

## ORDINANCE NO. 2011-10

**AN ORDINANCE OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE 2008-21 AND SECTION 110-40 - DROUGHT CONTINGENCY PLAN, OF THE BURNET CODE OF ORDINANCES IN ITS ENTIRETY; ADOPTING A DROUGHT CONTINGENCY AND WATER EMERGENCY PLAN; REPEALING ORDINANCES IN CONFLICT; PROVIDING SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; PROVIDING AN OPEN MEETINGS CLAUSE; AND PROVIDING FOR RELATED MATTERS.**

**WHEREAS**, the City of Burnet, 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**, the city recognizes that natural limitations due to drought conditions and other acts of God cannot guarantee an uninterrupted water supply for all purposes; and

**WHEREAS**, Section 12.1272 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 interests of the citizens of Texas, the Burnet 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 BURNET, TEXAS:**

**SECTION 1. Plan.** That the City of Burnet, Texas Drought Contingency and Water Emergency plan attached hereto and made part hereof for all purposes, is hereby amended in its entirety and adopted as the official policy of the City of Burnet.

**SECTION 2. Ordinances in Conflict.** That all ordinances that are in conflict with the provisions of this ordinance are, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.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. Severability.** Should any paragraph, sentence, subdivision, clause, phrase, or section of this ordinance be adjudicated 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. Effective Date.** This ordinance shall take effect immediately from and after its passage upon final reading and the publication of the caption, as the law in such cases provides.

**SECTION 5. Open Meetings.** That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meeting Act, chapt. 551, Loc. Gov't. Code.

**PASSED AND APPROVED ON FIRST READING** this \_\_\_\_ day of \_\_\_\_\_, 2011.

**FINALLY PASSED AND APPROVED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

**ATTEST**

**CITY OF BURNET, TEXAS**

\_\_\_\_\_  
Kelly Dix  
City Secretary

\_\_\_\_\_  
Gary Wideman  
Mayor

# **The City of Burnet Drought Contingency and Water Emergency Plan**

## **SECTION 1: Declaration of Policy, Purpose, and Intent**

The City of Burnet (City) supplies water to the citizens of the city of Burnet provided through a raw water contract with the Lower Colorado River Authority (LCRA). In cases of extreme drought, periods of abnormally high usage, system contamination, or extended reduction in ability to supply water due to equipment failure, the City may require water customers to institute temporary restrictions to limit non-essential water usage. This Drought Contingency and Water Management Plan (Plan) is designed to protect the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water, use, sanitation, and fire protection during the periods or other water supply emergencies.

Water uses regulated or prohibited under this Plan are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply conditions are deemed to constitute a waste of water.

## **SECTION 2: Authorization**

The City Manager, 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 City Manager shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan. This authorization was designated as part of the plans approval by the City Council of the City of Burnet.

## **SECTION 3: Public Education**

The City Manager will periodically provide its employees, City Council, and the general public with information about this Plan, including the importance of the Plan, information about the conditions under which each stage of the Plan is to be initiated, processes used to reduce water use, and impending or current drought conditions.

## **SECTION 4: Coordination with Regional Planning Groups**

The City shall provide a copy of this Plan to the regional water planning groups for the service area of the City of Burnet to ensure consistency and coordination of drought contingency planning with the regional water planning groups.

## **SECTION 5: Notice Requirements**

The City shall notify the Texas Commission on Environmental Quality in writing within five (5) business days of the implementation of any mandatory provisions of the Drought Contingency Plan.

