ORDINANCE NO. 20241226

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF TAFT, TEXAS AMENDING THE CITY OF TAFT DROUGHT CONTINGENCY PLAN; DECLARING A PUBLIC NECESSITY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN OPEN MEETINGS CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, the City of Taft previously adopted a Drought Contingency Plan in Ordinance No. 913 at a regular meeting of the Council held on the 13th day of August of 2013; and

WHEREAS, the City of Taft seeks to amend the Drought Contingency Plan for the City of Taft, Texas; and

WHEREAS, the City of Taft is legally empowered to enact and amend ordinances for the protection of the health, safety and welfare of its residents and the public through the legitimate use of its police powers; and

WHEREAS, the City Council has determined that passage of this amendment is in the best interest of the City of Taft and its residents.

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

SECTION 1. The facts recited in the preamble in this Ordinance are hereby found by the City Council of the City of Taft, Texas to be true and correct and are incorporated by reference herein, and expressly made a part hereof, as if copied herein verbatim.

SECTION 2. The City Council of the City of Taft hereby amends the City's Drought Contingency Plan, as previously adopted in Ordinance Number 913 as set forth in the attached Exhibit "A," which is hereby incorporated herein by reference and made a part of this Ordinance for all purposes.

SECTION 3. Repeal. All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

SECTION 4. Severability. In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Taft, Texas declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

SECTION 5. Effective date. That this Ordinance shall be effective and in full force upon adoption.

SECTION 6: Proper Notice & Meeting It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551, as amended and that a quorum of the City Council was present.

SECTION 7. The City Manager, or his designee, shall file a true and correct copy of this ordinance with all attachments with the City Secretary and the County Clerk of San Patricio County, Texas

SECTION 8. This ordinance shall become effective immediately upon adoption

PASSED AND APPROVED THIS 26th DAY OF DECEMBER 2024.

CITY OF TAFT, TEXAS

~~Leonard Vásquez~~ Elida Castillo
Mayor Pro Tem

ATTEST:

Jessica González
City Secretary

EXHIBIT "A"

Exhibit A is attached in subsequent pages.

Adopted 2024

COMPREHENSIVE PLAN

City of Taft, Texas

CITY OF Taft TEXAS

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Drought Contingency Plan

1. Introduction

This document is the Drought Contingency Plan (DCP) for the City of Taft, Texas. This DCP was created so that the City can cut back demand when supplies are low so the residents have enough water to make it through a drought. This DCP clearly explains the triggers initiated by a drought and the steps to be taken during each stage of a drought.

There is also information in this DCP which explains the steps to be taken in a water emergency, such as when supplies are cut off or contaminated.

The DCP has been prepared in accordance with Texas Administrative Code Title 30 Chapter 288 Subchapter B Rule §288.20 for Municipal Uses by Public Water Suppliers. Since the City is provided water by the San Patricio County Municipal Water District through the City of Corpus Christi, a Drought Contingency Plan for Wholesale Water Suppliers has also been included in Section 16 in accordance with Texas Administrative Code Title 30 Chapter 288 Subchapter B Rule §288.22.

2. Declaration of Policy and Reason

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

Water uses regulated or prohibited under this DCP 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, which subjects the offender(s) to penalties as defined in Section 13 of this DCP.

Since the 1890s, the region has experienced several periods of drought. Over the years, supplies have been added and conservation measures have been strengthened to ensure water security for the residents and businesses of the region. However, with the variability of weather patterns in South Texas and a continually growing population, it is critical that the City plans for future drought conditions.

Currently, the City's water supply system is comprised of four reservoirs: Lake Corpus Christi, Choke Canyon Reservoir, Lake Texana and Colorado River. However, the criteria to trigger reservoir system stages are based on the combined capacity of Lake Corpus Christi and Choke

Canyon Reservoir. (See Section 8). Since Choke Canyon Reservoir filled in June 1987, the combined storage of Choke Canyon Reservoir and Lake Corpus Christi has exceeded 60% capacity only about 62% of the time. The water storage levels in Choke Canyon Reservoir and Lake Corpus Christi have generally been 2-4% higher since Lake Texana supplies were added in October 1998.

Because of the frequency of drought in South Texas, the following DCP has been developed. This DCP adopts measures that will dramatically cut water consumption in order to conserve water supplies.

3. Public Education

The City will periodically provide the public with information about the DCP, including information about the drought response measures to be implemented in each stage. This information will be provided on the City's website (www.Tafttx.gov).

Notification to the public about when reservoir system stages go into effect or when restrictions are lifted is explained in more detail in Section 9.

