

ORDINANCE NO. 7290

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF AMARILLO, TEXAS: AMENDING THE AMARILLO MUNICIPAL CODE, CHAPTER 18-2, CREATING NEW ARTICLE V, SECTIONS 18-2-85 TO 18-2-99 AND FOLLOWING, TO BOTH AMEND AND CODIFY THE EXISTING DROUGHT CONTINGENCY PLAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING PENALTY; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

WHEREAS, since 1999, the City of Amarillo has had an official Drought contingency plan in accordance with state law, duly adopted by resolution, and amended in 2001 and 2010; and,

WHEREAS, the current Drought of historically unprecedented proportions has revealed the need for certain further amendments to various provisions of the Drought contingency plan; and,

WHEREAS, there is a desire to further protect and promote the public health, safety, welfare, by placing the revised Drought contingency plan into the City of Amarillo Municipal Code of Ordinances as an enforceable ordinance of the city;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF AMARILLO, TEXAS:

SECTION 1. The Amarillo Municipal Code, Chapter 18-2, be and hereby is amended to reserve sections in Article IV, and to add new Article V, Sections 18-2-85 to 18-2-99, to read as follows:

ARTICLE IV.

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Sections 18-2-81 to 18-2-84. Reserved.

ARTICLE V.

DROUGHT CONTINGENCY PLAN

Section 18-2-85. Declaration of Policy, Purpose and Intent; Public Involvement.

(a) The City of Amarillo adopts the following regulations and restrictions on the delivery and consumption of water during periods of Drought conditions. The Drought Contingency Plan will conserve the available Water Supply and protect the integrity of Water Supply facilities, with particular regard for Domestic Water Use, sanitation and fire protection; protect and preserve public health, welfare and safety; and minimize the adverse impacts of Water Supply shortage or other Water Supply emergency conditions.

(b) The Texas Commission on Environmental Quality (TCEQ) rules in Title 30, Texas Administrative Code, Chapter 288, Subchapter B, 288.20, as amended, require retail public water suppliers to develop Drought contingency plans that address various situations

including the following:

- Reduction in available Water Supply up to a repeat of the Drought of record,
- Water production or distribution system limitations,
- Supply source Contamination, or
- System outage due to the failure or damage of major water system components.

(c) Prior to adoption of this Drought Contingency Plan (the Plan), a public meeting will be held to receive comments. Provisions shall include actively informing the public and providing opportunity for public input in the preparation of the plan. Wholesale Water Users will be given an additional opportunity to provide input into the development of this Plan.

Section 18-2-86. Education; Conformity with Regional Plan.

(a) Continuing public education regarding this Drought Contingency Plan will be provided by means of utility bill inserts and brochures as well as through the Water Conservation section of the City of Amarillo website at www.amarillo.gov and other appropriate means. Moreover, the Director will provide Wholesale Water Users with a copy of the Plan. Wholesale Users will also be notified of changes to the Plan.

(b) The City of Amarillo is located within the Region A Water Planning Group. A copy of this Plan and subsequent revisions will be submitted to the Region A Water Planning Group (the “Panhandle” Water Planning Group) for their information and comment. The Plan will be reviewed by the Region A Water Planning Group to assure conformity and consistency with the Regional Water Plan.

Section 18-2-87. Authorization of Responsible Official.

The Director of Utilities 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 of the community. The Director shall have the authority to initiate or terminate Stages of the Plan as stated in this Article. The Director shall review and propose updates, if necessary, to the City Commission at least every five years, or as required by the State of Texas.

Section 18-2-88. Scope; Application; Definitions.

(a) The provisions of this Plan shall apply to all persons, Users and property utilizing water provided by the City of Amarillo. The terms “person” and “User” as used in the Plan include individuals, corporations, partnerships, associations and all other legal entities.

(b) In this Article, the following words and terms have the meaning stated here.
Aesthetic 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, 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 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.

Contamination: The presence of any foreign substance (organic, inorganic, radiological or biological) in water which tends to degrade its quality so as to constitute a health hazard or impair the usefulness of the water such that the water system cannot be used.

CRMWA: Canadian River Municipal Water Authority

Customer or User: Any person, company, organization or municipality using water supplied by the City of Amarillo.

