

ORDINANCE NO. 2019-10

AN ORDINANCE OF THE CITY OF BURNET, TEXAS, 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 Commission on Environmental Quality 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 That all ordinances that are in conflict with the provisions of the ordinance are, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

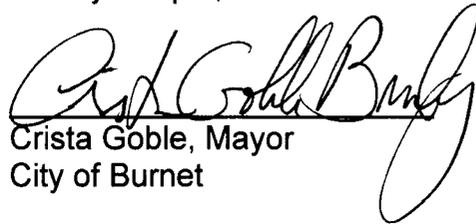
SECTION 3. Severability. Should any paragraph, sentence, subdivision, clause, phrase, or section of this ordinance be adjudicated or held unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so 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.

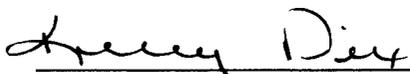
SECTION 5. Open Meetings. That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meeting Act, chapt. 551, Loc. Gov't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

PASSED AND APPROVED on First Reading this 9th day of April, 2019.

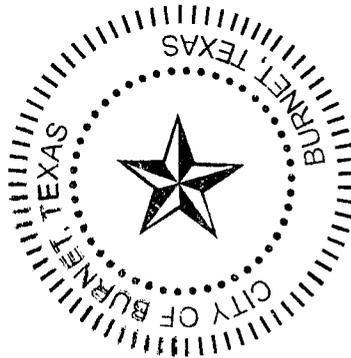
FINALLY PASSED AND APPROVED on this 16th day of April, 2019.


Crista Goble, Mayor
City of Burnet

ATTEST:



Kelly Dix, City Secretary
City of Burnet



APPROVED AS TO FORM:

Habib Erkan Jr. City Attorney
City of Burnet

The City of Burnet

Drought Contingency and Water Emergency Plan

SECTION 1. Approval of the Plan

The City Council hereby approves the City of Burnet's Drought Contingency and Water Emergency Plan (the "Plan"). The City commits to implement the program changes according to the procedures set forth in the Plan.

SECTION 2. Declaration of policy, purpose, and intent

(a) It is hereby declared that, because of the water conditions prevailing in the City, the water resources available to the City shall be put to the maximum beneficial use and that the waste, unreasonable use, or unreasonable method of use of water be prevented, and the conservation of such water to be extended with a view to the reasonable and beneficial use thereof in the interests of the people of the city and for the public health and welfare.

(b) Water uses regulated or prohibited under the Plan are considered to be nonessential uses, and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute Water Waste which subjects the offender(s) to enforcement as defined in Section 12 of this Plan.

SECTION 3. Public education

The City 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 and compliance with regional 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. Authorization

The City Manager 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 response stages or other water supply emergency response measures as required for public health, safety and welfare.

SECTION 6. Application

The provisions of this Plan shall apply to all Customers and properties utilizing water provided by the City.

SECTION 7. Definitions

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

Auxiliary Source. A source of water other than the City's public water system which may include reuse effluent, raw, ground or well water or other such source as approved by the City.

City. The City of Burnet, Texas.

City Manager. The City Manager or any designated person acting on the City Manager's behalf.

Commercial/Nonresidential Customer. All other customers not classified as residential customer, including but not limited to businesses, industry, schools, churches, large properties, athletic fields, municipally sponsored public gatherings, government entities, multifamily developments larger than triplexes, and property management associations (e.g. homeowners associations).

Customer. Any person, company, organization, corporation, partnership, association or entity receiving water supplied by the City.

Drip Irrigation. A method of irrigation which is typically installed below ground and consists of porous piping or emitters which allow the application of water at a slow and constant rate.

Efficient Irrigation Technology. Irrigation techniques that use the latest technology with variables such as, but not limited to, soil moisture sensors, rain shutoff devices, and evapotranspiration based watering system controllers.

