

ORDINANCE NO. 2110

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS, AMENDING CHAPTER 5, ARTICLE VIII, DIVISION 7, SECTION 5-306 AND SECTION 5-307 OF THE CODE OF ORDINANCES REGARDING THE DROUGHT CONTINGENCY PLAN; AND ESTABLISHING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH OFFENSE.

WHEREAS, the City desires to amend Chapter 5, Article VIII, Division 7, Section 5-306 and Section 5-307 of the Code of Ordinances and adopts the Drought Contingency Plan for Retail Public Water Supply and Drought Contingency Plan for Wholesale Water Supply to establish the City's ability to enforce its provisions during certain drought conditions; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS:

Section 1. That Chapter 5, Article VIII, Division 7, Section 5-306 of the Code of Ordinances is hereby amended to read as follows:

“Sec. 5-306. Water conservation and drought contingency plans.

The city's water conservation and drought contingency plans are adopted and filed with the city secretary. The provisions of the water conservation and drought contingency plans apply to all customers and property utilizing water provided by the city.

Section 2. That Chapter 5, Article VIII, Division 7, Section 5-307 of the Code of Ordinances is hereby amended to read as follows:

“Sec. 5-307. Drought contingency.

(a) *Definitions.* In this section:

Aesthetic water use means

- (1) Use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;
- (2) Use of water to fill, refill, or add to a fountain, pond, or lake for aesthetic or scenic purposes, except to support aquatic life; or
- (3) Use of water for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.

Agricultural irrigation means irrigation for the purpose of growing crops commercially for human consumption or to use as feed for livestock or poultry.

Aquatic life means a vertebrate organism dependent upon an aquatic environment to sustain its life.

City manager means the city manager of the City or any person designated by the city manager to act on behalf of the city manager.

Commercial means businesses, industrial companies, non-profit establishments, governmental entities such as health care facilities, retails, hotels and motels, restaurants, and office buildings.

Customer means any person, individual, corporation, partnership, association, company, organization, firm, or any other legal entity connected to the city's water system or contracted with the city to receive potable water service.

Drip irrigation means a method of irrigation which is typically installed below ground and consists of porous piping that allows the application of water at a slow and constant rate.

Drought means any condition, whether man-made or natural, where the available water supply or resources are not meeting the water demand, or if the water supply or resources are being depleted at a faster rate than they are being replenished.

Drought contingency plans means the Drought Contingency Plan for Retail Public Water Supply and Drought Contingency Plan for Wholesale Water Supply adopted by city council.

Essential use means the use of water required for the protection of public health, safety, and welfare.

Foundation means the soils directly abutting the foundation of a building, structure, or improvement on land.

Hand-held hose means a hose physically held by one person, fitted with a manual or automatic shutoff nozzle.

Health care facility means any hospital, clinic, nursing home or other health care or medical research facility.

Hose-end sprinkler means a sprinkler that applies water to landscape plants that is piped through a flexible, movable hose.

Irrigation system means a site-specific system of delivering water, generally for landscaping irrigation via a system of pipes or other conduits installed below ground.

Landscape irrigation means the application of water to any landscaping plant for growth or maintenance used for the irrigation and maintenance of landscaped areas with

hose-end sprinklers or automatic irrigation systems, whether publicly or privately owned, including residential and commercial lawns, gardens, parks, golf courses, and street rights-of-way.

Non-essential use means water uses that are neither essential nor required for the protection of public health, safety and welfare, including, but not limited to:

- (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) Use of City's water to irrigate golf courses;
- (5) Flushing gutters or permitting water to run or accumulate in any gutter or street;
- (6) Failure to repair a controllable leak(s) within a reasonable period after receiving notice directing the repair of such leak(s);
- (7) Use of water from fire hydrants for construction purposes or any purposes other than firefighting or meeting regulations; or
- (8) Adding new transient construction meters.

Positive shut-off nozzle means a valve that is held in a closed position by system pressure until overridden by an outside force.

Public health and safety means such amount of water as necessary to sustain human life, reasonable standards of hygiene and sanitation, and fire suppression.

Residential means a single or multi-family dwelling unit and the consumption or use of water is for personal needs or for household or sanitary purposes, such as drinking, bathing, heating, cooking, cleaning, and sanitation.

Sprinkler means an above ground irrigation device that may be attached to a garden hose or in-ground irrigation system. This includes spray heads, rotor heads, and oscillating devices.

Water means potable water supplied by a water purveyor, potable water withdrawn from any groundwater well, surface water from any river, creek, natural watercourse, pond, lake, or reservoir, and recycled water supplied by a water purveyor.

Watering day means a day designated for landscape watering.

(1) Drought stage 1 and 2:

a. *Residential customers.* Landscape irrigation watering days are their established neighborhood solid waste collection days between the hours of midnight and 10:00 a.m. or 8:00 p.m. and midnight.

b. *Commercial customers, agricultural irrigation, green space and right-of-way.* Landscape irrigation watering days are Wednesday and Saturday between the hours of midnight and 10:00 a.m. or 8:00 p.m. and midnight.

(2) Drought stage 3:

a. *Residential customers.* Landscape irrigation are allowed only one (1) day a week on the customers' designated recyclable waste collection day between the hours of midnight and 10:00 a.m. or 8:00 p.m. and midnight.

b. *Commercial customers, agricultural irrigation, right-of-way, and greenspace irrigation.* Landscape irrigation are only allowed on Wednesday between the hours of midnight and 10:00 a.m. or 8:00 p.m. and midnight.

