicable provisions are no longer necessary to protect public health, safety, and welfare; or

(2) Upon termination of phase 2, the city publicly announces to its customers the end of phase 2 and return to phase 1 conditions.

Sec. _____ Conservation phase 3 - water emergency

(a) Triggers. Customers shall adhere to phase 3 conditions when one or more of the following occurs:

- (1) Total daily water demand equals or exceeds 95% of the total operation system treatment capacity for (3) consecutive days;
 - (2) Total daily water demand equals or exceeds 95% of firm capacity of key pump stations for three consecutive days;
 - (3) The city administrator or city administrator's designee determines that phase 3 response measures are necessary to protect public health, safety, and welfare.
- (b) Demand reduction target. Phase 3 response measures are designed to achieve a 50% reduction in water use.
- (c) City actions. To manage supply, the city will, in addition to phase 2 response measures:
- (1) Discontinue water main and line flushing unless necessary for public health, safety, and welfare.
 - (2) Explore additional emergency water supply options, which may include arranging for the emergency purchase of water from utilities for which there exists proper agreements for such purchase;
 - (3) Increase efforts to inform the public on water conservation strategies;
 - (4) Increase the detection and repair of water leaks in the distribution system;
 - (5) Read water meters as necessary to ensure compliance with this program for the benefit of all the customers.
- (d) Customer actions. Under threat of penalty for violation, phase 3 response measures, along with the following measures which may supersede, shall apply to all retail water customers:
- (1) Landscape irrigation is prohibited except by means of a hand-held hose.
 - (2) Industrial water uses are prohibited except for some limited uses as deemed necessary by the city administrator or city administrator's designee to protect public health, safety, and welfare.
- (e) Wholesale. The city will contact its wholesale treated water customers to initiate mandatory measures to control water demand and to ensure capacity for emergency response requirements . Mandatory measures will include the curtailment of nonessential water uses in accordance with the wholesale water customer's own drought contingency plan.
- (f) Terminations. Phase 3 may be rescinded when one or more of the following occurs:
- (1) The city administrator or city administrator's designee determines that phase 3 response measures are no longer necessary to protect public health, safety, and welfare; or
 - (4) Upon termination of phase 3, the city publicly announces to its customers the end of phase 3 and return to phase 2 conditions.

Sec. _____ Conservation phase 4 - water system failure

- (a) Triggers. Customers shall adhere to the phase 4 response measures when one or a combination of the following occurs:
- (1) Major water line breaks or pump system failures that cause substantial loss of ability to provide water service;
 - (2) Natural or man-made contamination of the water supply source;

- (3) Water demand approaches a reduced delivery capacity for all or part of the system, creating a situation in which water system demand exceeds water system capacity, for an extended length of time, as determined by the city administrator or his/her designee;
- (4) The city administrator or city administrator's designee determines that phase 4 response measures are necessary to protect public health, safety, and welfare.
- (b) Demand reduction target. Phase 4 response measures are designed to limit the daily water demand to no more than 50% capacity.
- (c) City actions. To manage supply, the city will:
 - (1) Assess the severity of the problem and identify the actions needed and time required to resolve the problem.
 - (2) Issue applicable public notifications and messaging as to the water system or source failure.
 - (3) Severely restrict or prohibit, as appropriate, all water system uses in the affected service area.
 - (4) Read meters as often as needed to ensure program compliance for the benefit of all customers.
 - (5) Minimize flushing for dead-end mains.
 - (6) Cease allowance or approval of applications for new, additional, expanded, or larger water service connections, meters, service lines, pipeline extensions, mains, or water service facilities unless project is deemed necessary to resolve the water system failure.
 - (7) Operate the distribution system according to applicable regulations.
 - (8) Initiate emergency interconnects or alternative supply arrangements.
- (d) Customer actions. Under threat of penalty for violation, phase 4 response measures, along with the following measures which may supersede, shall apply to all retail water customers:
 - (1) Use of water is restricted as deemed necessary to meet the emergency.
- (e) Wholesale. The city will contact its wholesale treated water customers to initiate mandatory measures to control water demand and to ensure capacity for emergency response requirements. This may include ceasing water supply to the wholesale water customer.
- (f) Termination. Phase 4 may be rescinded when one or more of the following occurs:
 - (1) The water system failure conditions listed above as a triggering event has ceased to exist for five (5) consecutive days.
 - (2) The city administrator or city administrator's designee determines that phase 4 response measures are no longer necessary to protect public health, safety, and welfare.
 - (3) Upon termination of phase 4, the city publicly announces to its customers the end of phase 4 and return to phase 3 conditions.

Sec. 13.05.045 Enforcement

- (a) No person shall knowingly or intentionally allow the use of water from the City for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this Plan, or in an amount in excess of that permitted by the drought response stage in effect at

the time pursuant to action taken by the City Administrator or his/her designees, in accordance with provisions of the Plan.

(b) Any person who violates this Plan is guilty of a misdemeanor and, upon conviction shall be punished by a fine of up to \$2,000 for each day the violation continues, with each day constituting a separate and distinct offense.

(c) If a person is convicted of three or more violations of this Plan in a calendar year, the City Administrator, or designee shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a reconnection charge. In addition, suitable assurance must be given to the City Administrator or his/her designee, that the same action shall not be repeated while the Plan is in effect. Compliance with the Plan may also be sought through injunctive relief in the district court.

(d) Any City Code Enforcement Officer or Police Officer may issue a warning or citation to a person that is reasonably believed to be in violation of this Plan. The warning or citation shall contain the name and address of the alleged violator, if known, the offense charged, and if a citation, shall direct him/her to appear in the municipal court on the date shown on the citation. The alleged violator shall be served a copy of the warning or citation, with service complete upon delivery of the citation by hand or by certified mail to the alleged violator, an agent or employee or to a person over 14 years of age who is a family member or resident of the violator's residence.

(f) Any person, including a person classified as a water customer of the City, 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 show that he/she did not commit the violation.

These provisions apply to all customers of the City.

Sec. 13.05.046 Exemptions or Waivers

The City Council, may, in writing, grant temporary variance for existing water uses otherwise prohibited under this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health or sanitation for the public or the person requesting such variance and if one or more of the following conditions are met:

(a) Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.

- (b) Alternative methods can be implemented which will achieve the same level of reduction in water use.

Persons requesting an exemption from the provisions of this Ordinance shall file a petition for variance with the City within 5 days after the Plan or a particular drought response stage has been invoked or after a condition justifying the variance first occurs. All petitions for variances shall be reviewed by the City Council and shall include the following:

- (a) Name and address of the petitioner(s).
- (b) Purpose of water use.
- (c) Specific provision(s) of the Plan from which the petitioner is requesting relief.
- (d) Detailed statement as to how the specific provision of the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Plan.
- (e) Description of the relief requested.
- (f) Period of time for which the variance is sought.
- (g) Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.
- (h) Other pertinent information, as requested by the City Council.

Variances granted by the City Council shall be subject to the following conditions:

- (a) Variances granted shall include a timetable for compliance.
- (b) No variance allowed for a condition requiring water allocation will continue beyond the termination of water allocation under Section 13.05.042. Any variance for a subsequent water allocation must be petitioned again. The fact that a variance has been granted in response to a petition will have no relevance to the decision on any subsequent petition.

No variance shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance.