

ORDINANCE NO. 5306

AN ORDINANCE OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 26, "UTILITIES" OF THE CODE OF ORDINANCES OF THE CITY OF DENISON BY AMENDING AND REPLACING ARTICLE VI, "DROUGHT CONTINGENCY PLAN" TO ADOPT A NEW DROUGHT CONTINGENCY PLAN; PROVIDING SAVINGS, REPEALING AND SEVERABILITY CLAUSES; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Denison (hereinafter referred to as "City") is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, in 2005, the City adopted an official Drought Contingency Plan ("the Plan"), which is codified in Article VI of Chapter 26, "Utilities" of the Code of Ordinances, and, in accordance with state law, the City is required to review and update the Plan every five years, last doing so in 2019; and

WHEREAS, the City Council desires to update and amend the Plan to protect and preserve public health, welfare and safety by maintaining water supplies for domestic water use, sanitation and fire protection; and

WHEREAS, the City Council has determined that the proposed Plan in this Ordinance complies with state law; and

WHEREAS, having considered the proposed amendment to Article VI in Chapter 26, the City Council does hereby find that the amendment described herein are for the benefit of the health, safety, and welfare of the citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DENISON, THAT:

SECTION 1. INCORPORATION OF PREMISES. The above and foregoing premises are (i) true and correct and are incorporated herein and made a part hereof for all purposes, and (ii) legislative findings of the City Council.

SECTION 2. FINDINGS. After due deliberations and consideration, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City and of the public health, safety, and welfare.

SECTION 3: AMENDMENT. Chapter 26, "Utilities" in the Code of Ordinances is hereby amended to amend and replace Article VI "Drought Contingency Plan" in its entirety to read as follows:

ARTICLE VI. - DROUGHT CONTINGENCY PLAN

Sec. 26-276. - Declaration of policy, purpose and intent.

- (a) The City of Denison adopts the following regulations and restrictions on the delivery and consumption of water during periods of *drought* conditions, known as the *drought contingency* plan ("the plan"). The plan will conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection. The purpose of these regulations is to protect the public health, welfare and safety and minimize the adverse impacts of water supply shortages or other water emergency conditions.
- (b) As required by the Texas Commission on Environmental Quality (TCEQ) rules in Title 30, Texas Administrative Code, Chapter 288, Subchapter B, Rule 288.20, as amended, this article addresses various situations including the following:
- Provisions to inform the public and provide opportunity for public input;
 - Provisions for continuing public education and information;
 - Coordination with regional water planning group;
 - Criteria for initiation and termination of drought stages;
 - Drought and emergency response stages;
 - Specific, quantified targets for water use reductions;
 - Water supply and demand management measures for each stage;
 - Procedures for initiation and termination of *drought* stages;
 - Procedures for granting variances;
 - Procedures for enforcement of mandatory restrictions;
 - Consultation with wholesale supplier;
 - Notification of implementation of mandatory measures; and
 - Review and update of plan.
- (c) The provisions of this article shall apply to all persons, users, and property utilizing water provided by the city.

Sec. 26-277. - Authorization of responsible official.

The director of public works is hereby authorized and directed to implement the applicable provisions of the plan upon determination that such implementation is necessary to protect public health, safety, and welfare of the community. The director shall have the authority to initiate or terminate stages of the plan as stated in this article. The director shall review and propose updates, if necessary, to the city council at least every five (5) years, or as required by law.

Sec. 26-278. - Definitions.

The words and terms used in this article shall have the following meaning, unless the context clearly indicates otherwise.

- (a) *Aesthetic use*: Water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.
- (b) *City*: The City of Denison, Texas.
- (c) *Commercial and institutional water use*: Water use which is integral to the operations of commercial, non-profit, and governmental entities such as retail establishments, hotels and motels, restaurants, and office buildings.
- (d) *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.
- (e) *Contamination*: The presence of any foreign substance (organic, inorganic, radiological or biological) in water which tends to degrade its quality so as to constitute a health hazard or impair the usefulness of the water such that the water system cannot be used.
- (f) *Customer*: Any person, company, organization or municipality using water supplied by the City of Denison.
- (g) *Director*: The City of Denison Public Works Director or designee.
- (h) *Drought*: A long period of abnormally low precipitation that adversely affects growing or living conditions.
- (i) *Even number address*: Street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.
- (j) *Industrial water users*: The use of water in processes designed to convert materials of lower value into forms having greater usability and value.
- (k) *Institutional water users*: Public, educational, charitable, or other organizations devoted to a particular cause or program including all levels of government agencies, schools, colleges, and healthcare facilities such as nursing homes and hospitals.

