

ORDINANCE NO. 2014-3568

AN ORDINANCE AMENDING CHAPTER 11, "UTILITIES", SECTION 9 "DROUGHT CONTINGENCY AND EMERGENCY WATER PLAN" OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That Chapter 11, "Utilities", Section 9 "Drought Contingency and Emergency Water Plan" of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two-Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this 24th day of April, 2014.

APPROVED:

Nancy J. Berry
Mayor

ATTEST:

Sherry Mashlen
City Secretary

APPROVED:

Adm C. Fols
City Attorney

EXHIBIT "A"

Chapter 11, "Utilities", Section 9 "Drought Contingency and Emergency Water Plan" of the Code of Ordinances of the City of College Station, Texas, is hereby amended, in its entirety as set out hereafter to and is to read as follows:

SECTION 9: DROUGHT CONTINGENCY AND WATER EMERGENCY PLAN

- A. DECLARATION OF POLICY, PURPOSE, AND INTENT.** Safe, high quality drinking water is a precious resource in the Bryan-College Station region. This Drought Contingency and Water Emergency Plan (the "Plan") requires that the available water resources of the City of College Station be put to the most beneficial use possible. The Plan also requires that the waste, unreasonable use, or unreasonable method of use of water be prevented, and that conservation of water be extended with a view to reasonable and beneficial use in the interests of public health and welfare of the College Station community. Emergency conditions resulting from equipment or system failures are also addressed in this Plan. The Plan will be reviewed and updated as necessary, at a minimum of every five (5) years.
- B. AUTHORIZATION.** The City Manager or his designee is hereby authorized and directed to implement the applicable provisions of this Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The City Manager or his designee shall have the authority to initiate or terminate drought stages or water supply emergency response measures as described in this Plan.
- C. APPLICATION.** The provisions of this Plan shall apply to all persons, customers, and property utilizing potable water provided by the City of College Station. The terms "person" and "customer" as used in the Plan include individuals, corporations, partnerships, associations, and all other legal entities. Utilization of a water source other than City of College Station potable water is exempt from the provisions of this Plan.
- D. COORDINATION WITH REGIONAL WATER PLANNING GROUP.** The water service area of the City of College Station is located within the Brazos Region G Regional Water Planning Group. The City of College Station has provided a copy of this Plan to the Brazos Region G Regional Water Planning Group.
- E. DEFINITIONS.** For the purposes of this Plan the following definitions shall apply:
- 1. Aesthetic Water Use:** water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.
 - 2. Commercial and Institutional Water Use:** water use which is integral to the operations of commercial and non-profit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, and office buildings.

3. **Conservation:** those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.
4. **Customer:** any person, company, or organization using water supplied by the City.
5. **Domestic Water Use:** water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.
6. **Even Number Address:** street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.
7. **Industrial water use:** the use of water in processes designed to convert materials of lower value into forms having greater usability and value.
8. **Landscape Irrigation Use:** water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-way and medians.
9. **Non-Essential Water Use:** water uses that are neither essential nor required for the protection of public, health, safety, and welfare, including:
 - a. Irrigation of landscaped areas, including parks, athletic fields, and golf courses, except as otherwise provided under this Plan;
 - b. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
 - c. Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
 - d. Use of water to wash down buildings or structures for purposes other than immediate fire protection;
 - e. Flushing gutters or permitting water to run or accumulate in any gutter or street;
 - f. Use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;
 - g. Use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;

- h. Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
- i. Use of water from hydrants for construction purposes or any other purposes other than fire fighting.

10. Odd Numbered Address: street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

F. 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, utility bill inserts, public events, social media, and similar methods.

G. NOTIFICATION

1. **Public Meeting** – This Plan has been presented to the public at a formal public meeting.
2. Public notification of the initiation or termination of drought response stages shall be by means of publication in a newspaper widely circulated in College Station and public service announcements on local television or cable service. Additional methods of public notification may include signs posted in public places, utility bill inserts, and other means to be determined by the City.
3. When mandatory restrictions are enacted with the initiation of Stage 1, Stage 2, or Stage 3, the Executive Director of TCEQ will be notified, at a minimum via telephone and email, within five (5) business days. When any particular stage is rescinded, the Executive Director of TCEQ will again be notified, at a minimum via telephone and email, within five (5) business days.

H. YEAR-ROUND WATER USE MANAGEMENT AND CONSERVATION. This section establishes year-round water use management practices and applies year-round regardless of Drought Stage. The purpose of year-round water use management is to raise public and customer awareness of water demand conditions.