4. Coordination with Regional Water Planning Groups

The City of Taft shall review and update, as appropriate, the DCP at least every five years based on new or updated information, such as the adoption or revision of the regional water plan.

5. Authorization

The City Manager, or designee, is hereby authorized and directed to implement the applicable provisions of the DCP upon the implementation by the San Patricio County Municipal Water District or their provider the City of Corpus Christi.

6. Application

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

7. Definitions

For the purposes of this Chapter in this DCP, 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, non-profit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, and office buildings.

Conservation: those practices, techniques, and technologies that reduce the consumption of water, reduce 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.

Contract (end-user) water customers: a private entity that has a contract with the City to receive raw or treated water supplies for its sole use (i.e. does not resell to other users).

Customer: any person, company, or organization using water supplied by the City of Taft and paying a retail water bill.

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, business, industry, or institution.

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

Institutional water use: the use of water by an establishment dedicated to public service, such as a school, university, church, hospital, nursing home, prison, or government facility. All facilities dedicated to public service are considered institutional regardless of ownership.

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

Non-essential water use: water uses that are not essential or not required for the protection of public, health, safety, and welfare, including:

- irrigation of landscape areas, including parks, athletic fields, and golf courses, except as otherwise provided under this DCP;
- use of water to wash any motor vehicle, motorbike, boat, trailer, or other vehicle;
- use of water to wash down any impervious cover including sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- use of water to wash down buildings or structures for purposes other than immediate fire protection or health reasons;
- flushing gutters or permitting water to run or accumulate in any gutter or street;
- use of water to fill, refill, or add to any indoor or outdoor swimming pools or jacuzzi-type pools;
- use of water in an aesthetic feature including fountain or pond except where necessary to support aquatic life;
- failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak; and
- use of water from hydrants for construction purposes or any other purposes other than fire fighting or flushing needed to maintain chlorination levels and protect public health.

Reservoir Capacity: the combined reservoir storage levels of Choke Canyon Reservoir and Lake Corpus Christi, as measured in percentage of the full combined volume.

Wholesale customers: any public or private utility that has a contract with the City to receive raw or treated water supplies and authority (through contracts) to resell this water to other users.

8. Criteria for Initiation and Termination of Reservoir System Stages

The City of Corpus Christi determines when drought stages are initiated through the following criteria and at their discretion.

The triggering criterion to be monitored for determining reservoir system response stages is the combined reservoir storage levels of Choke Canyon Reservoir and Lake Corpus Christi, based on the TCEQ 2001 Agreed Order (amended April 17, 2001) relating to inflows into Nueces Bay and Estuary. The full Agreed Order is in the Appendix.

8.1. Stage 1 – Mild Water Shortage Watch

Requirements for initiation – Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses described in Section 10 when the combined storage level declines to below 40 percent.

Requirement for termination – Stage 1 of the DCP may be rescinded when the combined storage level increases above 50 percent.

8.2. Stage 2 – Moderate Water Shortage Condition

Requirements for initiation – Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 2 of this DCP when the combined storage levels declines to below 30 percent.

Requirement for termination – Stage 2 of the DCP may be rescinded when the combined storage level increases above 40 percent for a period. Upon termination of Stage 2, Stage 1 becomes operative.

8.3. Stage 3 – Critical Water Shortage Condition

Requirements for initiation – Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 3 of the DCP when the combined storage levels declines to below 20 percent.

Requirement for termination – Stage 3 of the DCP may be rescinded when the combined storage level increases above 30 percent. Upon termination of Stage 3, Stage 2 becomes operative.

8.4. Stage 4 – Emergency Water Shortage Condition

Requirements for initiation – Customers shall be required to comply with requirements and restrictions for Stage 4 of this DCP when the City of Corpus Christi determines that a water supply emergency exists based on:

- A major water line breaks, or pump or system failures occur, which causes unprecedented loss of capability to provide water service; or
- Water production or distribution system limitations; or
- Natural or man-made contamination of the water supply source occurs.

Requirement for termination – The emergency water shortage condition may be rescinded when the City of Corpus Christi deems appropriate.