- (l) *Landscape irrigation use*: Water use for irrigation and maintenance of landscaped area, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, rights-of-way, and medians.
- (m) *Non-essential water use*: Water use that is neither essential nor required for the protection of public health, safety, and welfare, including:
 - (1) Irrigation of landscaped areas, including parks, athletic fields, and golf courses, except as otherwise provided under this plan;
 - (2) Use of water to wash any motor vehicle, motor bike, boat, trailer, airplane, or other vehicle at any noncommercial establishment not designed for such purposes;
 - (3) Use of water to wash any sidewalks, walkways, driveways, parking lots, tennis courts, or other impervious surfaces;
 - (4) Use of water to wash buildings or structures for purposes other than immediate fire protection;
 - (5) Flushing gutters or permitting water to run or accumulate in any gutter or street;
 - (6) Use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;
 - (7) Use of water in fountain or pond for aesthetic or scenic purposes; except where necessary to support non-plant aquatic life;
 - (8) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).
- (n) *Maintenance failures*: Any failure or curtailment of delivery from raw water suppliers because of water quantity or quality problems due to water supply system structural failure, or any of a number of natural or manmade situations.
- (o) *Odd numbered address*: Street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.
- (p) *Person and user*. As used in the plan includes individuals, corporations, partnerships, associations, and all other legal entities.
- (q) *Production capability*: The volume/amount a public water supplier is able to produce utilizing the current water resources and infrastructure.
- (r) *Reservoir*: The City of Denison raw water holding facilities, including, Lake Texoma and Lake Randell.
- (s) *TCEQ*. The Texas Commission on Environmental Quality.
- (t) *Watering schedule*: Permissible days for outdoor water use based upon odd (O) and even (E) numbered addresses on the days shown in the following table.

	Sunda y	Monda y	Tuesda y	Wednesda y	Thursda y	Frída y	Saturda y
Odd	X		X		X		None
Even		X		X		X	None

- (u) *Water supply*: the amount of water that is available to meet the immediate unrestricted customer demands based on the available water resources and infrastructure.
- (v) *Wholesale water user*: Potable water provided to a person, political subdivision or municipality who is not the ultimate user of the water.

Sec. 26-279. - Education; coordination with regional water planning group.

(a) *Education*:

- (1) Continuing public education and information shall be accomplished by making the plan available to the public through the city website and notifying local organizations, schools, and civic groups that city staff members are available to make presentations about the plan.
- (2) When the plan is activated or the drought stage changes, the city shall notify local media of the change, the drought response stage, and the specific actions required of the public to comply with the plan. Other means of notice may also include publication on the City of Denison website and billing inserts or mail outs, as appropriate.

- (b) *Coordination with regional water planning group*: The city is located within the Region C water planning area. The city shall notify the chair of the Region C Water Planning Group (RCWPG) of this plan for their information and comment. The plan will be reviewed by RCWPG to assure conformity and consistency with the regional water plan.

Sec. 26-280. - Drought stages; triggering criteria; response; termination.

- (a) *Initiation of drought response stages*. The director shall monitor water supply and demand conditions and shall have the authority to initiate the stages of this plan at his/her discretion. Initiation of the stages is not required to be in sequential order if the director determines it is in the best interest of the public. The following actions will be taken when a drought state is initiated:

- (1) Public notification of the initiation of drought response stages shall be by means of public service announcements on television, radio, area newspapers or publications, or on the city website.
- (2) The director shall make notification to wholesale water users upon initiation of drought response stages. Wholesale water users will be notified by telephone with a follow-up letter or fax. Contact between the director and wholesale water users shall be maintained throughout drought conditions. Notification shall include a reminder that water will be distributed to all customers pro rata, in accordance with V.T.C.A., Water Code § 11.039.

