

ORDINANCE NO. 2008-370

AN ORDINANCE OF THE CITY OF CEDAR HILL, TEXAS, PROVIDING FOR THE REPEAL OF CHAPTER 18, ARTICLE VI, SECTIONS 18-318, 18-319 AND 18-320 OF THE CODE OF ORDINANCES OF THE CITY OF CEDAR HILL, TEXAS, AND REPLACING SAME WITH NEW DROUGHT CONTINGENCY PROVISIONS ADOPTED HEREIN; PROVIDING A SEVERANCE CLAUSE, PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Cedar Hill, Texas, is a home-rule municipal corporation within the State of Texas with full power of local self governance; and

WHEREAS, the City of Cedar Hill, Texas, adopted its current Drought Contingency Ordinance in 2002; and

WHEREAS, the City Council of the City of Cedar Hill, Texas, has found and determined that it is in the best interest of the public health, safety and general welfare of the citizens of Cedar Hill, Texas, to adopt revised drought contingency regulations in order to reduce consumption of water, increase the efficiency of the City's water system, and to increase awareness of water conservation through communication of rules and enforcement.

NOW, THEREFORE, be it ordained by the City Council of the City of Cedar Hill, Texas, that:

SECTION 1. REPEAL OF CHAPTER 18, ARTICLE VI, SECTIONS 18-318, 18-319 AND 18-320.

The City Council of the City of Cedar Hill, Texas, hereby repeals Chapter 18, Article VI, Sections 18-318, 18-319 and 18- 320 of the Code or Ordinances of the City of Cedar Hill, Texas, and adopts the following provision in place thereof as set forth herein.

SECTION 2. ADOPTION OF NEW CHAPTER 18, ARTICLE VI, SECTION 18-318.

The City Council of the City of Cedar Hill, Texas, adopts the following title, terms and provisions as Chapter 18, Article VI, Section 18-318 of the Code or Ordinances of the City of Cedar Hill, Texas:

Sec. 18-318. Triggering Criteria for Initiation and Termination of Drought Response Stages

The City Manager or his/her designee shall monitor water supply and/or demand conditions on a daily basis and shall determine when conditions warrant initiation or termination of each stage of the Drought Contingency Plan. Public notification of the initiation or termination of drought response stages shall be by means of publication in local newspapers, signs posted in public places, and the city's website. This plan is subject to existing ordinances in effect. Ordinances having a direct effect on this plan are in the city's Code of Ordinances, Article II, Division 4, Section 18-42 and 18-43. The triggering criterion described below is based on the amount of water pumped each day and the percentage of water stored in the ground storage tanks.

SECTION 3. ADOPTION OF NEW CHAPTER 18, ARTICLE VI, SECTION 18-319.

The City Council of the City of Cedar Hill, Texas, adopts the following title, terms and provisions as Chapter 18, Article VI, Section 18-319 of the Code or Ordinances of the City of Cedar Hill, Texas:

Sec. 18-319. Drought Contingency Plan

The purpose and scope of this plan is to establish the City of Cedar Hill policies and procedures in the event of shortages or delivery limitations in the City of Cedar Hill water supply, or in case of equipment malfunctions or similar situations that effect the City's Drought Contingency Plan and shall apply to all customers that obtain their water from the City of Cedar Hill water supply system, and is authorized by the Charter of the City of Cedar Hill.

STAGE 1 – WATER WATCH-*VOLUNTARY ACTIVATION*

1. TRIGGERING CRITERIA (if one or more occurs):

Supply and Storage

- a. The City of Dallas Water Utilities initiates action and requests customer cities to do likewise during high demand periods.
- b. The City of Cedar Hill experiences three consecutive days of water pumping at 90% of water storage capacity.
- c. The City Manager or his/her designee determines that an emergency exists within the city's water system.

Other

- a. Unforeseen situations that limit distribution of water, as determined by the Designated Official.
- b. Short or long term equipment failure, failure to maintain 35 psi at all points in the distribution system and a minimum of 20 psi under combined fire and drinking water flow conditions.
- c. Electrical power failures or restrictions.