9. Reservoir System Stages Response Notification

Notification of the Public:

The City Manager, or designee, shall notify the public for every change in drought stage status by any or all of the following:

- City's website (www.Tafttx.gov)
- Notice on the monthly billing
- Public Service Announcements
- Signs posted in public places

Additional Notification:

The City Manager, or designee shall, at a minimum, notify directly, or cause to be notified directly, the following individuals and entities for every change in drought stage status:

- Mayor and members of the City Council
- Fire Chief
- Parks/street superintendents and public facilities managers

10. Reservoir System, Best Management Practices per Stage

A summary of water use reduction targets for each reservoir system stage response is presented in the following table. Further discussion on best management practices and implementation practices associated with each stage of response is included below. During Stages 2, 3, and 4, requests for exceptions may be presented to the Public Works Director.

Reservoir System Stage Response	CCR/LCC Combined Reservoir Storage Level	Target Demand Reduction Levels
Stage 1- Mild	<40%	10%
Stage 2- Moderate	<30%	20%
Stage 3- Critical	<20%	30%
Stage 4- Emergency	Not Applicable	50%

10.1. Stage 1 Response – Mild Water Shortage Watch

Target: During Stage 1, achieve a 10% reduction in daily treated water demand relative to treated water demand with the water use restrictions below.

Best Management Practices for Supply Management:

Under Stage 1, the City may:

- Use more repair crews if necessary to allow for a quicker response time for water-line leak repair; and
- City crews (Water and other departments) begin monitoring customers' compliance with Stage 1 restrictions during the course of their daily rounds.

Water Use Restrictions for Demand Reduction

Under threat of penalty for violation, the following water use restrictions shall apply to all persons during Stage 1:

a) Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to **once per week**. The watering schedule will mirror the customers designated trash day. However, irrigation of landscaped areas is permitted on any day if it is by means of a hand-held hose (with positive shutoff nozzle), a faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system with a positive shutoff device. Exceptions for this restriction may be permitted, upon review and approval by the Public Works Director or designee, for the following uses: new plantings (for up to 60 days), vegetable gardens, athletic playing fields, and botanical gardens. In addition, this restriction does not apply to customers irrigating with well water or an aerobic septic system. Customers irrigating with well water or an aerobic septic system must apply for a variance from the City Utilities Department to be prominently posted on the premises within two (2) feet of the street number located on the premises.
b) Use of water from hydrants shall be limited to fire fighting, 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 of Taft Utilities Department.

c) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days. However, if the golf course utilizes a water source other than that provided through City, the facility shall not be subject to these regulations.
d) The use of water to maintain integrity of building foundations is limited to designated watering days and is only permitted by use of hand-held hose or drip irrigation.

10.2. Stage 2 Response – Moderate Water Shortage Conditions

Target: During Stage 2, achieve a 20% reduction in total daily treated water demand relative to treated water demand with the water use restrictions below.

Best Management Practices for Supply Management:

In addition to the best management practices for supply management listed under Stage 1, the City may also do the following during Stage 2:

- Eliminate the flushing of water mains unless required for decontamination and/or public safety; and
- Review customers' water usage for compliance based on the previous month's water use and notify violators verbally or in writing as the situation dictates.

Water Use Restrictions for Demand Reduction:

All requirements of Stage 1 shall remain in effect during Stage 2 except as modified below:

a) Irrigation of landscaped areas shall be limited to **once every other week**. The watering schedule will be the same as the date of your regularly scheduled trash pick up. However, irrigation of landscaped areas is permitted on any day if it is by means of a hand-held hose (with positive shutoff nozzle), a faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system with a positive shutoff device. Exceptions for this restriction may be permitted, upon review and approval by the Public Works Director for the following uses: new plantings (for up to 60 days), vegetable gardens, athletic playing fields, and botanical gardens. In addition, this restriction does not apply to customers irrigating with well water or an aerobic septic system. Customers irrigating with well water or an aerobic septic system shall still apply for a permit from the City Utilities Department to be prominently posted on the premises within two (2) feet of the street number located on the premises.
b) The watering of golf course fairways with potable water is prohibited. The watering of greens and tees are limited to once every other week unless the golf course utilizes a water source other than that provided through City's

infrastructure or done by means of hand-held hoses, hand-held buckets, or drip irrigation.

Optional Measures:

During Stage 2, the following measures are optional water use restrictions that may be implemented by the City of Corpus Christi as conditions warrant:

a) For residential and multi-unit customers, a drought surcharge of up to and including 100% of the total monthly water bill over the monthly allocation may be added to the customers' bill to deter discretionary water use, as explained in Section 11.

10.3. Stage 3 Response – CRITICAL Water Shortage Conditions

Target: During Stage 3, achieve a 30% or greater reduction in daily treated water demand relative to treated water demand with the water use restrictions below. An additional surcharge will be added to each utility bill during Stage 3 water shortage conditions to discourage discretionary water use, as described in Section 11 for retail customers and Section 16.10 for wholesale customers.

