

# DROUGHT CONTINGENCY PLAN

## **Sec. 70-301. Declaration of policy, purpose and intent.**

(a) This article may be referred to as the drought contingency plan (the plan) and is adopted 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.

(b) Water uses regulated or prohibited under this drought contingency plan are considered to be nonessential 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 subjects an offender to the penalties described in this article.

## **Section 70-302. Application.**

This drought contingency plan shall apply to all persons, customers, and property utilizing water provided by the city. The terms "person" and "customer" as used in the plan include individuals, corporations, partnerships, associations, and all other legal entities.

## **Section 70-303. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

*City administrator* means the chief administrative officer of the city and includes persons designated by the city administrator to exercise the duties and authority granted to the city administrator under this article.

*Commercial and institutional water use* means water use which is integral to the operations of commercial and nonprofit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, and office buildings.

*Conservation* means 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* means any person, company, or organization using water supplied by the city.

*Domestic water use* means water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

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

*Landscape irrigation use* means water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-way and medians.

*Nonessential water use* means water uses that are not essential nor required for the protection of public, health, safety, and welfare, including:

- (1) Irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this article;
- (2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- (3) Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- (4) Use of water to wash down 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 a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- (8) Failure to repair a controllable leak within a reasonable period after having been given notice directing the repair of such leak; and
- (9) Use of water from hydrants for construction purposes or any other purposes other than firefighting.

**Sec. 70-304. City administrator authorized to implement plan.**

(a) The drought contingency plan in this article establishes a three-tier response system based upon the severity of the water supply or demand conditions which make or threaten to make the available water supply inadequate.

(b) The city administrator or his/her designee is authorized to implement the applicable provisions of this drought contingency plan upon determining that the emergency condition triggers of this plan are present and that implementation is necessary to protect the public health, safety and welfare. The city administrator shall monitor water supply and demand conditions on a regular basis to determine if the trigger conditions are met to initiate or terminate each stage of the plan. The city administrator shall determine when conditions warrant the implementation and termination of the drought response stages in accordance with the criteria established by this article and he/she shall have the authority to initiate or terminate the water supply emergency response measures as described in the drought contingency plan.

(c) *Emergency Condition Triggers.* The city administrator can take the following conditions into consideration in determining if any of the trigger stages should be implemented:

- (1) Water distribution pressures.
- (2) Imminent weather conditions.
- (3) Treated water storage reservoir levels.
- (4) Treatment and transmission facilities conditions.
- (5) One or more ground storage tank or one or more clear wells are taken out of production for more than 24 hours.
- (6) One or more production wells are taken out of production for more than 24 hours.
- (7) Request of the SJRA to limitation in available water supplies or their transmission facilities.
- (8) Extreme operational conditions such as major line breaks, pump or system failures which cause loss of capability to provide normal water service.
- (9) Other conditions deemed appropriate by the city administrator.

### **Sec. 70-305. Public education.**

The city administrator will periodically provide the public with information about the drought contingency 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 means of press releases and inserts included with utility bills.

### **Sec. 70-305.1. Restrictions on landscape irrigation systems.**

- (a) The customer responsible for landscape irrigation use should:

- (1) repair controllable leaks including broken sprinkler heads, leaking valves, leaking or broken pipes or faucets;
- (2) adjust sprinkler heads to prevent misting because of high pressure;
- (3) avoid watering of streets, sidewalks or paved areas; and
- (4) prevent landscape irrigation water runoff from streaming and/or ponding in a street.

(b) Landscape irrigation use may be prohibited or limited to odd or even addresses on specified days during a drought contingency response. Where odd/even address irrigations limits are encouraged or required the following shall apply:

- (1) odd number addresses meaning street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7 or 9 may operate landscape irrigation systems on Wednesday between the hours of 8:00 p.m. to 8:00 a.m.; and
- (2) even number addresses meaning street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6 or 8 may operate landscape irrigation systems on Thursday between the hours of 8:00 p.m. to 8:00 a.m.

(c) Landscape irrigation use is discouraged from November 1 through April 30 of each year. Hand held hose should be used for watering during this time of year.