- (3) The director shall notify TCEQ within five (5) business days upon implementing any mandatory provisions of this plan, as prescribed in Title 30, Texas Administrative Code, Chapter 288, Subchapter B (288.20(b)), as amended. The director may decide not to order the implementation of a drought response stage or water emergency even though one (1) or more of the trigger criteria for the stage are met. Factors that could influence such a decision include, but are not limited to, the time of the year, weather conditions, the anticipation of replenished water supplies, or the anticipation that additional facilities will become available to meet needs.
- (b) *Termination of drought response stages.* The director may order the termination of a drought response stage or water emergency when the conditions for termination are met or at his/her discretion. Termination of the stages is not required to be in sequential order if the director determines it is in the best interest of the public. The following actions will be taken when a drought stage is terminated:
- (1) Public notification of the termination of drought response stages shall be by means of public service announcements on television, radio, area newspapers or publications, or on the city website.
 - (2) The director shall make notification to wholesale water users upon termination of drought response stages. Wholesale water users will be notified by telephone with a follow-up letter or fax.
 - (3) When any mandatory provisions of the drought contingency plan that have been activated are terminated, the City of Denison will notify the executive director of the TCEQ within five (5) business days.
- (c) Drought and emergency response stages.
- (1) Stage 1, Increased Awareness
 - a. Triggering Conditions. The following conditions may trigger the director to impose stage 1 restrictions:
 1. Demand exceeds eight (8) MGD of the amount that can be delivered to customers for seven (7) consecutive days;
 2. Water demand for all or part of the delivery system approaches delivery capacity because delivery capacity is inadequate;
 3. Supply source becomes contaminated;
 4. Water supply system is unable to deliver water due to the failure or damage of major water system components; or
 5. Water demand is approaching the limit of the permitted supply.
 - b. Goal for use reductions and actions available.

1. The goal for water use reduction under stage 1, Increased Awareness is a zero (0) percent reduction of the use that would have occurred in the absence of drought contingency measures. The director can order the implementation of any of the actions listed below, as deemed necessary. Measures described as “requires notification to TCEQ” impose mandatory requirements on retail and wholesale customers. The City of Denison staff must notify TCEQ within five (5) business days if such measures are implemented. Request voluntary reductions in water use by the public and by wholesale customers;
 - a) Request voluntary reductions in water use by the public and by wholesale customers;
 - b) Increase public education efforts on ways to reduce water use;
 - c) Review the problems that caused the initiation of stage 1;
 - d) Notify major water users and work with them to achieve voluntary water use reductions;
 - e) Intensify efforts on leak detection and repair;
 - f) Reduce non-essential city government water use, including street cleaning, vehicle washing, and operation of ornamental fountains;
 - g) Reduce city government water use for landscape irrigation;
 - h) Ask the public to follow voluntary landscape watering schedules; or
 - i) Notify wholesale customers of actions being taken in the City of Denison and require implementation of similar procedures.
- c. Stage 1 can terminate after a period of 30 days during which the circumstances that caused the initiation of stage 1 no longer prevail.

(2) Stage 2, Mild

- a. Triggering Conditions. The following conditions may trigger the director to impose stage 2 restrictions:
 1. Demand exceeds ten (10) MGD of the amount that can be delivered to customers for five (5) consecutive days;
 2. Water demand for all or part of the delivery system approaches delivery capacity because delivery capacity is inadequate;
 3. Supply source becomes contaminated;
 4. Water supply system is unable to deliver water due to the failure or damage of major water system components; or
 5. Water demand is approaching the limit of the permitted supply.
- b. Goal for use reductions and actions available.
 1. The goal for water use reduction under stage 2, mild is a two (2) percent reduction of the use that would have occurred in the absence of drought contingency measures. The director can order the implementation of any of the actions listed below, as deemed necessary.

Measures described as "requires notification to TCEQ" impose mandatory requirements on retail and wholesale customers. The city staff must notify TCEQ within five (5) business days if such measures are implemented. Request voluntary reductions in water use by the public and by wholesale customers;