Best Management Practices for Supply Management:

In addition to the best management practices for supply management listed under Stage 2, the City may also do the following during Stage 3:

- Upon written notice, disconnect the water meters of willful violators if absolutely necessary to prevent the deliberate wasting of water.

Water Use Restrictions for Demand Reduction:

All requirements of Stage 1 and 2 shall remain in effect during Stage 3 except as modified below:

a) Irrigation of landscaped areas shall be **prohibited at all times**.
b) Use of water to wash any motor vehicle, motorbike, boat, trailer, or other vehicle not occurring on the premises of a commercial car wash stations and not in the immediate interest of public health, safety, and welfare is prohibited.
c) The filling, refilling, or adding of water to swimming pools, wading pools, and jacuzzi-type pools, and water parks (unless non-city, alternative source) is prohibited.
d) The use of water to maintain the integrity of a building foundation is still permitted on the designated Stage 2 watering day and shall be done by hand or drip irrigation method.
e) All fountains shall only operate to circulate water in order to maintain equipment.

Optional Measures:

During Stage 3, the following measures are optional water use restrictions that may be implemented by the City of Corpus Chrisit as conditions warrant:

a) No 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 shall be approved, and time limits for approval of such applications are hereby suspended for such time as this reservoir system response stage shall be in effect.
b) For residential and multi-unit customers, a Reservoir System surcharge of up to and including 100% of the total monthly water bill over the monthly allocation may be added to the customers' bill to deter discretionary water use, as explained in Section 11.

10.4. Stage 4 Response – EMERGENCY Water Shortage Conditions

Target: During Stage 4, achieve a 50% or greater reduction in daily treated water demand relative to treated water demand with the below water use restrictions. Surcharges and reduced allocations are enforceable during Stage 4 water shortage conditions, as described in Section 13.

Best Management Practices for Supply Management:

In addition to the best management practices for supply management listed under Stage 3, the City may also do the following:

Water Use Restrictions for Demand Reduction:

During Stage 4, all requirements of Stage 1, 2, and 3 shall remain in effect except as modified below:

a) Irrigation of landscaped areas is absolutely prohibited.
b) Use of water to wash any motor vehicle, motorbike, boat, trailer, or other vehicle is absolutely prohibited.
c) Associated uses of water not related to business process which are discretionary, such as equipment washing, shall be deferred until the Stage 5 emergency has been terminated.

Optional Measure:

During Stage 4, the following measure is an optional water use restriction that may be implemented by the City of Corpus Christi as conditions warrant:

a) For residential and multi-unit customers, a drought surcharge of up to and including 100% of the total monthly water bill over the monthly allocation may be added to the customers' bill to deter discretionary water use, as explained in Section 11.

11. Surcharges for Reservoir System Stages 2 – 4 and Service Measures

(a) General

1. The surcharges established herein are solely intended to regulate and deter the use of water during a period of serious drought in order to achieve necessary water conservation. The City Council expressly finds that the drought poses a serious and immediate threat to the public and economic health and general welfare of this community, and that the surcharges and other measures adopted herein are essential to protect said public health and welfare.
2. This section, and the surcharges and measures adopted herein are an exercise of the City's regulatory and police power, and the surcharges and connection fees are conservation rates intended to meet fixed costs as a result of lost revenue.
3. The City of Taft follows trigger points or allocations and surcharges during Stages 2, 3, and 4 Emergency Water Shortage conditions.
4. In this section, institutional customer means city utility customer which operates as a not-for-profit entity.

(b) Residential water customers, who are not billed through a water meter.

1. A monthly base amount of 3,000 gallons shall be established as a trigger point for each customer. Water consumption up to and including this amount will not include a drought surcharge.
2. Above the 3,000 gallon consumption trigger point, with City Council Approval, a reservoir system surcharge shall be added up to and including 100% of the customer's total monthly water bill over the allocation.

(c) Residential customers who are billed from a water meter.

1. Once Stage 1 condition has been declared, property managers of multi-tenant units shall notify the Public Works Director of the number of residential units in their facility for determination of allocations. Until so notified, the City shall calculate the allocation based on two residential units per master water meter. A monthly base amount of 3,000 gallons shall be established as a trigger point for each residential unit.
2. When consumption for the month is less than or equal to 3,000 gallons times the number of residential units, there will be no surcharge.
3. With City Council approval, when consumption is above the 3,000 gallons times the number of units, a drought surcharge shall be added up to and including 100% of the customer's total monthly water bill over the allocation.
4. The customer is responsible for passing the demand charge onto the tenant.