**Sec. 70-306. Stage 1 – Mild water shortage conditions.**

(a) *Triggering events.* The city administrator shall initiate a stage 1 drought response when the total daily water demand equals or exceeds 85 percent of the system's production capacity for three consecutive days.

(b) *Response.* Upon the initiation of a stage 1 drought response the city administrator shall:

- (1) order that all operations of the city shall adhere to water use restrictions prescribed for a stage 2 drought response;
- (2) request all water customers to practice voluntary water conservation and to minimize or discontinue water use for nonessential purposes; and
- (3) request voluntary implementation of odd/even address irrigation restrictions as provided by section 70-305.1(b) of this article.

(c) *Requirements for termination.* The goal at this response is to reduce the total daily water demand by five percent. The city administrator may terminate a stage 1 drought response

when all of the conditions listed as triggering events have ceased to exist for a period deemed appropriate by the administrator.

(d) *Publication requirements.* The city administrator shall publicize the initiation of a stage 1 drought response through directives to the city staff and through the issuance of press releases and other methods which are reasonably calculated to obtain widespread community awareness of the need to engage in water conservation measures. The termination of a stage 1 drought response may be publicized in like manner.

### **Sec. 70-307. Stage 2 – Moderate water shortage conditions.**

(a) *Triggering events.* The city administrator shall initiate a stage 2 drought response when weather forecasts indicate drought conditions will exist for at least five days and/or the total daily water demand equals or exceeds 90 percent of the system's production capacity for a period of 48 hours.

(b) *Response.* Upon the initiation of a stage 2 drought response the city administrator shall order all persons to comply with the following water use restrictions:

- (1) The use of landscape irrigation equipment is subject to mandatory restriction as provided by section 70-305.1(b) of this article.
- (2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except between the hours of 8:00 p.m. and 8:00 a.m. Such washing, when allowed, shall be done with a handheld bucket or handheld hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety and welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.
- (3) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited except between the hours of 8:00 p.m. and 8:00 a.m.
- (4) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
- (5) Use of water from hydrants shall be limited to firefighting related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under special permit from the city.
- (6) The following uses of water are prohibited:

- a. To wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- b. To wash down buildings or structures for purposes other than immediate fire protection;
- c. Dust control;
- d. Flushing gutters or permitting water to run or accumulate in any gutter or street; and
- e. Failure to repair a controllable leak within a reasonable period after having been given notice directing the repair of such leak.

(c) *Requirements for termination.* The goal at this response is to reduce the total daily water demand by ten percent. The city administrator may terminate a stage 2 drought response when all of the conditions listed as triggering events have ceased to exist for a period deemed appropriate by the city administrator. Upon termination a stage 1 drought response is automatically implemented unless the city administrator has also determined that conditions warrant the termination of all levels of drought response.

(d) *Publication requirements.* Notice of the implementation of a stage 2 drought response shall be given by publication in a newspaper of general circulation within the city and through directives to the city staff and through the issuance of press releases and other methods which are reasonably calculated to obtain widespread community awareness of the need to engage in water conservation measures. The termination of a stage 2 drought response may be publicized in like manner, provided, however, formal newspaper publication is not required.

### **Sec. 70-308. Stage 3 – Severe water shortage conditions.**

(a) *Triggering events.* The city administrator shall initiate a stage 3 drought response when the average daily water consumption reaches 95 percent of production capacity for a period of 48 hours.

(b) *Response.* Upon the initiation of a stage 3 drought response the city administrator shall order all persons to comply with the requirements of a stage 2 drought response except that the additional restrictions are also implemented:

- (1) Irrigation of landscaped areas is absolutely prohibited.
- (2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.
- (3) The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued.

- (4) The filling, refilling, or adding of water to swimming pools, wading pools, and Jacuzzi-type pools is prohibited.
- (5) No applications for new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be allowed or approved.

