

ORDINANCE NO. 09-02-01

AN ORDINANCE REVISING AND READOPTING A DROUGHT CONTINGENCY PLAN FOR THE CITY OF HENDERSON, TEXAS; READOPTING DROUGHT CONTINGENCY PLAN ADOPTED MAY 3, 2002; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR CONTINGENCIES FOR IMPLEMENTING DROUGHT PLAN; PROVIDING FOR WATER RATIONING IN THOSE CONTINGENCIES; PROVIDING PENALTIES FOR VIOLATIONS; PROVIDING FOR VARIANCES; PROVIDING FOR SEVERABILITY; REPEALING ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Whereas, the City Council of the City of Henderson finds that additionally triggering events for implementing water rationing should be added to the Drought Contingency Plan adopted May 3, 2002;

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

REVISED DROUGHT CONTINGENCY PLAN

FOR THE

**CITY OF HENDERSON
(October 30, 2014)**

Section I: Declaration of Policy, Purpose, and Intent

In order to conserve the available water supply and protect the integrity of the City of Henderson (the City) 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, the City of Henderson hereby adopts the following regulations and restrictions on the delivery and consumption of water.

Water uses regulated or prohibited under this Drought Contingency Plan (the Plan) are considered to be non-essential 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 the offender(s) to penalties as defined in Section XI of this Plan.

Section II: Public Involvement

Opportunity for the public to provide input into the preparation of the Plan was provided by the City by means of a public meeting held at the City Hall May 14, 2002, at 9:00 a.m. to accept input on the Plan. Notices were published in the local newspaper notifying the public of the meeting to discuss the Plan on Sunday, May 12, 2002.

Section III: Public Education

The City will periodically provide the public with information about the 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 public events and newspaper.

Section IV: Coordination with Regional Water Planning Groups

The service area of the City is located within the East Texas Regional Water Planning Area and the City has provided a copy of this Plan to the East Texas Regional Water Planning Group.

Section V: Authorization

The Mayor or his/her designee is hereby authorized and directed to implement the applicable provisions of this Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The Mayor, or his/her designee, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in the Plan.

Section VI: Application

The provisions of this 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 VII: Definitions

For the purpose of this Plan, 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 operation of commercial and 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 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: any person, company, or organization using water supplied by the City.

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

Even number address: street addresses, box number, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.

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

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, and rights-of-way and medians.

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

- a. irrigation of landscaped areas, including parks, athletic fields, and golf courses, except otherwise provided under this Plan;
- b. use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- c. use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- 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 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); and
- i. use of water from hydrants for construction purposes or any other purposes other than fire fighting.

Odd numbered addresses: street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

Section VIII: Criteria for Initiation and Termination of Drought Response Stages

The Mayor or his/her designee shall monitor water supply and/or demand conditions on a weekly basis and shall determine when conditions warrant initiation or termination of each stage of the Plan, that is, when the specified “trigger” are reached.

Stage 1 Triggers – MILD Water Shortage Conditions

Requirements for initiation

Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain water uses, defined in Section VII – Definitions, when the total daily water demand equals or exceeds 6.0 million gallons or 70% of system capacity, whichever is the lesser, for seven consecutive days.

Requirements for termination

Stage 1 of the Plan may be rescinded when the conditions listed as triggering events have ceased to exist for a period of seven consecutive days.

Stage 2 Triggers – MODERATE Water Shortage Conditions

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses provided in Section IX of this Plan when the total daily water demand equals or exceeds 7 million gallons, or 80% of system capacity, whichever is the lesser, for seven consecutive days.

Requirements for termination

Stage 2 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of seven consecutive days.

Stage 3 Triggers – SEVERE Water Shortage Conditions

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 3 of this Plan when total daily water demand equals or exceeds the capabilities of the daily water production (estimated at 8.0 million gallons per day, or 90% of system capacity, whichever is the lesser), or the imminent or actual failure of a major water system component which could cause an immediate health or safety hazard.

Requirements for termination

Stage 3 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of four consecutive days. Upon termination of Stage 3, Stage 2 becomes operative.

Section IX: Drought Response Stages

The Mayor or his/her designee, shall monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in Section VIII of this Plan, shall determine that a mild, moderate or severe water shortage condition exists and shall implement the following notification procedures:

Notification

Notification of the Public

The Mayor or his/her designee shall notify the public by means of:

- a. Publication in the local newspaper,
- b. Signs posted in public places,
- c. Local radio stations, and
- d. Local television stations.

Additional Notification

The Mayor or his/her designee shall notify directly, or cause to be notified directly, the following individuals and entities:

- a. City Council
- b. Fire Chief
- c. County Judge
- d. Texas Commission on Environmental Quality

- e. Major water users
- f. Public Works Director

Stage 1 Response – MILD Water Shortage Conditions

Goal: Achieve a voluntary ten percent reduction in daily water demand.

Supply Management Measures: Reduce flushing water mains by twenty percent.

Voluntary Water Use Restrictions:

- a. Water customers are requested to voluntarily limit the irrigation of landscaped areas to Sundays and Thursdays for customers with a street address ending in an even number, Saturdays and Wednesdays for water customers with a street address ending in an odd number, and to irrigate landscapes only between the hours of 12:00 midnight until 10:00 a.m. and between 8:00 p.m. and 12:00 midnight on designated watering days. However, irrigation of landscaped areas is permitted at anytime if it is by means of a hand-held hose, and faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system.
- b. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight. Such washing, when allowed, shall be done with a hand-held hose equipped with a positive shutoff nozzle for quick rises. 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.
- c. Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight.
- d. 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.
- e. 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.
- f. Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated water days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight. However, if the golf course utilizes a water

source or other that that provided by the City, the facility shall not be subject to these regulations

g. All restaurants are prohibited from serving water to patrons except upon request of the patron.

h. The following uses of water are defined as non-essential and are prohibited:

1. wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
2. use of water to wash down buildings or structures for purposes other than immediate fire protection;
3. use of water for dust control;
4. flushing gutters or permitting water to run or accumulate in any gutter or street; and
5. failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

Stage 2 Response – MODERATE Water Shortage Conditions

Goal: Achieve a ten percent reduction in daily water demand.