(d) Commercial or institutional customer

1. A monthly water usage allocation shall be established by the City Manager or designee for each commercial or institutional customer.
2. Method of establishing allocation:
    a. When the combined reservoir capacity is less than 20% of total capacity (Stage 3), the commercial or institutional customer's allocation shall be 90 percent of the customer's usage for the corresponding month's billing period during previous 12 months prior to the implementation of Stage 2.

    b. If the customer's billing history is shorter than 12 months, the monthly average for the period for which there is a record shall be used for any monthly period for which no history exists.

c. Provided, however, a customer, 90 percent of whose monthly usage is less than 6,000 gallons, shall be allocated 6,000 gallons.

d. The City Manager shall give best effort to see that notice of each commercial or institutional customer's allocation is mailed to such customer.

e. If, however, the customer does not receive such notice, it shall be the customer's responsibility to contact the City Utilities Billing Office to determine the allocation, and the allocation shall be fully effective notwithstanding lack of receipt of written notice.

f. Upon request of the customer or at the initiative of the City Manager, the allocation may be reduced or increased,

(1) if one nonresidential customer agrees to transfer part of its allocation to another nonresidential customer, or

(2) if other objective evidence demonstrates that the designated allocation is inaccurate under present conditions.

(e) Industrial customers, who use less than 100,000 gallons of water per day for processing.

1. A monthly water usage allocation shall be established by the City Manager or designee for each an industrial customer, which uses less than 100,000 gallons of water for processing (e.g., an industrial customer).

2. Method of establishing allocation.

a. When the combined reservoir capacity is less than 20% of total capacity (Stage 3), the industrial customer allocation shall be 90 percent of the customer's usage for the corresponding month's billing period during the previous 12 months prior to the implementation of Stage 1

b. If the customer's billing history is shorter than 12 months, the monthly allocation shall be 1/12 of 90% of the customer's maximum annual contracted amount until 12 months of billing history are established. However if the industrial customer does not have a water contract and does not have at least 12 months of billing history, then the new industrial customer will provide data regarding expected water use and City will determine allocation based on 90% of expected use to determine initial allocation until 12 months of billing history are established.

c. The City Manager shall give his best effort to see that notice of each industrial customer's allocation is mailed to such customer.

d. If, however, the customer does not receive such notice, it shall be the customer's responsibility to contact the City Utilities Billing Office to determine the allocation, and the allocation shall be fully effective notwithstanding lack of receipt of written notice.

e. Upon request of the customer or at the initiative of the City Manager, the allocation may be reduced or increased, if:

1. The designated period does not accurately reflect the customer's normal water usage because customer had shut down a major processing unit for overhaul during the period.

2. The customer has added or is in the process of adding significant additional processing capacity.

3. The customer has shut down or significantly reduced the production of a major processing unit.

4. The customer has previously implemented significant permanent water conservation measures.

5. The customer agrees to transfer part of its allocation to another industrial customer.

6. Other objective evidence demonstrates that the designated allocation is inaccurate under present conditions.

(f) Commercial customers, institutional customers, and industrial customers who use less than 100,000 gallons of water per day for processing shall pay the following surcharges:

1. Customers whose allocation is 6,000 gallons through 20,000 gallons per month:

a. $5.00 per 1,000 gallons for the first 1,000 gallons over allocation.

b. $8.00 per 1,000 gallons for the second 1,000 gallons over allocation.

c. $16.00 per 1,000 gallons for the third 1,000 gallons over allocation.

d. $40.00 for each additional 1,000 gallons over allocation.

2. Customers whose allocation is 21,000 gallons per month or more:

a. One times the block rate for each 1,000 gallons in excess of the allocation up through 5 percent above allocation.

b. Three times the block rate for each 1,000 gallons from 5 percent through 10 percent above allocation.

c. Five times the block rate for each 1,000 gallons from 10 percent through 15 percent above allocation.

d. Ten times the block rate for each 1,000 gallons more than 15 percent above allocation.

e. The surcharges shall be cumulative.

f. As used herein, "block rate" means the charge to the customer per 1,000 gallons at the regular water rate schedule at the level of the customer's allocation.

(g) Industrial customers, who use 100,000 gallons or more of water per day for processing.

1. A monthly water usage allocation shall be established by the city manager or designee for each industrial customer, which uses water for processing (e.g., an industrial customer).