## **SECTION 5: Drought Levels**

Three levels of drought condition or water emergency are adopted by the City Council of the City of Burnet as follows:

1. Voluntary Conservation conditions exist between May 1 and September 30. The City Council will designate the start of the Voluntary Summer Conservation conditions each year.
2. Moderate drought occurs when:
  - a. Total daily water demand equals or exceeds 90% of the system's safe operating capacity for three consecutive days or equals or exceeds 95% of system capacity on a single day
  - b. weather conditions prompt a drought condition classification.
3. Severe Drought or Water Emergency classification is reached when:
  - a. Total daily water demand equals or exceeds 95% of the system's safe operating capacity for three consecutive days or exceeds 100% of capacity on a single day
  - b. average daily water consumption will not enable storage levels to be maintained
  - c. system demand exceeds available high service pump capacity
  - d. water system becomes contaminated, whether intentionally or accidentally (Severe condition is reached immediately upon detection)
  - e. water system fails for any reason and service cannot be restored within a reasonable amount of time.

## **SECTION 6: City of Burnet Drought Contingency and Water Emergency Measures**

The City of Burnet Drought Contingency and Water Emergency Ordinance adopted and included as part of this plan, enables the City Manager to initiate action that will effectively implement the Plan. The City of Burnet shall use the drought contingency measures of the Lower Colorado River Authority (LCRA) trigger levels as a guide for consideration of implementation of drought contingency measures as applicable for the City of Burnet. The following stages are recommended.

### **Stage I: Voluntary Conservation**

Customers of or persons who use the water utility of the City of Burnet will voluntarily limit the amount of water used from May 1 through September 30 of each year to that amount absolutely necessary for health, business and outdoor water use. The City

of Burnet shall use a 5% water use reduction target for this stage. Stage I voluntary conservation shall be in effect May 1 through September 30 and will initiate the following listed actions:

- a. All customers or persons who use the water utility of the City of Burnet will be asked to participate in the 5-Day Watering Schedule (Section 8 this document) for outdoor uses and only on designated water use days. Outdoor uses include watering lawns, shrubs, and other types of outdoor vegetation, washing vehicles, boats and trailers, the use of landscape sprinkler systems and irrigation, recreational use of sprinklers and outdoor showers.
- b. All outdoor uses are discouraged between the hours of 11:00 am and 7:00 pm, except with a hand-held hose equipped with a positive shut-off nozzle, hand-held bucket or drip irrigation system. This includes the washing of automobiles, trucks, trailers and other types of mobile equipment. This does not apply when conducted on the immediate premises of a commercial car wash or a commercial service station.
- c. The following uses of water are defined as "water waste" and are strongly discouraged:
  - 1) allowing water to run off into a gutter, ditch, drain, or right of way
  - 2) failing to repair a controllable leak
  - 3) washing sidewalks, driveways, parking areas, tennis courts, patios, or other paved areas, except to alleviate immediate health or fire hazards.

### **Stage 2: Mandatory Compliance- Water Warning**

Stage 2 curtailment shall be automatically initiated upon existence of moderate drought conditions ( i.e. Total daily water demand equals or exceeds 90% of the system's safe operating capacity for three consecutive days or equals or exceeds 95% of system capacity on a single day) and will automatically initiate the following listed mandatory action. Listed action is compulsory on all users and is intended to prohibit non-essential water use. The City of Burnet shall use a 10-20% water use reduction target for this stage.

- a. A. Non-essential water use is defined as washing house windows, sidings, eaves and roof with a hose, and without the use of a bucket; washing driveways, streets, curbs, and gutters and washing vehicles without a positive cut-off valve and bucket.
- b. The following uses of water are defined as "water waste" and are prohibited:
  - 1) allowing water to run off into a gutter, ditch, drain, or right of way
  - 2) failing to repair a controllable leak
  - 3) washing sidewalks, driveways, parking areas, tennis courts, patios, or other paved areas, except to alleviate immediate health or fire hazards.
- c. All customers or persons who use the water utility of the City of Burnet will be required to participate in the 5-Day Watering Schedule for outdoor uses and only on designated water use days. Outdoor use will be prohibited between the hours of 11:00 am and 7:00 pm. Outdoor uses include watering lawns, shrubs, and other types of outdoor vegetation, washing vehicles, boats and trailers, the use of

landscape sprinkler systems and irrigation, recreational use of sprinklers and outdoor showers. The above restrictions do not apply to the irrigation of commercial nurseries; however, these establishments will curtail all non-essential water use and voluntarily follow the restrictions set out above.