1. **Voluntary Water Conservation Guidelines.** The peak season for water use in College Station is the period from May 1st to September 30th and attention to water conservation in this period is critical to protecting valuable drinking water resources. During this time, water customers are requested to voluntarily conserve water and limit non-essential water uses. Water conservation practices are discussed in more detail in the City of College Station's Water Conservation Plan.
2. **Permanent Water Use Restrictions:** In order to minimize water lost to evaporation and leaks, the following water use restrictions apply year-round:

- a. Landscape irrigation using automatic in-ground or hose-end sprinkler systems is prohibited between the hours of 10:00 a.m. and 6:00 P.M.
 - b. The time restrictions in (1) above do not apply to:
 - (i) The irrigation of commercial plant nurseries.
 - (ii) Irrigation using reclaimed water or other non-potable water sources.
 - (iii) New landscape installation during planting and the first ten days after planting.
 - (iv) The testing of new irrigation systems or existing irrigation systems being tested or under repair.
 - (v) Irrigation using a hand-held bucket or hose equipped with a positive pistol grip nozzle, pressure-washing system, or other device that automatically shuts off water flow when the hose is not being held by the water user.
 - (vi) Irrigation by drip irrigation or soaker hoses.
 - c. The following uses constitute a waste of water and are prohibited
 - (i) Allowing water to run off a property or allowing water to pond in the street or parking lot.
 - (ii) Operating an irrigation system with sprinkler heads that are broken or out of adjustment.
 - (iii) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).
3. Ornamental fountains or ponds for aesthetic or scenic purposes must be equipped with a recirculation device. This restriction does not apply to ornamental fountains or ponds that use reclaimed water, non-potable water, or water provided by sources other than the City.
- I. TRIGGER CONDITIONS.** The City Manager or his designee shall monitor daily water supply or demand conditions. The City Manager, on recommendation of College Station Water Services, shall determine when conditions warrant initiation or termination of each stage of the Plan, that is, when the specified “triggers” (discussed below) are reached. The triggering criteria described below are based on emergency situations caused by high daily average water demand, equipment or system failure, or a natural disaster. The trigger conditions also recognize that the City of College Station uses groundwater as its water supply, and therefore, will likely be constrained by system capacity before shortage of

supply. In the spirit of cooperation, various interconnections are in place between the City of College Station, City of Bryan and Texas A&M University that may be utilized to provide water in emergency conditions, provided there is not an additional emergency situation created by any water transfer. These shared water resources shall be evaluated or implemented prior to initiation of each stage of the Plan.

1. Stage 1 – High Water Demand

a. Requirements for initiation - Customers shall be required to comply with the requirements and restrictions on non-essential water uses, as outlined herein in Responses to Trigger Conditions, Stage 1, when:

1. Average daily water consumption for three (3) consecutive days reaches 85% of production/distribution capacity of the City water system; or
2. Emergency water supplied to the City of College Station by contractual agreement through system interconnections with Texas A&M University or the City of Bryan is curtailed or interrupted; or
3. A mechanical failure occurs in the water production or distribution system that reduces water production/delivery capacity.

b. Requirements for termination - Stage 1 of the Plan may be rescinded by the City Manager when water demand drops below 85% of production/distribution capacity for a period of three (3) consecutive days, or the water system is returned to fully operational conditions. Upon termination of Stage 1, the standard condition of Year-Round Water Use Management becomes operative.

2. Stage 2 – Severe Water Shortage

a. Requirements for initiation – Customers shall be required to comply with the requirements and restrictions on non-essential water uses, as outlined herein in Responses to Trigger Conditions, Stage 2, when:

- (i) The City average daily water consumption for three (3) consecutive days reaches 90% of production/distribution capacity of the system, or
- (ii) The City daily water consumption will not enable storage levels to be maintained.

b. Requirements for termination - Stage 2 of the Plan may be rescinded by the City Manager when the condition(s) listed above as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of Stage 2, Stage 1 becomes operative as directed by the City Manager.

3. Stage 3 – Water Supply Emergency

a. Requirements for initiation - Customers shall be required to comply with the requirements and restrictions on non-essential water uses, as outlined herein in Responses to Trigger Conditions, Stage 3, when:

(i) The City water system is contaminated, whether accidentally or intentionally. A Water Supply Emergency condition is reached immediately upon detection; or

(ii) The City water system fails for any reason. A Water Supply Emergency condition is reached immediately upon detection.

b. Requirements for termination - Stage 3 of the Plan may be rescinded by the City Manager when the condition(s) listed above as triggering events have ceased to exist. Upon termination of Stage 3, the previously initiated stage becomes operative as directed by the City Manager.