Director: The City of Amarillo Director of Utilities or designee.

Domestic Water Use: Water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking and sanitation or for cleaning a residence, business, industry, or institution.

Drought: A long period of abnormally low precipitation that adversely affects growing or living conditions.

Even Number Address: Street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.

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

Institutional Water Users: Public, educational, charitable, or other organizations devoted to a particular cause or program including all levels of government agencies, schools, colleges, healthcare facilities such as nursing homes and hospitals.

Landscape irrigation use: Water use for 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.

Non-essential Water Use: Water use that is neither essential nor required for the protection of public, health, safety, and welfare, including:

- a. irrigation of landscape areas, including parks, athletic fields, and golf courses, except as otherwise provided under this Plan;
- b. use of water to wash any motor vehicle, motor bike, boat, trailer, airplane or other vehicle at any noncommercial establishment not designed for such purposes;
- c. use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other impervious surface;
- d. use of water to wash down buildings or structures for purposes other than immediate fire protection;

- e. flushing gutters or permitting water to run or accumulate in any gutter or street;
- f. use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;
- g. use of water in a fountain or pond for aesthetic or scenic purposes; except where necessary to support nonplant aquatic life;
- h. failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

Maintenance Failures: Any failure or curtailment of delivery from raw water suppliers because of water quantity or quality problems due to Water Supply system structural failure, or any of a number of natural or man-made situations.

Odd Numbered Address: Street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

Production Capability: The volume/amount a public water supplier is available to produce utilizing the current water resources and infrastructure.

Reservoir: The City’s raw water holding facility located at SE 34th Avenue and Eastern Street.

Watering Schedule: Permissible days for outdoor water use based upon odd (O) and even (E) numbered addresses on the days shown here:

	Sun	Mon	Tue	Wed	Thurs	Fri	Sat
O	X		X		X		None
E		X		X		X	None

Water Supply: The amount of water that is available to meet the immediate unrestricted Customer demands based on the available water resources and infrastructure.

Wholesale Water User: Potable water provided to a person, political subdivision or municipality who is not the ultimate User of the water.

Section 18-2-89. Alternative Water Sources.

The City of Amarillo obtains water from several sources including CRMWA and City owned well fields. The City also provides reclaimed water for industry and irrigation. Each of these alternative water sources operates independently of each other.

Section 18-2-90. Drought Stages; Triggering Criteria; Response; Termination.

The Director shall monitor Water Supply and demand conditions and shall have the authority to initiate or terminate stages of this Plan. Initiation and termination of the stages is not required to be in sequential order if the Director determines it is in the best interest of the public. Public notification of the initiation or termination of Drought response stages shall be by means of public service announcements on TV, radio and area newspapers or publications, and the City of Amarillo website.

The Director shall make notification to Wholesale Water Users upon initiation or termination of Drought response stages. Contact between the Director and Wholesale Water Users will be maintained throughout Drought conditions.

The triggering criteria described below are based on varying conditions of vulnerability of water sources under Drought conditions, also including unforeseen natural disasters, equipment failure and Contamination problems.

The Director shall notify the TCEQ within five business days upon implementing any mandatory provisions of this plan. as prescribed in Title 30, Texas Administrative Code, Chapter 288, Subchapter B (288.20)(b), as amended.

Stage 1 - Mild Water Shortage Conditions.

Requirements for Initiation: One or more of the following events may trigger Stage 1.

- A. When any demand or normal operating condition results in a drawdown of the Reservoir to or below approximately 60 percent of its capacity.
- B. When total daily water demand equals or exceeds approximately 80 percent of the available water Production Capability for five (5) consecutive days.
- C. Water availability is adequate but CRMWA supplies, reservoir capacities, or groundwater supplies are low enough that significant concerns exist for future water supplies if the Drought or emergency condition is prolonged.
- D. Any combination of failures in production, transmission, treatment, or distribution facilities that reduces the water Production Capability to a point where current daily water demands equal or exceed approximately 80 percent of the available water Production Capability for five (5) consecutive days.

Response:

- 1. Request voluntary Watering Schedules and encourage other Conservation measures.
- 2. The Director shall contact Wholesale Water Users to initiate the appropriate stage of their Drought contingency plan.

Consumption Reduction Goal: Five (5) percent reduction in consumption.