- d. All outdoor uses are prohibited between the hours of 11:00 am and 7:00 pm, except with a hand-held hose equipped with a positive shut-off nozzle, hand-held bucket, a drip irrigation system. This includes the washing of automobiles, trucks, trailers and other types of mobile equipment. This does not apply when conducted on the immediate premises of a commercial car wash or commercial service station.
- e. The refilling or adding of water to swimming and/or wading pools is prohibited except on designated outdoor use days between the hours of 7:00 pm and 11:00 am. This does not apply to public swimming and/or wading pools not equipped with filtration and recirculation equipment which must be drained and filled daily pursuant to health regulations.
- f. The use of any ornamental fountain or other structure making similar use of water is prohibited.
- g. Water from fire hydrants shall be limited to fire-fighting related activities, and/or other activities necessary to maintain the health, safety, and welfare of the citizens of the City of Burnet. This restriction does not apply to businesses which require the use of water for land development and/or building construction processes. Pursuant to written approval by the Director of Public Works or the City Manager, said businesses shall be allowed to purchase and draw water from fire hydrants.

Water use reduction target shall be reduction of water consumption to 70% or less of production/distribution capacity.

### **Stage 3: Mandatory Compliance - Water Emergency**

Stage 3 curtailment shall be initiated by the City Manager upon his/her identifying severe drought conditions or a severe water emergency (i.e. Total daily water demand equals or exceeds 95% of the system's safe operating capacity for three consecutive days or exceeds 100% of capacity on a single day, system failure). The City of Burnet shall use a minimum 20% water use reduction target for this stage. All elements of stage 2 shall remain in effect in stage 3 with the addition of:

- a. All nonessential uses of water shall be strictly prohibited. Non-essential water use is defined as washing house windows, sidings, eaves, and roof; washing driveways, sheets, curbs, and gutters and washing vehicles.
- b. All outdoor irrigation using individual sprinklers or sprinkler systems is prohibited. All outdoor irrigation of vegetation must be done by hand-held hose equipped with a positive shut-off nozzle, drip irrigation, or a hand-held bucket on designated outdoor water use days as outlined in the 5-Day Watering Schedule. Such irrigation is not permitted between the hours of 10:00 am and 10:00 pm.

- c. The washing of automobiles, trucks, boats, 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/or welfare shall be prohibited.
- d. The filling, refilling, or adding of water to swimming and/or wading pools is prohibited.
- e. The operation of any ornamental fountain or similar structure is prohibited.
- f. All restaurants are prohibited from serving water to customers except when specifically requested by the customer.
- g. No permits shall be issued for the use of water necessary for the establishment of landscaping in new, residential and commercial property.
- h. The priority system for indoor water service shall be as follows:
  - 1) Hospitals
  - 2) Residential
  - 3) Schools
  - 4) Industrial
  - 5) Commercial
  - 6) Recreational

Water use reduction target shall be reduction of water consumption to 80% or less of production/distribution capacity.

## **SECTION 9: Mandatory Conservation Stage Implementation**

The public works department shall monitor the projected supply and demand for its water by its customers on a daily basis during the months of May, June, July, August and September. Then shall recommend to the City Manager the extent of conservation required for the implementation or termination of particular stages of the plan. Thereafter, the City Manager may order that the appropriate stage of water conservation be implemented or terminated in accordance with the applicable provision of the ordinance.

Such order shall be made by public announcement and published a minimum of one (1) time per week in a newspaper in general circulation and shall become effective immediately upon such publication. Publication shall continue on a weekly basis until such time as all restrictions are removed. Publications may be supplemented by pamphlets or mail-outs distributed by written notice.