- a. Continue or initiate any actions available under stage 1;
 - b. Further accelerate public education efforts on ways to reduce water use;
 - c. Review the problems that caused the initiation of stage 2;
 - d. Requires notification to TCEQ. Water waste is prohibited at all times. Water waste includes allowing water to run off of a property, into a street, gutter, ditch, or drain; or failing to repair a controllable leak.
 - e. Requires notification to TCEQ. Limit landscape watering at each service address to two days per week based on the last digit of the address, except that:
 1. Golf courses may water greens and tee boxes without restrictions; and (SUGGEST ADDITION)
 2. Landscape watering limitations do not apply to locations using treated wastewater effluent for irrigation.
 - f. Requires notification to TCEQ. Limit landscape watering to the hours before 10 a.m. and after 6 p.m., except that
 1. Golf courses may water greens and tee boxes without restrictions; and
 2. Landscape watering limitations do not apply to locations using treated wastewater effluent for irrigation.
 - g. Requires notification to TCEQ. Watering days begin and end at midnight; overnight watering is not allowed.
 - h. Requires notification to TCEQ. Washing of impervious surfaces such as parking lots, driveways, streets, or sidewalks is prohibited. Health and safety variances to this rule may be requested from the city .
 - i. Applying water to construction sites for the purpose of dust control may continue without restriction.
 - j. Reduce non-essential city government water use, including street cleaning, vehicle washing, and operation of ornamental fountains;
 - k. Ornamental fountains include splash pads used for public recreation.
 - l. Requires notification to TCEQ. Evaporative Cooling towers, not utilizing recycled water, shall operate a minimum of four (4) cycles of concentration as compared to the makeup water.
 - m. Notify wholesale customers of actions being taken in the city and require implementation of similar procedures.
- c. Stage 2 can terminate after a period of 30 days during which the circumstances that caused the initiation of stage 2 no longer prevail. Stage 1 becomes operative on termination of stage 2.

(3) Stage 3, Moderate

- a. Triggering Conditions. The following conditions may trigger the director to impose stage 3 restrictions:
 1. Demand exceeds eleven (11) MGD of the amount that can be delivered to customers for three (3) consecutive days;
 2. Water demand for all or part of the delivery system equals delivery capacity because delivery capacity is inadequate;
 3. Supply source becomes contaminated;
 4. Water supply system is unable to deliver water due to the failure or damage of major water system components; or
 5. Water demand is approaching the limit of the permitted supply.

- b. Goal for use reductions and actions available.
 1. The goal for water use reduction under stage 3, moderate is a five (5) percent reduction of the use that would have occurred in the absence of drought contingency measures. The director can order the implementation of any of the actions listed below, as deemed necessary. Measures described as "requires notification to TCEQ" impose mandatory requirements on retail and wholesale customers. The city staff must notify TCEQ within five (5) business days if such measures are implemented.
 - a) Continue or initiate any actions available under stages 1 and 2;
 - b) Initiate engineering studies to evaluate alternatives should conditions worsen;
 - c) Further accelerate public education efforts on ways to reduce water use;
 - d) Halt non-essential city government water use, including street cleaning, vehicle washing, and operations of ornamental fountains;
 - i. Ornamental fountains include splash pads used for public recreation.
 - e) Requires notification to TCEQ. Halt operation of all outdoor commercial ornamental fountains.
 - i. Ornamental fountains include splash pads used for recreation.
 - f) Requires notification to TCEQ. Halt routine fire hydrant flushing and testing.
 - g) Encourage the public to wait until the current drought or emergency situation has passed before establishing new landscaping;
 - h) Requires notification to TCEQ. Watering with a sprinkler or irrigation system is not allowed on the weekends.
 - i) Requires notification to TCEQ. Charity car washes allowed only at permanent commercial car wash facilities.
 - j) Requires notification to TCEQ. Hotels and motels must implement water conservation measures, including the reduction of laundry water usage.
 - k) Requires notification to TCEQ. Restaurants shall only serve water upon request.

- l) Notify wholesale customers of actions being taken in the city and require them to implement similar procedures.
- c. Stage 3 can terminate after a period of thirty (30) days during which the circumstances that caused the initiation of stage 3 no longer prevail. Stage 2 becomes operative on termination of stage 3.

(4) Stage 4, Severe

- a. Triggering Conditions. The following conditions may trigger the director to impose stage 4 restrictions:
 1. Demand exceeds 11.5 MGD of the amount that can be delivered to customers for three (3) consecutive days;
 2. Water demand for all or part of the delivery system exceeds delivery capacity because delivery capacity is inadequate;
 3. Supply source becomes contaminated;
 4. Water supply system is unable to deliver water due to the failure or damage of major water system components; or
 5. Water demand is approaching the limit of the permitted supply.
- b. Goal for use reductions and actions available.
 1. The goal for water use reduction under stage 4, severe, is a reduction of seven (7) percent of the use that would have occurred in the absence of drought contingency measures. The director can order the implementation of any of the actions listed below, as deemed necessary.

Measures described as "requires notification to TCEQ" impose mandatory requirements on retail and wholesale customers. The city staff must notify TCEQ within five (5) business days if such measures are implemented.