2. ACTIONS AVAILABLE

- a. City Manager or other Designated Official requests voluntary reductions in water use.
- b. Accelerate public information efforts to teach reduced water usage.
- c. Notify major water users and request voluntary water use reductions (including usage of all water at all construction sites).
- d. Prohibit city government use of water for street washing, vehicle washing, operation of ornamental fountains and all other non-essential uses.
- e. No watering of landscape or exterior use of water is requested on Wednesday, Saturday and Sunday

3. **ACCEPTABLE WATER USES**

- a. Water customers who reside or operate a business with an even numbered address are requested to water on Tuesdays and Fridays, but not between the hours of 10:00am and 6:00 pm.
- b. Water customers who reside or operate a business with and odd numbered address are requested to water on Mondays and Thursdays, but not between the hours of 10:00am and 6:00 pm.

The intent of this stage is to decrease total water consumption by approximately 1%.

STAGE 2-WATER EMERGENCY-MANDATORY ACTIVATION

1. **TRIGGERING CRITERIA** (if one or more occur):

Supply and Storage

- a. The City of Dallas Water Utilities initiates action and requests customer cities to do likewise during high demand periods.
- b. Combined ground storage levels fall below 50% of capacity at the beginning of any 24-hour period.
- c. The City of Cedar Hill experiences five (5) consecutive days of water pumping in excess of 100%.
- d. Stage 1 voluntary restrictions fail to alleviate continued potable water depletion.

Other

- a. If there are long term shortages of water supply within a pressure district.
- b. Short or long term equipment failure, failure to maintain 35 psi at all points in the distribution system and a minimum of 20 psi under combined fire and drinking water flow conditions.
- c. Unforeseen situations that limit distribution of water as determined by the City Manager or his/her designee.
- d. Electrical power failures or restrictions.

2. **ACTIONS AVAILABLE**

- a. The City Manager or his/her designee may initiate studies that address solutions to the water problems.
- b. The City Manager or his/her designee directs the commencement of Stage 2 Activation for water conservation.

- c. No watering of landscape and/or exterior use of water is permitted on Wednesday, Saturday and Sunday unless mentioned in *EXCEPTIONS OR ACCEPTABLE WATER USES* of this Stage.

3. EXCEPTIONS

- a. Vehicles may be washed at commercial auto washes; or may be washed at residences by the use of a water bucket or container (water running freely from hoses is prohibited); foundations may be watered with ‘hand-held’ water hose or the use of soaker hoses.
- b. Watering of new landscaping may be permitted for thirty (30) days from the date of installation of such landscaping. (See Section 6 Variances)

4. ACCEPTABLE WATER USES

- a. Water customers who reside or operate a business with an even numbered address are allowed to water on Tuesdays and Fridays, but not between the hours of 10:00am and 6:00pm
- b. Water customers who reside or operate a business with an odd numbered address are allowed to water on Mondays and Thursdays, but not between the hours of 10:00am and 6:00pm

The intent of this stage is to decrease total water consumption by approximately 5%.

STAGE 3-WATER CRISIS-CRISIS ACTIVATION

1. TRIGGERING CRITERIA (if one or more occur)

Supply and Storage

- a. At the request of the City of Dallas Water Utilities or as determined by the City Manager or his/her designee due to either known or unforeseen emergency situations.

Other

- b. Any unanticipated situations that limit distribution of potable water.
- c. Electrical power failure or restrictions.
- d. Natural or man-made contamination of the water supply source(s).

2. ACTIONS AVAILABLE

- a. Continued implementation of all restrictions from previous restrictions.
- b. Implement appropriate solutions to supply and/or distribution problems.

- c. Landscape watering for all commercial, institutional and residential uses is prohibited.
- d. All vehicle and/or equipment washing is prohibited except commercial auto washes unless restricted by the City Manager or his/her designee.
- e. Nurseries and golf courses may continue to water as restricted by the previous stage restrictions, unless restricted by the City Manager or his/her designee.
- f. Foundation watering may continue per restrictions established in previous stage.
- g. Commercial water users may also be required to reduce water usage depending upon the severity of the water shortage.
- h. Water used for construction purposes shall be prohibited between the hours of 2:00 PM until 9:00 PM daily during the emergency. The City Manager or his/her designee may impose further restrictions, if necessary.
- i. If Dallas Water Utility or Cedar Hill water is contaminated, Cedar Hill Water Department may utilize water from other sources as needed, including but not limited to, wells or bottled water.

The intent of this stage is to decrease total water consumption by approximately 15%.