(c) *Requirements for termination.* The goal at this response is to reduce the total daily water demand by 15 percent. The city administrator may terminate a stage 3 drought response when all of the conditions listed as triggering events have ceased to exist for a period deemed appropriate by the city administrator. Upon termination a stage 2 drought response is automatically implemented unless the city administrator has also determined that conditions only warrant the implementation of a stage 1 drought response or would warrant termination of all levels of drought response.

(d) *Publication requirements.* Notice of the implementation of a stage 3 drought response shall be given by publication in a newspaper of general circulation within the city and through directives to the city staff and through the issuance of press releases and other methods which are reasonably calculated to obtain widespread community awareness of the need to engage in water conservation measures. The termination of a stage 3 drought response may be publicized in like manner, provided, however, formal newspaper publication is not required.

#### **Sec. 70-309. Enforcement.**

(a) No person shall knowingly or intentionally use or allow the use of water from the city 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 administrator with the provision of the city's drought contingency plan.

(b) Upon conviction, any person who violates this article shall be punished by a fine in any amount not more than \$2,000.00. Each day that one or more of the provisions in this article is violated shall constitute a separate offense.

(c) If a person is convicted of three or more distinct violations of this article the director of finance may require that a bond in the sum of \$2,000.00 be posted with the city to secure the customers future compliance with the requirements of this article. Should the customer fail to provide the bond within ten days of written demand, then the director shall be authorized to discontinue water service to the customer at the premises where such violations occurred. Services discontinued under such circumstances shall be restored only upon payment of all ordinary connection charges, and upon posting of the required bond. The bond must be maintained for a period of five years following the date of conviction on the third violation.

(d) Compliance with this article may also be sought through injunctive relief in the district court.

(e) Any person, including a person classified as a water customer of the city, in apparent control of the property where a violation occurs or 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 in apparent control of the property committed the violation, but any such person shall have the right to show that he did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parents' control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he proves that he had previously directed the child not to use the water as it was used in violation of this plan and that the parent could not have reasonably known of the violation.

**Sec. 70-309.1. Surcharges.**

(a) Any customer responsible for premises that use water supplied by the city in violation of stage 2 or stage 3 water use restrictions shall be subject to additional surcharges as provided by this section. Surcharges imposed under this section are in addition to criminal penalties provided under section 70-309 of this article. No customer shall be surcharged except upon the report of a city employee who directly observed a violation of water use restrictions.

(b) The first violation observed in any calendar year shall result in a warning. Thereafter additional violations in the same calendar year shall be subject to surcharges in the amount provided by the following table:

	Stage 2	Stage 3
2 <sup>nd</sup> violation	\$100	\$200
3 <sup>rd</sup> violation	\$200	\$300
4 <sup>th</sup> violation	\$300	\$400

(c) Before any surcharge is imposed a customer must be notified of the date and type of violation, the amount of surcharge to be imposed and the process for disputing the surcharge. The surcharge will be added to the customer's next bill that is issued at least twenty days after issuing the notice unless the customer appeals the imposition of the surcharge within ten days of the date of the notice. The city administrator shall designate an official to hear and determine disputed surcharges. The customer is presumed responsible for all water use at the customer's address. The official's determination shall be final and surcharges imposed under this section shall be due and payable as a part of the customer's regular water bill.

**Sec. 70-310. Variances.**

(a) The city administrator may, in writing, grant temporary variance for existing water uses otherwise prohibited under this article 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 the drought contingency plan set out in this article cannot be technically accomplished during the duration of the water supply shortage or other condition for which the plan is in effect; or
- (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 within five days after the plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the city administrator, and shall include the following:

- (1) Name and address of the petitioner;
- (2) Purpose of water use;
- (3) Specific provision of the drought contingency plan from which the petitioner is requesting relief;
- (4) Detailed statement as to how the specific provision of the drought contingency plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this article;
- (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 the drought contingency plan set out in this article and the compliance date; and
- (8) Other pertinent information.

(c) Variances to this article granted by the city administrator shall be subject to the following conditions, unless waived or modified by the city administrator or his designee:

- (1) Variances granted shall include a timetable for compliance; and
- (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 article occurring prior to the issuance of the variance.