- a) Continue or initiate any actions available under stages 1, 2, and 3;
- b) Implement viable alternative water supply strategies;
- c) Requires notification to TCEQ. Initiate mandatory water use restrictions as follows:
- d) Prohibit hosing down of paved areas, buildings, or windows;
- e) Prohibit washing or rinsing of vehicles by hose;
- f) Requires notification to TCEQ Limit landscape watering at each service address to once every seven (7) days based on the last digit of the address, except that:
- g) Foundations and trees and shrubs planted less than one (1) year ago may be watered for up to two (2) hours on any day by a hand-held hose or a soaker hose;
- h) Golf courses may water greens and tee boxes without restrictions; and

- i) landscape watering limitations do not apply to locations using treated wastewater effluent for irrigation.
 - j) Requires notification to TCEQ. Prohibit draining and filling of existing pools and filling of new pools, except that existing pools may add water to replace losses during normal use;
 - k) Requires notification to TCEQ. Prohibit establishment of new landscaping;
 - l) Discontinue city government water use for landscape irrigation, except as needed to prevent foundation damage, keep golf course greens, and tee boxes alive, and preserve new plantings; or
 - m) Notify wholesale customers of actions being taken in the City of Denison and require them to implement similar procedures;
 - n) Notify all wholesale customers that a shortage of water resulting from drought necessitates curtailment of delivery and that the city's water production will be distributed to all customers pro rata, in accordance with V.T.C.A., Water Code § 11.039.
- c. Stage 4 can terminate after a period of thirty (30) days during which the circumstances that caused the initiation of stage 4 no longer prevail. Stage 3 becomes operative on termination of stage 4.

(5) Stage 5, Emergency

- a. Triggering Conditions. The following conditions may trigger the director to impose stage 5 restrictions:
 - 1. Demand exceeds the amount that can be delivered to customers;
 - 2. Water demand for all or part of the delivery system seriously exceeds delivery capacity because the delivery capacity is inadequate;
 - 3. Supply source becomes contaminated;
 - 4. Water supply system unable to deliver water due to the failure or damage of major water system components; or
 - 5. Water demand is approaching the limit of the permitted supply.
- b. Goal for use reductions and actions available.
 - 1. The goal for water use reduction under stage 5, emergency, is a reduction of ten (10) percent of the use that would have occurred in the absence of drought contingency measures. If circumstances warrant, the director can set a goal for greater water use reduction; The director can order the implementation of any of the actions listed below, as deemed necessary. Measures described as "requires notification to TCEQ" impose mandatory requirements on retail and wholesale customers. The city staff must notify TCEQ within five (5) business days if such measures are implemented.
 - a) Continue or initiate any actions available under stages 1, 2, 3, and 4;
 - b) Implement viable alternative water supply strategies;

- c) Requires notification to TCEQ. Prohibit washing of vehicles except as necessary for health, sanitation, or safety reasons, including car washes;
 - d) Requires notification to TCEQ. Prohibit commercial and residential landscape watering, except that foundations may be watered for two (2) hours each day with a hand-held hose or soaker hose;
 - a. Commercial and residential builders of new developments, where new landscaping has been installed, may request a variance from the director in accordance with this article for the purpose of watering newly established vegetation.
 - e) Requires notification to TCEQ. Prohibit golf course watering except for greens and tee boxes;
 - f) Requires notification of TCEQ. Prohibit any filling of private pools. Commercial and public pools may refill to replace losses during normal use;
 - g) Requires notification of TCEQ. Require all commercial water users to reduce water use by a percentage established by the mayor and his/her designee; or
 - h) Notify wholesale customers of actions being taken by the city and require them to implement similar procedures.
- c. Stage 5 can terminate after a period of thirty (30) days during which the circumstances that caused the initiation of stage 5 no longer prevail. Stage 4 becomes operative on termination of stage 5.

Sec. 26-281. - Wholesale water contract provisions.

Each wholesale water contract entered into, renewed, or extended after the adoption of this article shall contain provisions for curtailing water supplies and rationing of water in accordance with the requirements set forth in this plan.

Sec. 26-282. - Variances.

- (a) The director may grant temporary variances for existing water uses otherwise prohibited under this plan if one (1) or more of the following conditions is met:
 - (1) Failure to grant such a variance would cause an emergency condition adversely affecting health, sanitation, or fire safety for the public or the person requesting the variance;
 - (2) Compliance with this plan cannot be accomplished due to technical or other limitations; or
 - (3) Alternative methods that achieve the same level of reduction in water use can be implemented.