2. Method of establishing allocation.

a. When the combined reservoir capacity of Choke Canyon Reservoir and Lake Corpus Christi is less than thirty (30) percent of total capacity (Stage 2), the industrial customer allocation shall be eighty (80) percent of the customer's usage for the corresponding month's billing period during the previous twelve (12) months prior to the implementation of Stage 1 condition.

b. If the customer's billing history is shorter than twelve (12) months, the monthly allocation shall be one-twelfth of eighty (80) percent of the customer's maximum annual contracted amount until twelve (12) months of billing history are established. However, if the industrial customer does not have a water contract and does not have at least twelve (12) months of billing history, then the new industrial customer will provide data regarding expected water use and city will determine allocation based on eighty (80) percent of expected use to determine initial allocation until twelve (12) months of billing history are established.

c. The city manager shall give his best effort to see that notice of each industrial customer's allocation is mailed to such customer.

d. If, however, the industrial customer does not receive such notice, it shall be the customer's responsibility to contact the city utilities billing office to determine the allocation, and the allocation shall be fully effective notwithstanding lack of receipt of written notice.

e. Upon request of the industrial customer or at the initiative of the city manager, the allocation may be reduced or increased by the city manager, if:

1. The designated period does not accurately reflect the customer's normal water usage because customer had to shut down a major processing unit for overhaul during the period.
2. The customer has added or is in the process of adding significant additional processing capacity.
3. The customer has shut down or significantly reduced the production of a major processing unit.
4. The customer has previously implemented significant permanent water conservation measures.
5. The customer agrees to transfer part of its allocation to another industrial customer.
6. Other objective evidence demonstrates that the designated allocation is inaccurate under present conditions.

(g) Industrial customers using 100,000 gallons or more of water per day for processing shall pay the following drought surcharges:

(1) Customers whose allocation is Eighty thousand (80,000) gallons per month or more:

a. Three (3) times the block rate for each one thousand (1,000) gallons in excess of the allocation up through five (5) percent above allocation.

b. Six (6) times the block rate for each one thousand (1,000) gallons from five (5) per cent through ten (10) percent above allocation.

c. Nine (9) times the block rate for each one thousand (1,000) gallons from ten (10) per cent through fifteen (15) percent above allocation.

d. Twelve (12) times the block rate for each one thousand (1,000) gallons more than fifteen (15) percent above allocation.

e. The surcharges shall be cumulative.

f. As used herein, "block rate" means the charge to the customer per one thousand (1,000) gallons at the regular water rate schedule at the level of the customer's allocation.

(i) *Nonresidential customer is billed from a master meter.*

1. When a nonresidential customer is billed from a master meter which jointly measures water to multiple residential dwelling units (for example: apartments, mobile homes), the customer may pass along any surcharges assessed under this DCP to the tenants or occupants, provided that:

a. The customer notifies each tenant in writing:

1. That the surcharge will be passed along.

2. How the surcharge will be apportioned.

3. That the landlord must be notified immediately of any plumbing leaks.

4. Methods to conserve water (which shall be obtained from the City).

b. The customer diligently maintains the plumbing system to prevent leaks.

c. The customer installs water saving devices and measures (ideas for which are available from the City) to the extent reasonable and practical under the circumstances.

(j) Water service to the retail water customer may be terminated under the following conditions:

1. Monthly residential water usage exceeds allocation by 4,000 gallons or more two or more times for any individual month after the implementation of Stage 43. Also, the two months need not be consecutive months.

2. Monthly water usage on a master meter which jointly measures water usage to multiple residential dwelling units exceeds allocation by 4,000 gallons times the number of dwelling units or more two or more times (which need not be consecutive months).

3. Monthly nonresidential water usage for a customer whose allocation is 6,000 gallons through 20,000 gallons exceeds its allocation by 7,000 gallons or more two or more times (which need not be consecutive months).

4. Monthly nonresidential water usage for a customer whose allocation is 21,000 gallons or more exceeds its allocation by 15 percent or more two or more times (which need not be consecutive months).

5. For residential customers and nonresidential customers whose allocation does not exceed 20,000 gallons, after the first disconnection water service shall be restored upon request for a fee of $50.

6. For such customers, after the second disconnection, water service shall be restored within 24 hours of the request for a fee of $500.

7. If water service is disconnected a third time for such customer, water service shall not be restored until the City re-enters a level of water conservation less than Stage 2.