## **SECTION 10: Termination Notification**

Termination of a particular stage of the Drought Contingency Plan will occur when conditions have improved to the extent that an upgraded condition can be declared by the City Manager. This process will be employed until full services can be provided. System priority will be considered in return to upgraded condition, returning service to hospitals, schools, residences etc., in order of priority.

**SECTION 11: Modification. Deletion and Amendment**

The City Manager may add, delete or amend rules, regulations and implementation as needed, and shall advise the City Council of such amendments at its regular or called meetings.

**SECTION 12: Means of Implementation**

Adoption of the City of Burnet Drought Contingency Plan Ordinance will enable the City to implement and carry out enforcement actions to make the Plan effective and workable.

**SECTION 13: The 5-Day Watering Schedule**

Outdoor use of water for non-essential purposes (irrigation, washing vehicles etc...) shall only occur on designated days, dependent upon the last digit of the address which appears on the utility bill for the property in question. Weekend use is discouraged during voluntary conservation and prohibited during mandatory conservation so as to make the plan manageable. The schedule is as follows:

	Monday	Tuesday	Wednesday	Thursday	Friday
Address Ending with #:	1 or 2	3 or 4	5 or 6	7 or 8	9 or 0

Outdoor use should not occur between the hours of 11:00 am and 7:00 pm.

**SECTION 14: Enforcement of the City of Burnet Drought Contingency Plan**

a. No person shall knowingly or intentionally allow the use of water from the City of Burnet 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 Manager, or his/her designee, in accordance with provisions of this Plan.

b. Enforcement action for violations of the Plan during mandatory conservation will be taken by city law enforcement officials. A citation will be issued requiring the offending party to appear in the City of Burnet Municipal Court. Penalties for each violation shall consist of a possible fine of no less than \$50.00 and not to exceed \$ 1,000.00, termination of water service and/or both. Each day that an offense continues shall be a separate offense.

c. Emergency Termination. If an officer charged with enforcement of this article determines that a violation of this Ordinance constitutes an immediate threat to the public health, safety and welfare, and the owner, occupant, or person in control of the property (the “responsible party”) is absent or fails to immediately remedy the violation, the officer may terminate water services to such property. The City Manager shall hold a hearing within 72 hours after termination of service to determine whether the responsible party violated the ordinance, unless a later hearing date is requested by the responsible party or the responsible party is unable to be located, in which case the hearing shall be held as soon as possible. Promptly after terminating service, the officer charged with enforcement of this article shall give the responsible party written notice of the termination and hearing in compliance with TAC, Title 30, Section 291.88(b) by personal delivery or posting notice of the hearing on or near the front door of each building on the property. If it is determined at the hearing that the responsible party did not violate this article, the responsible party’s utilities shall be immediately reconnected without charge to the responsible party.

d. Nonemergency Termination. An officer charged with enforcement of this article who determines that a violation of this article is present may seek termination of wastewater service to the property at which the violation is present after notice and hearing as provided in this subsection. The officer charged with enforcement of this article shall give written notice of the violation of this article to the responsible party and the requirement that the violation be remedied within ten (10) days or water service will be disconnected, such notice to comply with TAC, Title 30, Section 291.88(a). If the responsible party fails to shall remedy the violation within the time specified in the notice, the officer charged with enforcement of this article may terminate water service. The responsible party may request a hearing by the City Manager regarding termination of service. Written notice of the time and date of the hearing shall be given to the responsible party at least ten days before the hearing date. Notices required by this subsection shall be delivered to the responsible party by in person service, by letter addressed to the responsible party at his/her post office address.

## **SECTION 15: Variances**

a. The City Manager 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 variance and if one or more of the following 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 which will achieve the same level of reduction in water use.

b. Persons requesting an exemption from the provisions of this article shall file a petition for variance with the City of Burnet within 5 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:

- (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 the Plan;
- (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 compliance date; and
- (8) Other pertinent information.

c. Variances granted by the City of Burnet shall be subject to the following conditions, unless waived or modified by the City Manager, 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 this Plan occurring prior to the issuance of the variance.