3. EMERGENCY AUTHORITY

- a. Purpose and Scope: The purpose of this section is to establish the City's policy in the event of shortages or delivery limitations in the City's water supply. This section applies to:
 - 1) all persons and premises within the City using water from the water system; and
 - 2) all retail customers who live in incorporated areas within the City's extraterritorial jurisdiction and are served by the water system.
- b. Emergency Water Management Plan: The City Manager shall promulgate and submit an emergency water management plan to the City Council for approval, the guidelines of which should include:
 - 1) the conditions under which a particular stage of emergency will be implemented or terminated; and
 - 2) provisions defining specific events that will trigger an emergency.
- c. Authority: The City Manager is authorized to implement measures prescribed when required by this section and by the emergency water management plan approved by the City Council. The City Manager is authorized to enforce the measures implemented and to promulgate regulations, not in conflict with this section or state and federal laws, in aid of enforcement.
- d. Implementation of Emergency Order: The City Manager may order that the appropriate stage of emergency response, as detailed in the emergency water management plan, be implemented. To be effective, the order must be:

- 1) made by public announcement: and
 - 2) published in a newspaper of general circulation in the City within 24 hours after the public announcement, which order becomes immediately effective upon publication.
- e. Duration of Order; Change; Extension: The order can be made effective for up to, but not more than, 60 days from the date of publication. The City Manager may upgrade or downgrade the stage of emergency when the conditions triggering that stage occur. Any change in the order must be made in the same manner prescribed in Subsection (d) for implementing an emergency order. The City Council may, upon the recommendation of the City Manager, extend the duration of the emergency order for additional time periods, not to exceed 120 days each. The City Manager shall terminate the order in the manner prescribed in Subsection (d) for implementing an emergency order, when the City Manager determines that the conditions creating the emergency no longer exist.
- f. Violation of Section: A person commits an offense if he knowingly makes, causes or permits use of water contrary to the water management plan. For purposes of this subsection, it is presumed that a person has knowingly made, caused or permitted a use of water contrary to the measures implemented if the mandatory measures have been formally ordered consistent with the terms of Subsection (d) and:
- 1) the manner of use has been prohibited by the emergency water management plan; or
 - 2) the amount of water used exceeds that allowed by the emergency water management plan.
- g. Authority Under Other Laws: Nothing in this section shall be construed to limit the authority of the Mayor, the City Council or the City Manager to seek emergency relief under the provisions of any state or federal disaster relief act.

4. EXCEPTIONS

See Section 6: Variances

SECTION 4. ADOPTION OF NEW CHAPTER 18, ARTICLE VI, SECTION 18-320.

The City Council of the City of Cedar Hill, Texas, adopts the following title, terms and provisions as Chapter 18, Article VI, Section 18-320 of the Code of Ordinances of the City of Cedar Hill, Texas:

Sec. 18-320. Water Conservation Plan

The purpose and scope of this plan is to establish a Water Conservation Plan to assure our citizens of the most economical approach for conserving water. The goal of this Water Conservation Plan is to reduce the per capita consumption of water as much as possible in the City of Cedar Hill.

1. Public Education and Information

The ultimate success of any water conservation program is dependent on an informed public. The water customers must have an awareness of the benefits and needs for water conservation. They must also have knowledge of how to contribute to the plan. The public education program is designed to provide information to as many of the users as possible. The education program will include, but is not limited to, the following:

- a. Distribution of educational materials available from the Texas Commission on Environmental Quality, American Water Works Association, Texas Water Development Board and Dallas Water Utilities. Other materials will be made semiannually and timed to correspond with peak summer demand periods. The semiannual notification of material availability may be made by publication in the newspaper or City newsletter and City website.
- b. New retail customers applying for service will be provided with water conservation literature, including specific methods and ways to save water.
- c. Water Department staff will be available to present water conservation programs to local schools, civic organizations and other groups.
- d. Water conservation information may be aired on local public radio and in all local newspapers.

2. Water Conservation Rate Structure

- a. The City of Cedar Hill shall maintain a water rate structure which provides for a monthly minimum base charge for the first 1000 gallons, then a uniform rate for each 1000 gallons of water usage per unit or connection.
- b. The wastewater rate structure provides for monthly minimum fixed rate charge per unit or connection and variable rate charge per 1000 gallons of user's wastewater volume.