8. For meter customers, the service restoration fees shall be the same as above times the number of dwelling units.

9. For nonresidential customers whose allocation is 21,000 gallons per month or more:

    a. After the first disconnection water service shall be restored upon request for a fee in the amount of "X" in the following formula:

    X = $ 50 x Customer's Allocation in gallons / 20,000 gallons

    b. After the second disconnection for said customers, water service shall be restored within 24 hours of the request for a fee of 10 times "X".

    c. If water service is disconnected a third time for such customer, water service shall not be restored until the City re-enters a level of water conservation less than Stage 2.

    d. The City Manager is directed to institute written guidelines for disconnection of water service under this provision, which will satisfy minimum due process requirements, if any.

(k) It shall be a defense to imposition of a surcharge hereunder, or to termination of service, that water used over allocation resulted from loss of water through no fault of the customer (for example, a major water line break) for the following conditions:

1. The customer shall have the burden to prove such defense by objective evidence (for example, a written certification of the circumstances by a plumber).

2. A sworn statement may be required of the customer.

3. This defense shall not apply if the customer failed to take reasonable steps for upkeep of the plumbing system, failed to reasonably inspect the system and discover the leak, failed to take immediate steps to correct the leak after discovered, or was in any other way negligent in causing or permitting the loss of water.

(l) When this section refers to allocation or water usage periods as "month," monthly," "billing period," and the like, such references shall mean the period in the City's ordinary billing cycle which commences with the reading of a meter one month and commences with the next reading of that meter which is usually the next month.

1. The goal for the length of such period is 30 days, but a variance of two days, more or less, will necessarily exist as to particular meters.

2. If the meter reader system is prevented from timely reading a meter by any obstacle which is attributable to the customer, the original allocation shall apply to the longer period without modification.

12. Requests for Exemptions and Variances

(a) The Public Works Director or designee may, in writing, grant a temporary variance to any of the provisions for water users found in this DCP upon determination that failure to grant such variance would cause an emergency condition adversely affecting the public health, sanitation, or fire protection for the public or person requesting such a variance.

(b) A person requesting an exemption or variance from the provisions of this Ordinance shall file request on City-provided application for exemption/variance with the City Utilities Department within 5 days after a particular drought response stage has been invoked. All request forms shall be reviewed by the Public Workss or designee, and shall include the following:

1. Name and address of the water user(s).
2. Purpose of water use.
3. Specific provision(s) of the Ordinance from which the water user is requesting relief.
4. Detailed statement as to how the specific provision of the Ordinance adversely affects the water user or what damage or harm will occur to the water user or others if water user complies with this DCP.
5. Description of the exemption requested
6. Period of time for which the exemption is sought.
7. Alternative water use restrictions or other measures the water user is taking or proposes to take to meet the intent of this DCP and the compliance date.
8. Other pertinent information; or as required on permit application

(c) No exemption nor variance shall be retroactive or otherwise justify any violation of this DCP occurring prior to the issuance of the exemption/variance.

(d) The Public Works Director or designee shall consider requests of water users for special consideration to be given as to their respective particular circumstances and is hereby authorized to, in special cases, grant such variance from the terms of this DCP if such compliance would cause an emergency condition adversely affecting the public health, sanitation, or fire protection for the public or person requesting such a variance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this DCP will result in unnecessary hardship, and so that the spirit of this DCP shall be observed and substantial justice done.

(e) Should a permit for special exception be granted, it shall be in effect from the time of granting through the termination of the then current stage, unless revoked by the Executive Director of Utilities or designee for noncompliance; provided, that the permit is prominently posted on the premises within two (2) feet of the street number located on the premises.

(f). A person denied request for permit or exception from these rules may appeal the decision to the City Manager by submitting written request for appeal to the City Manager within five business days from issuance of denial. The decision of the City Manager shall be final.

(g) Violations of any permit conditions may be enforced under Section 13.

Non-mandatory Drought Surcharge Exemption Fee.

(a) Establishment of non-mandatory "Drought Surcharge Exemption Fee" effective October 1, 2018.

Large-volume industrial customers[1] may voluntarily pay a non-mandatory and non-refundable "Drought Surcharge Exemption fee" or "Fee" of $0.25 per 1,000 gallons of water per month to be exempt from the applicable allocation surcharges of City Code Section 55-154 during the month of billing. The City will begin to charge the Fee as of October 1, 2018 to all large-volume industrial customers. The Fee will be charged with the large-volume industrial customer's regular monthly water bill which is due as stated on the bill. By payment of the Fee, the large-volume industrial customer has determined that the Fee is fair, just, and reasonable.

(b) Notice of Opt-out.