Outdoor Water Use. Includes, but is not limited to, watering lawns, shrubs, vegetables, athletic fields, large properties, and other types of outdoor vegetation; washing vehicles, boats, and trailers; use of landscape irrigation systems; refilling or adding water to swimming pools or wading pools or ponds; the operation of aesthetic or recreational devices such as water slides; the watering of patios, driveways, parking areas, streets, tennis courts, sidewalks or other paved areas; and the watering of ground for foundations.

Residential Customer. Any person, company, organization, or other legal type entity receiving water supplied by the City at a location where the principal use of the property is for single-family, duplex, or triplex habitation.

Soaker Hose. A perforated or permeable garden-type hose or pipe that is laid above ground that provides irrigation at a slow and constant rate.

Water Conservation. Those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or Water Waste, 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.

Water Waste. The following uses constitute a Water Waste:

- (a) Washing sidewalks, walkways, driveways, parking lots, tennis courts, patios or other hard-surfaced areas except to alleviate immediate health or safety hazards.
- (b) Allowing water to run off a property, or allowing water to pond in the street or parking.
- (c) Operating a permanently installed irrigation system with broken heads, with heads that are out of adjustment that spray more than 10% of the spray on street or parking lots, or that are misting.
- (d) Failure to repair a controllable leak(s) within ten (10) business days after having been given notice directing the repair of such leak(s).
- (e) Washing an automobile, truck, trailer, boat, airplane, or other mobile equipment with a handheld hose not equipped with a pistol grip nozzle or other device that automatically shuts off water flow when the hose is not being used.

SECTION 8. Triggering and termination criteria for drought response stages

(a) The City Manager shall monitor the water supply and/or production and shall determine when conditions warrant initiation or termination of each drought response stage of the Plan.

(b) The triggering criteria described below are based on Customer water consumption and water production/distribution system capacity; however, the stated triggering criteria are not intended as an exhaustive or finite listing, and regardless of whether any stated triggering criteria are present. The City Manager may initiate and/or terminate each drought response stage of the Plan to protect the public health, safety, and welfare, or as otherwise determined to be in the best interest of the City.

(1) Stage 1–Voluntary Water Conservation conditions.

(A) Requirements for initiation. This stage shall be considered the baseline Water Conservation stage for all customers of the City and will be implemented at all times when stages 2–4 are not in effect. Customers are requested to adhere to a voluntary twice-per-week outdoor watering schedule and adhere to the water restrictions, as provided for in Section 9 of this Plan, at all times. This stage is designed to promote water efficiency throughout the City.

(B) Target reduction goal. During this stage, the target reduction goal is 5-10%.

(2) Stage 2–Moderate water shortage conditions.

(A) Requirements for initiation. Customers shall be required to comply with the requirements and restrictions as provided for in Section 9 of this Plan from May 1 through September 30 of each year, and at such times when one or a combination of the following triggering criteria occurs:

(i) Total daily water demand equals or exceeds 80% of the total system distribution or treatment capacity for three consecutive days;

(ii) Weather conditions have occurred and/or are predicted to occur which could jeopardize the long-term sustainability of the City's water supply;

(iii) Any other system demand or supply factors that, in the opinion of the City Manager, could jeopardize the health, safety and welfare of the public.

(B) Target reduction goal. During this stage, the target reduction goal is 10%–20%.

(C) Requirements for termination. Stage 2 of the Plan shall automatically terminate on September 30th of each year, unless otherwise determined by the City Manager. Upon termination of Stage 2, Stage 1 becomes operative, unless otherwise determined by the City Manager.

(3) Stage 3–Severe water shortage conditions.

(A) Requirements for initiation. Customers shall be required to comply with the requirements and water use restrictions provided for in Section 9 for Stage 3 of this Plan when one or a combination of such triggering criteria occurs:

(i) Total daily water demand equals or exceeds 90% of the total system distribution or treatment capacity for three consecutive days;

(ii) Any other system demand or supply factors that, in the opinion of the City Manager, could jeopardize the health, safety and welfare of the public;

(iii) Weather conditions have occurred and/or are predicted to occur which could jeopardize the long-term sustainability of the City's water supply;

(iv) The declaration of a Drought Worse than the Drought of Record by the Lower Colorado River Authority.