Requirements for Termination: Stage 1 may be terminated when all of the conditions listed as triggering events have ceased to exist for a period of five (5) consecutive days or as determined by the Director.

Stage 2 - Moderate Water Shortage Conditions.

Requirements for Initiation: One or more of the following events may trigger Stage 2.

- A. When any demand or normal operating condition results in a drawdown of the Reservoir to or below approximately 50 percent of its capacity.
- B. When total daily water demand equals or exceeds approximately 85 percent of the available water Production Capability for five (5) consecutive days.
- C. Any combination of failures in production, transmission, treatment, or distribution facilities that reduces the maximum water Production Capability to a point where current daily water demands equal or exceed approximately 85 percent of the available water Production Capability for five (5) consecutive days.

Response: The following Responses are cumulative of and in addition to applicable Stage 1 Responses.

- 1. Require mandatory Watering Schedule and other Conservation Methods as ordered by the Director.
- 2. The Director shall contact Wholesale Water Users to initiate the appropriate stage of their Drought contingency plan.

Consumption Reduction Goal: Ten (10) percent reduction in consumption.

Requirements for Termination: Stage 2 may be terminated when all of the conditions listed as triggering events have ceased to exist for a period of five (5) consecutive days or as determined by the Director. Stage 1 of the Plan may go into effect immediately after Stage 2 is terminated or as conditions warrant as determined by the Director.

Stage 3 - Severe Water Shortage Conditions.

Requirements for Initiation: One or more of the following events may trigger Stage 3.

- A. When any demand or normal operating condition results in a drawdown of the Reservoir to or below approximately 40 percent of its capacity.
- B. When total daily water demands equal or exceed approximately 90 percent of the available water production capabilities for five (5) consecutive days.
- C. Any combination of failures in production, transmission, treatment, or distribution facilities that reduces the maximum water Production Capability to a point where current daily water demands equal or exceed approximately 90 percent of the available water Production Capability for five (5) consecutive days.

Response: The following Responses are cumulative of and in addition to Responses listed in lesser Stages.

1. Require mandatory Watering Schedule between 8:00 PM and 6:00 AM with watering completed by 6:00 AM and may prohibit nonessential water use as ordered by the Director.

2. The Director shall contact Wholesale water Customers to initiate the appropriate stage of their Drought contingency plan.

Consumption Reduction Goal: Fifteen (15) percent reduction in consumption.

Requirements for Termination: Stage 3 may be terminated when all of the conditions listed as triggering events have ceased to exist for a period of five (5) consecutive days or as determined by the Director. Stage 2 or 1 Water Conservation efforts may remain in place until Drought conditions reverse, triggering events have ceased or the Director has determined Conservation efforts are no longer needed.

Stage 4 - Critical Water Shortage Conditions.

Requirements for Initiation: One or more of the following events may trigger Stage 4.

A. When any demand or normal operating condition results in a drawdown of the Reservoir to or below approximately 30 percent of its capacity.

B. When total daily water demands equal or exceed approximately 95 percent of the available water Production Capability for five (5) consecutive days.

C. Any combination of failures in production, transmission, treatment, or distribution facilities that reduces the maximum water Production Capability to a point where current daily water demands equal or exceed approximately 95 percent of the available water Production Capability for five (5) consecutive days.

D. Contamination of the Water Supply or system.

Response: The following Responses are cumulative of and in addition to Responses in lesser Stages.

1. All Nonessential Watering is prohibited. However, at this Stage this prohibition does not include:

Vegetable Gardens - Watering is permitted per the Watering Schedule but only from 8 PM to 6 AM.

Golf Courses - Those using only private wells, or public wells dedicated for irrigation only.

Swimming Pools - Filling or topping off of pools is strictly prohibited, unless from a private well.

2. All Commercial, Institutional, Industrial, and Wholesale Users shall be notified and initiate the appropriate stage of its Drought contingency plan which is at least consistent with the actions taken by the City of Amarillo.

3. Washing of automobiles, trucks, trailers, boats, airplanes and other mobile equipment is permitted only on the immediate premises of a commercial vehicle washing facility, but may be subject to further restrictions as ordered by the Director.