A large-volume industrial customer may opt out of the Drought Surcharge Exemption fee (or "Fee") by providing written notice to the City Manager. A large-volume industrial customer is deemed to have opted out of the Fee as of the date payment of the Fee remains delinquent after notice and opportunity to cure. A large-volume industrial customer who has opted out of said Fee is subject to aforementioned allocation surcharges of City Code Section 55-154 in addition to compliance with all applicable City ordinances.

[1] For purposes of this Section 55-159.1 the term "large-volume industrial customer" shall mean a utility customer who uses water in minimum quantity of 100,000 gallons a day in processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, including the development of power by means other than hydroelectric, but does not include agricultural use.

(c) Request to opt back into the Drought Surcharge Exemption fee or "Fee".

There is no right nor entitlement to opt back into the Fee. The City Manager or designee retains sole discretion to determine whether granting large-volume industrial customer's request to opt back into the Fee is in the best interest of the city. At a minimum, the large-volume industrial customer will be required to comply with the following mandatory conditions.

1. The large-volume industrial customer must submit a written request to the City Manager to request to opt back into the Drought Surcharge Exemption fee subject to City Manager review.

2. Upon receipt of invoice, the large-volume industrial customer must timely pay the Drought Surcharge Exemption fees calculated on said customer's actual water usage from date of City's receipt of written request back to said customer's date of opt out, up to a maximum of 10 years.

3. The large-volume industrial customer remains subject to compliance with the aforementioned allocation surcharge provisions of the City Code as may be amended and all other applicable ordinances, rules and regulations of the City for the mandatory reinstatement period of 24 months. The mandatory reinstatement period begins upon date of notice from the City to said customer and continues for 24 consecutive calendar months. During the reinstatement period, the large-volume industrial customer will timely pay a non-refundable reinstatement fee of $0.25 per 1,000 gallons of water upon receipt of invoice. By payment of said reinstatement fee, the large-volume industrial customer has determined that the fee is fair, just, and reasonable.

4. Despite compliance with these conditions, the large-volume industrial customer will not be allowed to opt back into the Fee when the combined storage level of the Choke Canyon Reservoir and Lake Corpus Christi declines below 40%.

(d) Dedicated use of the Drought Surcharge Exemption fees.

1. The Fee shall be dedicated by the City for development of a drought-resistant water supply and shall not be used for operation and maintenance costs of any water supply, treatment facility or distribution system.

2. The Fee paid to the City will be reserved in a separate account ("Account") and used only for capital costs to develop and/or acquire an additional drought-resistant water supply including but not limited to, payment of debt for an allowable capital project.

3. The City Manager may execute documents necessary for the establishment of a dedicated fund.

(e) Review and adjustment of the Drought surcharge exemption fee.

The Fee shall be reviewed and adjusted by City Council action no more frequently than every 5 years. Any subsequent Fee increase is limited to increases based upon changes to the following Consumer Price Index: CPI-All Urban Consumers (Current

13. Enforcement

(a) A violation under this article is a Class C misdemeanor. Any person that violates any provision of this article shall be subject to a fine of not more than five hundred dollars ($500.00) per violation per day. The culpable mental state required by Section 6.02 of the Texas Penal Code is specifically negated and dispensed with and a violation of this article is a strict liability offense.

(b) The commission of a violation of each provision, and each separate violation thereof, shall be deemed a separate offense, in and upon conviction thereof, shall be fined as hereinabove provided.

(c) If any person or a second person in the same household or premises is found guilty of a second violation of this article, the water superintendent shall be authorized to discontinue water service to the premises where such violation occurs.

(d) Cases filed under this section shall be expedited and given preferential setting in municipal court before all other cases.

(e) Any person whose name is on file with the utilities billing office as the customer on the water account for the property where the violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on said premises shall constitute prima facie evidence that the customer committed the violation, but said customer shall have the right to show that he did not commit the violation.

(f) If any person fails to respond to a citation or summons issued for a violation of this article within the time allowed, upon receipt of notice from the director or a judge of the municipal courts, the Public Works Director is authorized to discontinue water service to the premises where such violation occurs.

14. Variances

A temporary variance for existing water uses otherwise prohibited under this DCP may be obtained through the process outlined in Section 12.

15. Severability

It is hereby declared to be the intention of the City that the sections, paragraphs, sentences, clauses, and phrases of this DCP are severable and, if any phrase, clause, sentence, paragraph, or section of this DCP shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such declaration shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this DCP, since the same would not have been enacted by the City without the incorporation into this DCP of any such unconstitutional phrase, clause, sentence, paragraph, or section.