(B) Target reduction goal. During this stage, the target reduction goal is a minimum of 20%.

(C) Requirements for termination. Stage 3 of the Plan may be rescinded by the City Manager when the total daily water demand is less than 90% of the total system distribution or treatment capacity for three consecutive days or as otherwise determined by the City Manager. Upon termination of Stage 3, Stage 2 becomes operative, unless otherwise determined by the City Manager.

(4) Stage 4—Emergency water shortage conditions.

(A) Requirements for initiation.

(i) Customers shall be required to comply with the requirements and restrictions for Stage 4 of this Plan when the City Manager declares it is in the best interest of the City due to emergency situations, or system demand/supply factors that could jeopardize the health, safety and welfare of the public.

(ii) Weather conditions have occurred and/or are predicted to occur which could jeopardize the long-term sustainability of the City's water supply;

(iii) The declaration of a Drought Worse than the Drought of Record by the Lower Colorado River Authority.

(B) Target reduction goal. During this stage, the target reduction goal is a minimum of 30%.

(C) Requirements for termination. Stage 4 of the Plan may be rescinded by the City Manager upon his/her determination that conditions that initiated Stage 4 have either improved or no longer exist. Upon termination of Stage 4, Stage 3 becomes operative unless otherwise determined by the City Manager.

SECTION 9. Drought response stages

The City shall monitor the water supply and/or production as needed and, in accordance with the triggering criteria set forth in Section 8 of the Plan, shall determine if a moderate, severe, or extreme condition exists and shall implement the following actions upon public notification:

(1) Stage 1—Voluntary Water Conservation stage. The goal for Stage 1 of the Plan is to maintain baseline Water Conservation measures and raise public and Customer awareness of water demand conditions. This stage is designed to promote water efficiency throughout the City.

(A) Voluntary water use measures.

(i) Water Customers shall voluntarily limit Outdoor Water Use by participating in the Twice-Per-Week watering schedule. Customers are encouraged to use the designated outdoor watering days, as provided for in Section 10 of this Plan.

(ii) Outdoor Water Use is discouraged between the hours of 10:00 a.m. and 7:00 p.m. except with handheld hoses equipped with a positive pistol grip nozzle or other device that automatically shuts off water flow when the hose is not being used, or handheld buckets. The following Outdoor Water Uses are exempt from the voluntary Twice-Per-Week watering schedule and can be done at any time of day:

a. The irrigation of Commercial plant nurseries.

b. Irrigation using an Auxiliary Source.

c. Irrigation using a soaker hose or drip irrigation.

d. New landscape installation during installation and the first twenty-one (21) days.

e. The testing of new irrigation systems or existing irrigation systems being tested or under repair.

(iii) Water Customers are requested to practice Water Conservation and adhere to the restrictions provided for in each stage.

(iv) Water Waste is discouraged.

(2) Stage 2—Moderate water shortage conditions.

(A) Water use restrictions. Under threat of penalty for violation, the following water use restrictions shall apply to all persons:

(i) Water Customers shall be required to limit Outdoor Water Use by participating in the Twice-Per-Week watering schedule for Outdoor Water Use. Outdoor Water Use shall only occur on designated outdoor watering days, and at designated times, as provided for in Section 10 of this Plan.

(ii) Drip Irrigation and soaker hoses are permitted for use at all times and are exempt from the weekly watering schedule and daily watering time restrictions. Soaker Hoses may be used at any time to water vegetable gardens or trees. Drip Irrigation attached to an automatic sprinkler system must have spray head zones turned off.