(b) *Initiation and termination of drought response or water emergency period.* The city manager has the authority to declare or initiate and terminate drought stage or other water supply emergency response measures as described in the drought contingency plans and the city council will confirm or ratify the city manager's decisions and actions at a subsequent city council meeting. The city manager is authorized and directed to implement the applicable provisions of the drought contingency plans upon determination that such implementation is necessary to protect public health, safety, and welfare. During any period when stage restrictions have been declared to be in effect, irrigation with a sprinkler or irrigation system on any property may occur only on certain designated days and at certain times.

(c) *Drought Stage 1.* During Drought Stage 1, Notification of Drought Conditions in Fort Bend County:

(1) Residential customers are strongly encouraged to voluntarily limit landscape irrigation with hose-end sprinklers or automatic irrigation systems to the designated watering days.

(2) Commercial customers, agricultural irrigation, right-of-way and green space landscape irrigation are strongly encouraged to voluntarily limit landscape and agricultural irrigation with hose-end sprinklers or automatic irrigation systems to the designated watering days.

- (3) All customers are encouraged to reduce the volume of water used for non-essential water use and aesthetic water use.
 - (4) Irrigation of landscaped areas and structure foundations is permitted at any time if it is by means of a hand-held hose with a positive shut-off nozzle, a faucet filled bucket or water can of five (5) gallons or less, or drip irrigation system.
- (d) *Drought Stage 2. During Drought Stage 2, Severe Water Distress Conditions:*
- (1) *Residential customers.* Landscaped irrigation with hose-end sprinklers or automatic irrigation systems are only allowed on the designated watering days.
 - (2) *Commercial customers, agricultural irrigation, right-of-way and greenspace irrigation.* Landscaped irrigation with hose-end sprinklers or automatic irrigation systems are only allowed on the designated watering days.
 - (3) All customers are encouraged to reduce non-essential and aesthetic water uses.
 - (4) Irrigation of landscaped areas and structure foundations is permitted at any time if it is by means of a hand-held hose with a positive shut-off nozzle, a faucet filled bucket or water can of five (5) gallons or less, or drip irrigation system.
- (e) *Drought Stage 3. During Drought Stage 3, Critical Water Distress Conditions:*
- (1) *Residential customers.* Landscape irrigation with hose-end sprinklers or automatic irrigation systems are only allowed on the designated watering day.
 - (2) *Commercial customers, agricultural irrigation, right-of-way, and greenspace irrigation.* Landscape irrigation with hose-end sprinklers or automatic irrigation systems are only allowed on the designated watering day.
 - (3) Non-essential and aesthetic water uses are prohibited.

- (4) Irrigation of landscaped areas and structure foundations is permitted at any time if it is by means of a hand-held hose with a positive shut-off nozzle, a faucet filled bucket or water can of five (5) gallons or less, or drip irrigation system.

(f) *Drought Stage 4. During Drought Stage 4, Emergency Water Distress Conditions:*

- (1) All residential, commercial, agricultural irrigation, right-of-way, and greenspace landscape irrigation are prohibited.
- (2) Non-essential and aesthetic water uses are prohibited.
- (3) Irrigation of landscaped areas and structure foundations is permitted at any time if it is by means of a hand-held hose with a positive shut-off nozzle, a faucet filled bucket or water can of five (5) gallons or less, or drip irrigation system.
- (4) The City will not approve any application for new, additional, expanded or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind. Time limits for approval of any such applications are suspended for such time as the drought response stage is in effect. However, the city manager has the authority to approve applications on a case by case basis.
- (5) The city manager may elect to discontinue service to non-essential businesses and facilities if necessary to maintain sufficient water supply for essential uses and facilities, such as health care facilities and fire flow. Restrictions will be determined based on the priority of the business as specified in the City-adopted Emergency Management Plan.

(g) *Offenses.*

- (1) It is unlawful for any person or customer to intentionally or knowingly violate any provision of this section.
- (2) It is unlawful for any person or customer to intentionally or knowingly allow water to be used for a residential, commercial, or agricultural purpose contrary to the drought contingency plans.

(h) *Presumption of violation.*

- (1) Property owner/possessor: Any person or customer in apparent control of the property where a violation of this ordinance occurs, or from which the ordinance violation originates, shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a

rebuttable presumption that the person is in apparent control of the property on which the violation was committed.

- (2) Parents/minor child: In this section, parents are presumed to be responsible for violations committed by a child under the age of 18 and proof that a violation was committed by a child on property within the parent or parents' control constitutes a rebuttable presumption that the parent committed the violation.
- (i) *Affirmative defense.* It is an affirmative defense to a violation of this section that the city manager has granted the person or customer a written temporary variance for that person's or customer's existing water use under the provisions of the drought contingency plan that is effective on the date of the alleged offense.
- (j) *Disconnection of water service.* The city manager may disconnect water service to a person's or customer's property when that person or customer has been convicted of three or more violations of this section. Disconnected water service will be restored only upon suitable written assurance that the violations will not be repeated and payment of reconnection and any other charges as provided in this code.
- (k) *Code enforcement authority.* The city manager may designate employees with authority to enforce this section and issue citations for violations thereof.
- (l) The city's wholesale contract customers must adopt a similar or more stringent drought contingency plan as used by the city and must impose and enforce the same conditions on the use or consumption of water on their customers as the city's retail customers."

Section 3. That any person found guilty of violating this ordinance will be fined not more than \$2000.00 for each offense. Each day a violation continues constitutes a new offense. Notice of the enactment of this ordinance will be given by publishing the ordinance or its descriptive caption and penalty in the City's official newspaper one time within thirty days of passage.

Section 4. That the provisions of this ordinance are severable and the invalidity of any part of this ordinance will not affect the validity of the remainder of the ordinance.

APPROVED on first consideration on _____, 2017.

APPROVED on second consideration on _____, 2017.

Joe R. Zimmerman, Mayor

ATTEST:

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "Joshua Day".

Glenda Gundermann, City Secretary