4. Commercial nurseries, sod farms or other similar establishments shall restrict watering hours to 8 PM to 6 AM. This watering time may be subject to further restrictions as ordered by the Director.

5. There shall be no restrictions on firefighting, however only limited testing of water equipment is allowed. Health care and medical facilities are encouraged to restrict or limit using water. Other water use essential to health and safety as authorized by the Director in accordance with the Variance procedures of this Article.

6. The Director shall begin preparations for the implementation of pro rata curtailment of deliveries or diversions of water to Customers. Such curtailment plans shall, as far is feasible in the judgment of the Director, give due regard for domestic use, sanitation, fire protection and preservation of public health and safety

Consumption Reduction Goal: Twenty-five (25) percent reduction in consumption.

Requirements for Termination: Stage 4 may be terminated when all of the conditions listed as triggering events have ceased to exist for a period of five (5) consecutive days or as determined by the Director. Stage 3, 2, or 1 Water Conservation efforts may remain in place until triggering events have ceased or the Director has determined Conservation efforts are no longer needed.

Stage 5 - Emergency Water Shortage Conditions.

Requirements for Initiation: One or more of the following events may trigger Stage 5.

A. When any demand or normal operating condition results in a drawdown of the Reservoir to or below approximately 20 percent of its capacity.

B. When total daily water demands equal or exceed approximately 97.5 percent of the available water Production Capability for five (5) consecutive days.

C. Any combination of failures in production, transmission, treatment, or distribution facilities that reduces the maximum water Production Capability to a point where current daily water demands equal or exceed approximately 97.5 percent of the available water Production Capability for five (5) consecutive days.

D. Contamination of the Water Supply or system.

E. Any other event that creates or threatens a catastrophic water shortage as determined by the Mayor.

Response: The Mayor may declare an emergency water shortage exists or is imminent that threatens the public health or safety. Such a declaration and the Response(s) implemented are valid for a period of no more than seven (7) days or until the next meeting of the City Commission, whichever occurs first. The City Commission, in a regular or special meeting, may terminate, extend, ratify or modify the Mayor's declaration and the Response(s) implemented by a majority vote of the members voting. Upon issuing a declaration, the Mayor may order the following curtailments and other emergency Response actions, which are cumulative of and in addition to Responses in lesser Stages of this Plan.

1. **Curtailment of Wholesale, Industrial, and Institutional Water Users.** Upon the Mayor authorizing initiation of allocation of water supplies on a pro rata basis in accordance with the Plan and Texas Water Code, Section 11.039, and other applicable law including this ordinance, the Director shall implement pro rata curtailment of water deliveries or diversions for each User in accordance with the curtailment plans developed in Stage 4, as follows:

- a. A monthly water usage allocation shall be established by the Director for each User. The User's water usage baseline will be computed on the average water usage for each month for the preceding five years. Once pro rata allocation is in effect, water diversions by or deliveries to each User shall be limited to the allocation established for each month.
- b. The Director shall provide notice, by telephone and by certified mail, to each User informing them of their monthly water usage allocations and shall notify the news media and the executive Director of the TCEQ upon initiation of probable water allocation.
- c. Upon request of the User or at the initiative of the Director, the allocation may be reduced or increased. A User may appeal an allocation established hereunder to the City Commission of the City of Amarillo.

2. **Curtailment of Other Users.** All other water Users shall be subject to curtailment of water deliveries or diversions as deemed necessary by the Mayor.

3. **Priority on Use of Water.** In the event of water curtailment or diversion, the following Users have preference for available water service or restoration of service if and when available. These facilities are not listed in order of priority, but each shall be considered based upon then-existing community needs in Amarillo:

- Communications originating stations
- Control centers (Emergency Operating Center, police, fire, and public utilities)
- Dairy processing plant
- Emergency shelters and community facilities for displaced persons
- Fire protection
- Food production, processing and storing

- Group housing, apartments, hotels, motels
- Hospitals and emergency hospitals, doctors offices and clinics
- Refineries, petroleum and petroleum products
- Schools
- Transportation centers
- Water dispensing stations (i.e. emergency distribution sites for free potable water for personal use)
- Wholesale Water Users

Requirements for Termination: Stage 5 may be terminated when all of the conditions listed as triggering events have ceased to exist, or as determined by the Mayor. Lesser Stages of Water Conservation may remain in place until Drought conditions reverse, triggering events specific to each particular stage have ceased, or the Mayor has determined Conservation efforts are no longer needed.