(iii) Notwithstanding other provisions to the contrary, Outdoor Water Use is prohibited between the hours of 10:00 a.m. and 7:00 p.m. except with handheld buckets or handheld hoses equipped with a positive pistol grip nozzle or other device that automatically shuts off water flow when the hose is not being used. Handheld watering can be done on any day without time restrictions. The following Outdoor Water Uses are exempt from the Twice-Per-Week watering schedule and can be done at any time of day:

- a. The irrigation of Commercial plant nurseries.
- b. Irrigation using an Auxiliary Source.
- c. Irrigation using a Soaker Hose or Drip Irrigation.
- d. New landscape installation during installation and the first twenty-one (21) days.
- e. The testing of new irrigation systems or existing irrigation systems being tested or under repair.

(iv) The washing of any motor vehicle, motorbikes, boats, trailers, airplanes and other vehicles is allowed on any day and can be done at any time of day. The washing shall be done with a handheld bucket or handheld hose equipped with a pistol grip nozzle or other device that automatically shuts off water flow when the hose is not being used.

(v) Splash pads and other Commercial recreational water devices are allowed to operate during this stage.

(vi) Commercially operated cosmetic power/pressure washing equipment is allowed providing it is fitted with a spray nozzle using no more than 3.5 gallons of water per minute and employing a working trigger shutoff with a protective weep mechanism. Equipment fitted with this technology is exempt from the watering schedule and is permitted for use at any time of day.

(vii) Use of water from fire hydrants shall be limited to firefighting and activities necessary to maintain public health, safety, and welfare. Use of water from designated fire hydrants for construction purposes may be allowed under special conditions and requires a meter.

(viii) Publicly owned parks, green spaces, athletic fields, golf courses and other similar public facilities shall be exempted from these restrictions.

(3) Stage 3--Severe water shortage conditions.

(A) Water use restrictions. Under threat of penalty for violation, the following water use restrictions shall apply to all persons:

- (i) All requirements of Stage 2 shall remain in effect during Stage 3 except:
 - a. Water Customers shall be required to limit Outdoor Water Use by participating in the Once-Per-Week watering schedule for Outdoor Water Use. Outdoor Water Use shall only occur on designated outdoor watering days, and at designated times, as provided for in Section 10 of this Plan.
 - b. Water Use for the installation of new landscaping and the first twenty-one (21) days thereafter shall be exempted from the restrictions of this stage, except watering of new landscaping shall not be permitted between the hours of 10:00 am and 7:00 pm.
 - c. The operation of decorative water features is allowed if the fountain supports life and/or recirculates water.
 - d. Only those splash pads and other Commercial recreational water devices equipped with recirculating devices are allowed to operate during this stage.
 - e. Events involving the use of water such as festivals, parties, water slides, and other activities involving the use of water are permitted if the water being used drains to a recirculating device, or onto a pervious surface to prevent Water Waste.
 - f. The washing of any motor vehicle, motorbikes, boats, trailers, airplanes and other vehicles is allowed only on the Once-Per-Week watering schedule as provided for in Section 10. The washing shall be done with a handheld bucket or handheld hose equipped with a pistol grip nozzle or other device that automatically shuts off water flow when the hose is not being used.
 - g. Charity carwashes are allowed on any day at any time with a handheld hose equipped with a pistol grip nozzle or other device that automatically shuts off water flow when the hose is not being used.
 - h. Use of water for the irrigation of publicly owned parks, green spaces, athletic fields, golf courses and other similar public facilities may seek a variance to these restrictions, provided the variance provides for alternative methods to achieve the target reduction goals of this stage.

(4) Stage 4–Emergency water supply conditions.