Supply Management Measures: Reduce flushing water mains by fifty percent.

Water Use Restrictions: Under threat of penalty for violation, the following water use restrictions shall apply to all persons:

- a. Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number, Saturdays and Wednesdays for water customers with a street address ending in an odd number, and to irrigation of landscaped areas is further limited to the hours of 12:00 midnight until 10:00 a.m. and between 8:00 p.m. and 12:00 midnight on designated watering days. However, irrigation of landscaped areas is permitted at anytime if it is by means of a hand-held hose, and faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system.
- b. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight. Such washing, when allowed, shall be done with a hand-held hose equipped with a positive shutoff nozzle for quick rises. 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.

- c. Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight.
- d. 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.
- e. 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.
- f. Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated water days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight. However, if the golf course utilizes a water source or other that that provided by the City, the facility shall not be subject to these regulations
- g. All restaurants are prohibited from serving water to patrons except upon request of the patron.
- h. The following uses of water are defined as non-essential and are prohibited:
 - 1. wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
 - 2. use of water to wash down buildings or structures for purposes other than immediate fire protection;
 - 3. use of water for dust control;
 - 4. flushing gutters or permitting water to run or accumulate in any gutter or street; and
 - 5. failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

Stage 3 Response – SEVERE Water Shortage Conditions

Goal: Maintain a ten percent cushion between daily water demand and system capacity.

Supply Management Measures: Reduce flushing water mains to immediate water quality measures only and reduced irrigation of public landscaped areas. In extreme circumstances water may be trucked or bottled water delivered to a location inside the city accessible to the public.

Water Use Restrictions: All requirements of Stage 2 shall remain in effect during Stage 3 except:

- a. Irrigation of landscaped areas shall be limited to designated watering days between the hours of 12:00 midnight and 10:00 a.m. and 8:00 p.m. and 12:00 midnight and shall be by means of hand-held hoses, hand-held buckets, drip irrigation, or permanently installed automatic sprinkler system only. The use of hose-end sprinklers is prohibited at all times.
- b. The watering of golf course tees is prohibited unless the golf course utilizes a water source other than that provided by the City.
- c. The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued.

Section X: Enforcement

- a. No person shall knowingly or intentionally 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.
- b. Any person who violates this Plan is guilty of a misdemeanor and, upon conviction shall be punished by a fine of not less than two hundred dollars (\$200.00) for the first violation and not less than one thousand dollars (\$1,000.00) for the second violation. If a person is convicted of three or more distinct violations of this Plan, the Mayor, or his/her designee shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of all related fines and a reconnect charge, hereby established at forty-five dollars (\$45.00). In addition, suitable assurance must be given to the Mayor, or his/her designee, that the same action shall not be repeated while the Plan is in effect. Compliance with this Plan may also be sought through injunctive relief in the district court.
- c. 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/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children.

- d. Any employee of the City, police officer, or other City employee designated by the Mayor, may issue a citation to a person he/she reasonably believes to be in violation of this Ordinance. The Citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, the offense charged, and shall direct him/her to appear in the municipal court on the date shown on the citation for which the date shall not be less than 3 days nor more that 5 days from the date the citation was issued. If the alleged violator fails to appear in municipal court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant.

Section XI: Variances

The Mayor, or his/her designee, may, in writing, grant temporary variance for existing water uses otherwise prohibited under this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:

- a. Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.
- b. Alternative methods can be implemented which will achieve the same level of reduction in water use.

Persons requesting an exemption from the provisions of this Ordinance shall file a petition for variance with the City within 5 days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the Mayor, or his/her designee, and shall include the following:

- a. Name and address of the petitioner(s).
- b. Purpose of water use.
- c. Specific provision(s) of the Plan from which the petitioner is requesting relief.
- d. Detailed statement as to how the specific provision of the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if the petitioner complies with this Ordinance.
- e. Description of the relief requested.
- f. Period of time for which the variance is sought.
- g. Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.

h. Other pertinent information.

Variations granted by the City shall be subject to the following conditions, unless waived or modified by the Mayor, or his/her designee:

a. Variations granted shall include a timetable for compliance.

b. Variations granted shall expire when the Plan is no longer in effect, unless the petitioner has failed to meet specified requirements.

No variations shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance

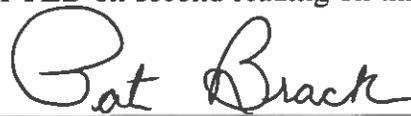
Section XII: The provisions of this Ordinance shall be severable. If any provision of this Ordinance is held invalid, such invalidity shall not affect other provisions or application of the Ordinance which can be given effect without the invalid provision of application.

Section XIII: All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.

Section XIV: This Ordinance shall take full effect and force upon the passage by the City Council of the City of Henderson, Texas, and publication as required by law.

PASSED AND APPROVED on first reading on this the 10th day of February, 2009.

PASSED, APPROVED, AND ADOPTED on second reading on this the 24th day of February, 2009.



PAT BRACK
Mayor

Attest:




STEPHANIE KIMBRELL
City Secretary