3. Universal Metering and Meter Repair

- a. The City of Cedar Hill requires all water connections to the city's water system to be metered, except water used for fire fighting, fire flow testing of hydrants, closed fire systems with alarms and water main flushing.
- b. The City routinely tests, replaces and repairs meters as deemed necessary to ensure accurate registering and recording of water usage.

4. Leak Detection

- a. The City of Cedar Hill may maintain a leak detection, location and repair program. Water personnel utilizing electronic locator equipment will locate water line leaks as necessary.

5. Water Conserving Landscapes

- a. The City of Cedar Hill Public Works and Code Enforcement Departments shall encourage all new and existing structures to utilize landscaping materials and irrigation procedures that reduce water consumption. The City will also encourage the same procedures on all public parks and at all public facilities. Modifications to the existing landscape ordinance may also undergo study and be revised, if necessary.

6. Daytime Watering Restriction

- a. No watering of landscape and/or exterior use of water during the daytime hours between 10:00am and 6:00pm from May 1st through September 30th of each year.

7. Implementation and Enforcement

- a. The staff of the City of Cedar Hill will be responsible for the following:
 - 1) Evaluation and recommendation of rate structures for adoption by the City Council - Director of Public Works, Director of Finance and City Manager.
 - 2) Evaluation and recommendation of plumbing codes modification – Building Official and Director of Public Works.
 - 3) Maintenance and replacement of water meters – Utility Billing
 - 4) Public education and information - Director of Public Works and Public Information Officer.
 - 5) Leak Detection and repair - Director of Public Works.
 - 6) Evaluation and documentation of program progress - Director of Public Works.
 - 7) Enforcement of Ordinances relating to the water use - Director of Public Works.

7. Periodic Review and Annual Reporting

- a. Periodic reviews will be made to determine if changes might require an amendment or major change to this plan.
- b. Annual reporting can be accomplished through budget program measurements.

Section 5. PENALTIES

Any person, firm or corporation violating any of the provisions contained in the Water Conservation Plan shall be deemed guilty of a misdemeanor and, upon conviction in the Municipal Court, may be punished by a fine as follows:

First Offense.....up to \$200.00
Second Offense.....up to \$400.00

Third Offenseup to \$600.00
Fourth Offenseup to \$2,000.00

Each and every day that a violation continues shall constitute a separate offense.

Section 6. VARIANCES

The Public Works Director, or his/her designee with the approval of the City Manager, 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 may file a petition for variance with the City of Cedar Hill. All petitions for variances shall be reviewed by the Public Works Director, or his/her designee, and shall include the following:

- (a) Name and address of the petitioner.
- (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 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 related to the property, facility or structure.

Variances granted by the City of Cedar Hill may be subject to the following conditions, unless waived or modified by the Public Works Director, or his/her designee:

- (a) Variances granted shall include a timetable for compliance.
- (b) Variances granted shall expire when the Plan is no longer in effect, unless the petitioner has failed to meet specified requirements.

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

SECTION 7. SEVERANCE CLAUSE

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid, unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such may be deemed to be a separate, distinct and independent provision and such holding will not affect the validity of the remaining portions thereof.

SECTION 8. INCORPORATION INTO THE CODE OF ORDINANCES

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Cedar Hill, Texas, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

SECTION 9. EFFECTIVE DATE

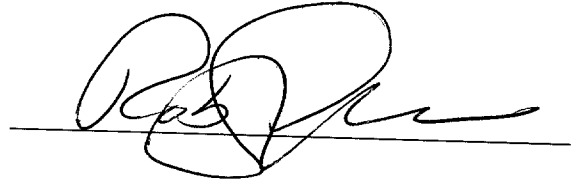
This ordinance shall take effect immediately upon the passage, approval and adoption by the City Council of the City of Cedar Hill, Texas.

SECTION 10. PUBLICATION

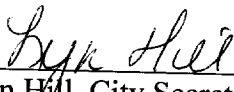
The City Secretary is hereby authorized and directed to cause publication of the descriptive caption and penalty clause hereof as an alternative method of publication as provided by law.

PASSED, APPROVED and ADOPTED by the City Council of the City of Cedar Hill, Texas, on this 25 day of November, 2008.

Rob Franke, Mayor



ATTEST:



Lyn Hill, City Secretary

APPROVED AS TO FORM:

Ron G. MacFarlane, Jr., City Attorney

11/24/2008 11:00:58 AM

P:\Water Conservation\2008ordinance\2008 drought contingency plan amend draft 2008.doc