Section 18-2-91. Variances.

(a) The Director may grant a variance for water uses that are otherwise prohibited under this Plan if it is determined that either:

1. Failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the person requesting; or
2. Alternative methods can be promptly and fully implemented by the requestor which the Director finds will achieve the same level of reduction in water use for the Stage in effect.

(b) Persons requesting a variance from the provisions of this Plan shall file a written petition for variance with the Director. A petition for variances shall include the following information:

1. Name and address of the petitioner(s).
2. Purpose of the intended water use if variance is granted.
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; and, how damage or harm will occur to the petitioner or others if petitioner complies with this Ordinance.
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 Plan and the compliance date.
8. Other pertinent information.

(c) The Director shall review and make a decision to grant, deny, or modify a

petition for variance no later than seven (7) business days after a petition is determined to be complete per subsection (b) criteria. A decision by the Director to deny a variance may be appealed to the City Manager or designee whose decision shall be final. An appeal to the City Manager requires filing with the City Secretary a letter explaining specifically why or how the Director's denial is an abuse of discretion under the circumstances then existing in the community. Such letter must be filed no later than 3 business days after the denial is issued. The City Manager or designee shall review the original petition and all relevant documents pertaining to the petition and the Director's denial, and thereupon issue a final decision within 7 business days after receiving the appeal letter.

(d) Each variance granted shall include a timetable for compliance and shall expire six (6) months after it is granted.

(e) Application for variance, pendency of same, or an appeal of same shall not be grounds for noncompliance with this Article.

(e) A granted variance shall not be retroactive or otherwise justify a violation of this Article that occurred prior to the granting of the variance, unless such violation is found to have been essential to protect human health or a human life safety condition.

Section 18-2-92. Wholesale Water Contract Provisions.

Each wholesale water contract entered into, renewed, or extended after the adoption of this Article must contain provisions for curtailing water supplies and rationing of water.

Section 18-2-93. Violations; Enforcement; Penalty.

(a) It is an offense for a person(s) to use or allow the use of water from the City of Amarillo public water system in a manner or at a time that is contrary to a provision of this Article. This ordinance applies to and shall be enforceable against a property owner, manager, tenant, lessee and any other person in control of use of water at an address.

(b) This Article may be enforced by citation issued by any peace officer or a building safety inspector of the City of Amarillo. This ordinance may also be enforced by the Director, assistant Directors, or a supervisor in the City of Amarillo Utilities Division by submitting to the municipal court prosecutor for review, a sworn complaint against the title owner of property where a violation occurs. This section authorizes each official described in this section to enforce this Article as stated in this section. The City Attorney or designee is authorized to enforce this Article by civil injunction or other civil action.

(c) Each violation of a required act or a prohibition prescribed in this Article by a water User, is a separate offense.

(d) A violation of this article is punishable upon conviction in accordance with Amarillo Municipal Code, Sec. 1-1-5. Provided however, a violation of Stage 4 or of Stage 5 is deemed and here declared to be an offense against public health or safety for purposes of punishment.

Sections. 18-2-94 to 18-2-99. Reserved.

SECTION 2. Penalty. A violation of this ordinance is an offense punishable in accordance with Section 1-1-5 of this code of ordinances. Provided however, a violation of either Stage 4 or of Stage 5 is deemed and here declared to be an offense against public health or safety for purposes of punishment.

SECTION 3. Severability. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the City Commission of the City of Amarillo, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 4. Repealer. All ordinances, parts of ordinances, resolutions, and parts of resolutions that adopt a Drought contingency plan are hereby repealed. Further, any and all other ordinances or resolutions of any nature, or parts of either, that conflict with the terms of this ordinance are hereby repealed to the extent of conflict with this ordinance.

SECTION 5. Publishing and Effective Date. This ordinance shall be published and become effective according to law.

INTRODUCED AND PASSED by the City Commission of the City of Amarillo, Texas, on First Reading this the _____ day of _____, 2011; and PASSED on Second and Final Reading the _____ day of _____, 2011.

Paul Harpole, Mayor

ATTEST:

Donna DeRight, City Secretary