

DROUGHT CONTINGENCY PLAN

ORDINANCE NO. 04222019

AN ORDINANCE OF THE CITY OF CHILDRESS, TEXAS, ADOPTING A 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; AND PROVIDING SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, the City of Childress, 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;

WHEREAS, the City recognizes that, as a result of natural limitations due to drought conditions and other acts of God, an uninterrupted water supply cannot be guaranteed for all purposes;

WHEREAS, Section 11.1272 of the Texas Water Code and applicable rules of the Texas Natural Resource Conservation Commission require all public water supply systems in Texas to prepare a drought contingency plan; and

WHEREAS, as authorized under law, and in the best interest of the citizens of the City of Childress, Texas, the City Council deems it expedient and necessary to establish certain rules and policies for the orderly and efficient management of limited water supplies during drought and other water supply emergencies.

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

SECTION 1

That the City of Childress, Texas, Drought Contingency Plan attached hereto as Exhibit "A" and made part hereof for all purposes be, and the same is hereby, adopted as the official policy of the City.

SECTION 2

That all ordinances that are in conflict with the provisions of this ordinance be, and the same are hereby, repealed; and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3

Should any paragraph, sentence, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

SECTION 4

This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.

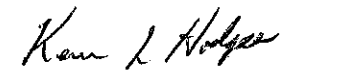
DULY PASSED BY THE CITY OF CHILDRESS, TEXAS, on the 22nd day of April, 2019.

APPROVED:



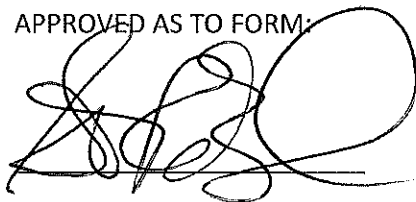
MAYOR

ATTESTED TO:



CITY MANAGER

APPROVED AS TO FORM:



CITY ATTORNEY

EXHIBIT A
DROUGHT CONTINGENCY PLAN
FOR THE
CITY OF CHILDRESS

SECTION I DECLARATION OF POLICY, PURPOSE, AND INTENT

In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the City of Childress hereby adopts the following regulations and restrictions on the delivery and consumption of water.

Water uses regulated or prohibited under this Drought Contingency Plan (the Plan) are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute a waste of water which subject the offender(s) to penalties as defined in Section XI of this Plan.

SECTION II PUBLIC INVOLVEMENT

Opportunity for the public to provide input into the preparation of the Plan was provided by the City of Childress by means of a Public Meeting in conjunction with a regular City Council meeting.

SECTION III PUBLIC EDUCATION

The City of Childress 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 mailed notification to customers.

SECTION IV COORDINATION WITH REGIONAL WATER PLANNING GROUPS

The service area of the City of Childress is located within the Regional "A" Regional Water Planning Area, and the City of Childress will provide a copy of this Plan to the Region "A" Regional Water Planning Group.

SECTION V AUTHORIZATION

The Mayor, or his/her 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 Mayor, or his/her designee, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

SECTION VI APPLICATION

The provisions of this Plan shall apply to all persons, customers, and property utilizing water provided by the City of Childress. The terms "person" and "customer" as used in the Plan include individuals, corporations, partnerships, associations, and all other legal entities.

SECTION VII DEFINITIONS

For the purposes of this Plan, the following definitions shall apply:

Aesthetic water use: water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.

Commercial and institutional water use: water use which is integral to the operations of commercial and non-profit establishments and governmental entities. Including, but not limited to, retail establishments, hotels and motels, restaurants, and office buildings.

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.

Customer: any person, company, or organization using water supplied by the City of Childress.

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, or for cleaning a residence, business, industry, or institution.

Even number address: street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.

Industrial water use: the use of water in processes designed to convert materials of lower value into forms having greater usability and value.

Landscape irrigation use: water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, parks, athletic fields, right-of-ways and medians.

Non-essential water use: water uses that are not essential or required for the protection of public health, safety, and welfare, including: Irrigation of landscaped areas, including parks and athletic fields;

- (1) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- (2) Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- (3) Use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (4) Flushing gutters or permitting water to run or accumulate in any gutter or street;
- (5) Use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;
- (6) Use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- (7) Failure to repair a controllable leak(s) within twenty-four hours after having been given notice directing the repair of such leak(s); and
- (8) Use of water from hydrants for construction purposes or any other purposes other than fire fighting and flushing of lines to maintain a potable water supply.

Odd numbered address: Street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

SECTION VIII CRITERIA FOR INITIATION AND TERMINATION OF DROUGHT RESPONSE STAGES

The Mayor, or his/her designee, shall monitor water supply and/or demand conditions and shall determine when conditions warrant initiation or termination of each stage of the Plan. Public notification of the initiation or termination of drought response stages shall be by means of publication in the local paper or pamphlets/flyers in customers' water bills, as appropriate to the situation.

The criteria described below are based on the ability of the City of Childress to deliver treated water to the customers. Other than in cases of catastrophic failure or contamination of part or all of the system, the limiting factor is the capacity of the distribution and pumping facilities.

SECTION IX DROUGHT RESPONSE STAGES

Stage 1: Mild Water Shortage Conditions

Requirements when initiated: Customers shall be requested to achieve a voluntary goal of 10 percent reduction in total water use during mild water shortage conditions. The Mayor or his/her designee, shall monitor water supply and demand conditions during this period and will provide updates to City of Childress water customers as deemed necessary.