- (b) Variances shall be granted or denied at the discretion of the director. All petitions for variances should be in writing and should include the following information:
- (1) Name and address of the petitioner(s).
 - (2) Purpose of water use.
 - (3) Specific provisions from which relief is requested.
 - (4) Detailed statement of the adverse effect of the provision from which relief is requested.
 - (5) Description of relief requested.
 - (6) Period of time for which the variance is sought.
 - (7) Alternative measures that will be taken to reduce water use.
 - (8) Other pertinent information.
- (c) The director or designee shall review and make a decision to grant, deny, or modify a petition for variance no later than seven (7) business days after the petition is determined to be complete per subsection b. The director's decision must be sent to the petitioner in writing, certified mail, return receipt requested. The director's decision to deny a variance may be appealed to the city manager or designee whose decision shall be final. An appeal to the city manager requires filing a letter with the city secretary, no later than three (3) business days after receipt of the notice of denial and shall explain specifically why or how the director's denial is an abuse of discretion under the circumstances then existing in the community. The city manager shall review the original petition and all relevant documents pertaining to the petition and the director's denial, and thereupon issue a final decision within seven (7) business days after receipt of the appeal letter.
- (d) Each variance granted shall include a timetable for compliance and shall expire six (6) months after it is granted.
- (e) Application for a variance, pendency of same, or appeal of same shall not be grounds for noncompliance with this article.
- (f) A granted variance shall not be retroactive or otherwise justify a violation of this article that occurred prior to the granting of the variance, unless such violation is found to have been essential to protect human health or human life safety conditions.

Sec. 26-283. - Enforcement, violations and penalties.

- (a) It is an offense for a person(s) to use or allow the use of water from the city public water system in a manner or at a time that is contrary to the provisions of this article. This article applies to and shall be enforceable against a property owner, manager, tenant, lessee, and any other person in control of the use of water at an address.
- (b) This article may be enforced by citation issued by any peace officer code enforcement officer, or public works official of the city . This article may also be enforced by the director or designee by submitting to the municipal court prosecutor for review a sworn complaint against the property owner, manager, tenant lessee or any other person in

control of the use of water at an address where a violation occurs. This section authorizes each official described in this section to enforce this article. The city attorney or designee is authorized to enforce this article by civil injunction or other civil action.

- (c) Each violation of a required act or a prohibited act prescribed in this article by a water user, is a separate offense.
- (d) A violation of this article is punishable upon conviction in accordance with the City Code of Ordinances section 1-12. Provided however, a violation of stage 4 and stage 5 is deemed and here declared to be an offense against public health or safety for purposes of punishment.
- (e) In addition to criminal and civil enforcement provided in subsections (a) through (d) of this section, the director shall also have the following enforcement authority:
 - (1) On the first violation, customers will be given a written warning that they have violated the mandatory water use restriction.
 - (2) After two (2) violations have occurred, the city may install a flow restrictor in the line to limit the amount of water that may pass through the meter in a twenty-four-hour period.
 - (3) After three (3) violations have occurred, the city may cut off water service to the customer.

SECTION 4. SAVINGS/REPEALING CLAUSE. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 5. SEVERABILITY. Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid..

SECTION 6. PENALTY. Any person, firm, corporation, or entity violating this Ordinance, as it exists or may be amended, shall be subject to the penalty provision described in added Section 26-286. Nothing in this article shall limit the remedies available to the City in seeking to enforce the provisions of this article or other law, and all remedies shall be cumulative and not exclusive.

SECTION 7. PUBLICATION AND EFFECTIVE DATE. This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

SECTION 8. OPEN MEETING. That it is hereby found and determined that the meeting at which this ordinance was passed was open to the public as required by law, and that

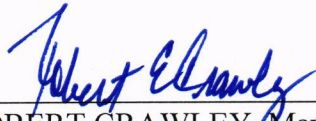
public notice of the time, place, and purpose of said meeting was given, all as required by Article 551.041, Texas Government Code.

AND IT IS SO ORDERED.

On motion by Council Member Hander, seconded by Council Member Thorne, the above and foregoing ordinance was passed and approved on this the 21st day of August, 2023, by the following vote:

- Ayes: Hander, Courtright, Thorne, Crawley, Massey and Thomas
- Abstentions:
- Nays:
- Absent: Gott

At regular meeting, August 21, 2023.



ROBERT CRAWLEY, Mayor Pro Tem

ATTEST:



Christine Wallentine, City Clerk