J. RESPONSES TO TRIGGER CONDITIONS. The City shall monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth herein, shall determine that a voluntary, moderate or severe water shortage condition exists and shall implement the following actions upon notice as provided herein:

1. Stage 1 – High Water Demand - Water Demand Exceeds 85% of System Capacity. The goal for Stage 1 of the Plan is to achieve a 5% reduction in daily water demand and maintain average daily water demand below eighty-five percent (85%) of system capacity. In the event that the City Manager enacts Stage 1, the following water use restrictions shall apply to all customers using water provided by the City, in addition to the Year-Round Water Use Restrictions:

a. Water customers are required to participate in the Watering Schedule for non-essential water use. Non-essential water use shall only occur on a designated outdoor watering day(s), which will be no more than twice each week. The Watering Schedule will be determined and distributed each year by the City.

b. Non-essential water use is permitted:

(i) From 12:00 midnight to 10:00 A.M. and from 6:00 P.M. to 12:00 midnight on a customer's designated watering day; or

(ii) Anytime, by the use of hand-held hoses equipped with a positive pistol grip nozzle or other device that automatically shuts off water flow when the hose is not being held by the water user, by drip irrigation, by soaker hose, or by hand-held buckets.

c. The time restrictions do not apply to:

- (i) The irrigation of commercial plant nurseries.
 - (ii) Irrigation using reclaimed water.
 - (iii) New landscape installation during planting and the first ten days after planting.
 - (iv) The testing of new irrigation systems or existing irrigation systems being tested or under repair.
- d. The washing of automobiles, trucks, motorbikes, boats, trailers, airplanes or other vehicles is permitted:
 - (i) On designated watering days, from 12:00 midnight to 10:00 A.M. and from 6:00 P.M. to 12:00 midnight.
 - (ii) Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses.
 - (iii) The washing of individual vehicles may be done at any time on the immediate premises of a commercial car wash or commercial service station.
 - (iv) Further, this restriction does not apply to the washing of vehicles or any other type of mobile equipment (such as garbage trucks and vehicles to transport food and perishables) when the health, safety, and welfare of the public is contingent upon frequent vehicle cleansing.
- e. Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is permitted only on designated watering days from 12:00 midnight to 10:00 A.M. and from 6:00 P.M. to 12:00 midnight.
- f. Use of water for the irrigation of golf course greens, tees, and fairways is permitted only on designated watering days. Such irrigation shall only occur from 12:00 midnight to 10:00 A.M. and from 6:00 P.M. to 12:00 midnight. These restrictions do not apply to the irrigation of any golf course that uses reclaimed water, or other non-potable water sources.
- g. Charity car washes are prohibited.
- h. Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life. This restriction does not apply to ornamental fountains or ponds that use reclaimed water, non-potable water, or water sources other than the City.

- i. Use of water from fire hydrants shall be limited to fire fighting and related activities, or other activities necessary to maintain public health, safety, and welfare. Use of water from designated fire hydrants for construction purposes may be allowed when a variance has been approved by the City Manager.
 - j. All restaurants are prohibited from serving water to their patrons except when requested.
 - k. The following uses constitute a waste of water and are prohibited in Stage 1:
 - (i) Washing sidewalks, walkways, driveways, parking lots, tennis courts, patios or other hard-surfaced areas except with a pressure-washing system or to alleviate immediate health or safety hazards.
 - (ii) Use of water for dust control.
 - (iii) Washing an automobile, truck, trailer, boat, airplane, or other mobile equipment with a hand-held hose not equipped with a pistol grip nozzle or other device that automatically shuts off water flow when the hose is not being held by the water user.
2. **Stage 2 – Severe Water Shortage - Water Demand Exceeds 90% of System Capacity.** The goal for Stage 2 of the Plan is to achieve a 5% reduction in daily water demand, maintaining average daily water demand at or below ninety percent (90%) of system capacity. In the event that the City Manager enacts Stage 2, the following water use restrictions shall apply to all persons:
- a. **Supply Management Measures** – The City will cease the flushing of water mains except when necessary to maintain public health, safety, and welfare. All City departments will discontinue irrigating public landscaped areas except when such areas are irrigated with reclaimed water, or water source other than that provided by the City.
 - b. **Water Use Restrictions** – All requirements of Stage 1 shall remain in effect during Stage 2, with these additional water use restrictions:
 - (i) The use of permanently installed irrigation systems, drip irrigation systems, and hose end irrigation is prohibited.
 - (ii) Non-essential water use is restricted to use of hand-held buckets, or hand-held hoses equipped with a positive pistol grip nozzle, or other device that automatically shuts off water flow when the hose is not being held by the water user.

(iii) Such water use may occur only between the hours of 6:00 a.m. to 10:00 A.M. and 6:00 P.M. to 10:00 P.M. on designated non-essential water use days.