Stage 2: Moderate Water Shortage Conditions

Requirements when initiated: Customers shall be requested to achieve a voluntary goal of 20 percent reduction in total water use during moderate water shortage conditions. The Mayor or his/her designee, shall monitor water supply and demand conditions during this period and will provide updates to the City of Childress water customers as deemed necessary.

Stage 3: Severe Water Shortage Conditions

Requirements when initiated: City of Childress will enforce the following water use restrictions to achieve goal of 30 percent reduction in water use during severe water shortage conditions.

Water Use Restrictions

All non-essential water use

The irrigation of lawns and gardens by the use of city water shall be limited as follows:

All outdoor irrigation by automated sprinkler systems, hose-end sprinklers, soaker hoses, or drip irrigation may occur only between the hours of 9:00 p.m. to 9:00 a.m. on designated outdoor water use days, which will be once every five days. Irrigation by hand held hoses or hand held buckets is permitted any time. The time restrictions do not apply to the irrigation of commercial plant nurseries; however, these establishments shall curtail all nonessential water use.

The washing of automobiles, trucks, trailers, boats, airplanes, or other types of mobile equipment is prohibited except on designated outdoor water use days between the hours of 9:00 p.m. to 9:00 a.m. The washing, when allowed, must be done with a hand held bucket or a hand held hose equipped with a positive shutoff nozzle for quick rinses. The washing of each individual automobile, truck, trailer, boat, airplane, or any other type of mobile equipment in violation of the terms and conditions of this restriction constitutes a separate violation under this article. However, this restriction does not apply to the washing of vehicles or mobile equipment when conducted on the immediate premises of a commercial car wash or a commercial service station. Furthermore, this restriction does not apply to the washing of automobiles, trucks, trailers, boats, airplanes, and other types of mobile equipment (such as garbage trucks, and vehicles to transport food and perishables) when the washing is necessary on a

more regular and frequent basis in order to protect the health, safety and welfare of the public. Charity car washes are prohibited.

Stage 4: Emergency Water Shortage Conditions

Requirements when initiated: The City of Childress will enforce the following water use restrictions to achieve a goal of 40 percent reduction in water use during emergency water shortage conditions.

Water Use Restrictions

All requirements of Stage 3 shall remain in effect during Stage 4. Under threat of penalty for violation, the following water use restrictions shall also apply to all persons:

Irrigation of landscaped areas is absolutely prohibited.

Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.

Window washing and pavement washing are prohibited except when a bucket is used.

The filling, refilling, or adding of water to swimming, wading, and Jacuzzi-type pools is prohibited

SECTION X: EXEMPTIONS

The restrictions set forth in Section IX shall not apply to the following uses of water:

- (a) To alleviate conditions threatening health, safety, or welfare of the public
- (b) For municipal operations of flushing water lines for public health purposes.
- (c) For the suppression of fires.
- (d) For commercial businesses that use water to maintain (but not expand) their primary business practices (e.g., commercial car and truck washes, nurseries, turf growers, water haulers concrete pavers, etc.)

SECTION XI: ENFORCEMENT

- (a) A person commits an offense if the person performs an act prohibited by this chapter or fails to perform an act required by this chapter. Each instance of a violation of this chapter is a separate offense.
- (b) Proof of a culpable mental state is not required for a conviction of an offense under this chapter.
- (c) An offense under this chapter is a class C misdemeanor, subject to a fine \$100 for the first offense, \$250 for the second offense and \$500 for the third violation. Prosecution of an offense under Subsection (a) of this section does not preclude other enforcement remedies

- under this chapter. The enforcement of other remedies under this chapter does not prevent prosecution for a violation of this chapter under Subsection (a) of this section.
- (d) For repeat violations of this chapter, water service may be disconnected or restricted.
 - (e) If a customer is irrigating during a time period or on a day when irrigation is not permitted for the street address of that customer and a city worker cannot find any person at that street address to turn off the irrigation system, the city worker may enter the property and turn off the irrigation system.
 - (f) The City's authority to seek injunctive or other civil relief available under the law is not limited by this section.

SECTION XII: VARIANCES

- (a) The Mayor, or his/her designee, 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, sanitation, or fire protection for the public or the person requesting such a variance and if one or more of the followings conditions are met:
 - (1) 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.
 - (2) Alternative methods can be implemented that will achieve the same level of reduction in water use.
- (b) Persons requesting an exemption from the provisions of this Ordinance shall file a petition for variance with the City of Childress within 5 days after the Plan for a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the Mayor, or his/her designee, and shall include the following.
 - (1) Name and address of the petitioner(s).
 - (2) Purpose of water use.
 - (3) Specific provision(s) of the Plan from which the petitioner is requesting relief.
 - (4) 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 Ordinance.
 - (5) Description of the relief requested.
 - (6) Period of time for which the variance is sought.
 - (7) 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.
 - (8) Other pertinent information
- (c) Variances granted by the City of Childress shall be subject to the following conditions, unless waived or modified by the Mayor, or his/her designee:
 - (1) Variances granted shall include a timetable for compliance.
 - (2) Variances granted shall expire when the Plan is no longer in effect, unless the petitioner has failed to meet specified requirements.

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