(A) Water use restrictions. Under threat of penalty for violation, the following water use restrictions shall apply to all persons:

- (i) All requirements of Stage 3 shall remain in effect during Stage 4 except:
 - a. Unless otherwise provided for herein, 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 Once-Per-Week 5-Day Watering Schedule as provided for in Section 10. Use will be prohibited between the hours of 10:00 am and 7:00 pm.
 - b. Commercial plant nurseries may use only handheld hoses equipped with a positive pistol grip nozzle or other device that automatically shuts off water flow when the hose is not being used or handheld buckets.
 - c. All irrigation of landscaped areas is prohibited, including the use of drip and soaker hoses.
 - d. Commercial car washing facilities may operate for health and safety purposes only.
 - e. Use of water from fire hydrants shall be limited to firefighting and activities necessary to maintain public health, safety, and welfare only.
 - f. All cosmetic power/pressure washing is prohibited.
 - g. The washing of automobiles, trucks, trailers, boats, airplanes, and other types of mobile equipment is prohibited.
 - h. Water use at events such as festivals, parties, water slides, and other activities is prohibited.
 - i. Operation of a splash pad or other similar aesthetic or recreational use of water is prohibited.
 - j. The use of ornamental fountains is prohibited unless the water is necessary to support aquatic life.
 - k. No permits shall be issued for the establishment of landscaping in new Residential and Commercial property.
 - l. Use of water for the irrigation of publicly owned parks, green spaces, athletic fields, golf courses and other similar public facilities shall may

seek a variance to these restrictions, provided the variance provides for alternative methods to achieve the target reduction goals of this stage.

- m. Filling of all swimming pools, hot tubs, and wading pools, is prohibited except as otherwise provided for herein.
- n. Replenishing of all swimming pools, hot tubs, and wading pools to maintenance level is permitted. Draining is permitted only onto pervious surfaces or onto a surface where water will be transmitted directly to a pervious surface, and only if:
 - 1. Draining excess water from pool due to rain in order to lower water to maintenance level; or
 - 2. Repairing, maintaining or replacing pool components that have become hazardous; or
 - 3. Repair of a pool leak.

A. Single-family and Commercial pools. The automatic filling, refilling, or adding of potable water to Residential and Commercial swimming or wading pools and hot tubs due to a leak is prohibited. Residential swimming or wading pools and hot tubs may be refilled manually on the designated watering day before 10:00 a.m. and after 7:00 p.m., or may be refilled using an Auxiliary Source with no restriction.

B. Public pools. Refilling of public swimming pools as needed due to a leak is permitted on the designated watering day before 10:00 a.m. and after 7:00 p.m., or may be refilled using an Auxiliary Source with no restriction.

(B) In the event that severe water shortage conditions persist (Stage 4) for an extended period of time, the City Manager 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 (non-industrial).
- (iii) Industrial users
- (iv) Schools

(v) Residential users.

(vi) Hospitals

SECTION 10. Watering Schedules

Outdoor Water Use 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. The schedule is as follows:

Twice-Per-Week Watering Schedule

	Mon/Thur	Tue/Fri	Wed/Sat
Address Ending with #:	1,2, 5 or 6	3,4, 7 or 8	9 or 0

Once-Per-Week Watering Schedule

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

Outdoor Water Use should not occur between the hours of 10:00 am and 7:00 pm.

SECTION 11. Variances

(a) The City Manager may, in writing, grant a 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, primary business, or fire protection for the public or the person requesting such variance or 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 a variance from the provisions of this article shall file a petition for variance with the City Manager after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the City Manager 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 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 the compliance date; and

(8) Other pertinent information.

(c) Variances granted by the City Manager shall be subject to the following conditions, unless waived or modified by the City Manager:

(1) Variances granted shall include a start and end date for compliance;

(2) Variance requests must be submitted no more than two (2) months prior to the requested start date, and no less than 48 hours prior to the requested start date; and

(3) Variances granted shall expire on the date set at the time when the application was granted.

(d) Additionally, variances may be granted when a Customer is using Efficient Irrigation Technology for outdoor irrigation purposes. In order to receive this variance the requestor must have a master valve or flow sensor, the irrigation controller must have a cycle and soak capability, and will be subject to annual random irrigation checks by the City.

SECTION 12. Enforcement

(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.