(iv) The washing of automobiles, trucks, trailers, boats, airplanes, and other types of mobile equipment not occurring on the immediate premises of a commercial car wash or a commercial service station and not in the immediate interest of the public health, safety, and welfare are prohibited. The washing of such vehicles under public safety and health situations may only occur between 6:00 A.M. and 10:00 A.M.

(v) Commercial plant nurseries may use only hand-held buckets, or hand-held hoses equipped with a positive pistol grip nozzle, or other device that automatically shuts off water flow when the hose is not being held by the water user.

(vi) The filling, refilling, or adding of potable water to swimming or wading pools is prohibited.

(vii) No new landscapes of any type may be installed.

c. All variances granted under a previous stage shall be invalid during Stage 2. The use of water under variances granted by the City Manager is to be discontinued.

3. Stage 3 – Water Supply Emergency. The goal for Stage 3, Water Supply Emergency, is to rectify the emergency and return to normal operating conditions as soon as possible. In the event of an imminent or actual water supply emergency due to either loss of water supply source (including contamination) and/or system failure, the City Manager has the authority to initiate the following Water Supply Emergency Responses:

a. The City Manager may request assistance from the City of Bryan and Texas A&M University in maintaining distribution system volume and pressure during the emergency conditions.

b. Effective immediately upon initiation of Stage 3, all non-essential water use shall be discontinued, except for immediate health and safety purposes.

c. In the event that water shortage or water emergency conditions threaten public health, safety, and welfare, the City Manager, upon recommendation of College Station Utilities, may order water rationing and/or terminate service to selected users of the system in accordance with the following sequence:

(i) Recreational users,

(ii) Commercial users,

(iii) School users,

(iv) Residential users, and

(v) Hospitals, public health, and safety facilities.

d. Public Notification: In the event that minimum health and safety standards for drinking water are not met during emergency conditions, public service announcements on local television and radio stations will be utilized to notify the public of the emergency conditions and response measures. These response measures may include notifying the public of the need to boil water, use bottled water, or use a designated alternate water source, as appropriate.

e. Emergency Management Assistance: The City may seek assistance through the local and/or State Emergency Management Program.

K. WHOLESALE AGREEMENTS/CONTRACTS PROVISION. In the event that the Trigger Conditions specified by Stage 2 – Severe Water Shortage, or Stage 3 – Water Supply Emergency, of this Plan have been met, the City Manager is hereby authorized to initiate allocation of water supplies to wholesale customers on a pro rata basis. This stipulation applies to all existing and future wholesale water supply contracts or agreements made with the City. The pro rata basis for water allocation to wholesale customers will be made in accordance with the Texas Water Code §11.039 and as specified in 30 Texas Administrative Code §288.22(a)(7), as the statutes currently exists or as amended from time to time.

L. ENFORCEMENT

1. No person shall allow the use of potable water from water supplied by the City for any 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 stage in effect at the time pursuant to action taken by the City Manager in accordance with provisions of this Plan.
2. If a person is convicted or placed on any type of deferred sentence or probated sentence, for three or more violations of this Plan, the City shall provide written notice to the person of possible termination of service. The notice shall apprise the person of the possible termination of service, the reasons for such possible termination, and afford the person an opportunity to present his objections to termination in a hearing before the City Manager. The person shall have not less than ten (10) days to present his objections. The notice shall also contain the notice requirements described in TCEQ Commission Rules located in the 30 Texas Administrative Code §291.88(a), as it currently exists or as amended from time to time. If after such hearing, the City Manager determines that service will be terminated then the services discontinued under such circumstances shall be restored only upon payment of the reconnection

charge, as established in Section 1 of this Chapter, and any other costs incurred by the City in discontinuing service. In addition, suitable written assurance must be given to the City Manager, that the same action shall not be repeated while the Plan is in effect. Compliance with this Plan may also be sought through injunctive relief in the district court or by any other legal means necessary to gain compliance and enforce the Plan.

M. PRESUMPTIONS

1. 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 did not commit the violation.
2. Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parents' control shall constitute a rebuttable presumption that the parent committed the violation. Any such parent may be excused if he proves that he had previously directed the child not to use the water as it was used in violation of this Plan and that the parent could not have reasonably known of the violation.

N. VARIANCES.

1. The City Manager may, in writing, grant temporary variance for existing water uses otherwise prohibited under this Plan if it is determined that failure to grant such a variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance, or 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.
2. Persons requesting an exemption from the provisions of this Ordinance shall file a petition for variance with the City within five (5) business days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the City Manager or his/her designee and shall include the following:
 - a. Name and address of the petitioner(s),
 - b. Purpose of water use,

