

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 42, ARTICLE VII, CODE OF ORDINANCES, CITY OF ELGIN, TEXAS, REGARDING DROUGHT CONTINGENCY PLANNING; AND PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS:

I.

That Chapter 42, Article VII, Sections 42-366 through 42-408, Code of Ordinances, City of Elgin, Texas are deleted in their entirety and are hereby replaced with the following:

ARTICLE VII. – DROUGHT CONTINGENCY PLAN

Sec. 42-366. - Purpose.

In order to conserve the available water supply and/or to protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the City of Elgin adopts the following Drought Contingency Plan (“Plan”).

Sec. 42-367. – Public Involvement.

The City will provide the public with information on the Plan and opportunity for the public to provide comments on the Plan. The information will be provided by means of public notices at Council meetings, on public television and in local newspaper.

Sec. 42-368. – 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 providing a copy of the Plan or periodically including information about the Plan with monthly billings.

Sec. 42-369. – Coordination with Regional Water Planning Groups:

The water service area of the City is located within the Region K Lower Colorado Water Planning and the City has provided a copy of the Plan to the Region K Lower Colorado Water Planning Group.

Sec. 42-370. - Authorization.

The City Manager 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 City Manager, or his/her designee, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

Sec. 42-371. - Application

The provisions of this Plan shall apply to all customers 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.

Sec. 42-372 - 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 Plan. Customer notification of the initiation or termination of drought response stages will be made by mail or telephone. The news media will also be informed.

The triggering criteria described below are based on rainfall, equipment failure, water well levels and system capacity and failures. If the U.S. Drought Monitor website has the City included in the "extreme or exception" drought conditions as posted each Thursday, Stage 3 - Severe Water Shortage Conditions - Mandatory Restrictions, of Section 42-372 - Drought Response Stages, will be implemented and remain in effect until conditions change.

(1) Stage 1 - Mild Water Shortage Conditions

- (a) Requirements for Initiation - The City will recognize that a mild water shortage condition exists when total daily water demand reaches 80% of production/distribution capacity for 3 consecutive days.
- (b) Requirements for Termination - Stage 1 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 7 consecutive days. The City will notify the public and the media of the termination of Stage 1.

(2) Stage 2 - Moderate Water Shortage Conditions

- (a) Requirements for Initiation – The City will recognize that a moderate water shortage condition exists when total daily water demand reaches 85% of production/distribution capacity for 3 consecutive days.
- (b) 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 7 consecutive days. Upon termination of Stage 2, Stage 1 becomes operative. The City will notify the public and the media of the termination of Stage 2 in the same manner as the notification of initiation of Stage 1 of the Plan.

(3) Stage 3 - Severe Water Shortage Conditions

- (a) Requirements for Initiation – The City will recognize that a severe water shortage condition exists when total daily water demand reaches 90% of production/distribution capacity for 3 consecutive days, and/or the City’s daily water consumption is at a level that prevents water storage levels from being maintained.
- (b) 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 7 consecutive days. Upon termination of Stage 3, Stage 2 becomes operative. The City will notify the public and the media of the termination of Stage 3 in the same manner as the notification of initiation of Stage 1 of the Plan.

(4) Stage 4 – Critical Water Shortage Conditions

- (a) Requirements for Initiation – The City will recognize that a severe water shortage condition exists when total daily water demand reaches 95% of production/distribution capacity for 3 consecutive days, and/or the City’s daily water consumption is at a level that prevents water storage levels from being maintained.
- (b) Requirements for Termination - Stage 4 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 7 consecutive days. Upon termination of Stage 4, Stage 3 becomes operative. The City will notify the public and the media of the termination of Stage 4 in the same manner as the notification of initiation of Stage 1 of the Plan.

(5) Stage 5 - Emergency Water Shortage Conditions

- (a) Requirements for Initiation – The City will recognize that an emergency water shortage condition exists when (1) the total daily water demand reaches 100% of production/distribution capacity for 3 consecutive days, (2) and/or when major water main breaks occur, major pump or system failures occur which cause unprecedented loss of capability to provide water service to customers.
- (b) Requirements for Termination - Stage 5 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 7 consecutive days or when the repairs or failures that caused the emergency condition are corrected. The City will notify the public and the media of the termination of Stage 5.

Sec. 42-373 - Drought Response Stages

The City Manager or his/her designee, shall monitor water supply and/or demand conditions and, in accordance with the triggering criteria set forth in Section 42-372, shall determine that mild, moderate, or severe water shortage conditions exist or that an emergency condition exists and shall implement the following actions:

Notification of the Public:

The City Manager or his/her designee, will notify the public by means of the media to discuss water supply and/or demand conditions.

Stage 1- Mild Water Shortage Conditions

(1) 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 (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and to irrigate landscapes only between the hours of midnight and 10:00 a.m. and 8:00 p.m. to midnight on designated watering days.

(2) All operations of the City shall adhere to water use restrictions prescribed for Stage 2 of the Plan.

(3) Water customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes.

Stage 2 - Moderate Water Shortage Conditions-Voluntary Restrictions

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

(1) 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 (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and 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 any time if it is by means of a hand-held hose, a faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system.

(2) 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 bucket or 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.

(3) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8 p.m. and 12:00 midnight.

(4) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.

(5) Use of water from hydrants shall be limited to firefighting, related activities, or other activities necessary to maintain public health, safety, and welfare,

except that use of water from designated fire hydrants for construction purposes may be allowed under special permit from the City.

(6) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours 12:00 midnight and 10:00 a.m. and between 8 p.m. and 12:00 midnight. However, if the golf course utilizes a water source other than that provided by the City, the facility shall not be subject to these regulations.

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

(8) The following uses of water are defined as non-essential and are prohibited:

(a) wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;

(b) use of water to wash down buildings or structures for purposes other than immediate fire protection;

(c) use of water for dust control;

(d) flushing gutters or permitting water to run or accumulate in any gutter or street; and

(e) failure to repair a controllable leak within a reasonable period after having been given notice directing the repair of such leak.

Stage 3 - Severe Water Shortage Conditions- Mandatory Restrictions

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

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

(1) Irrigation of landscaped areas shall be limited to designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8 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.

(2) The watering of golf course tees is prohibited unless the golf course utilizes a water source other than that provided by the City.

(3) The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued.

Stage 4 - Severe Water Shortage Conditions- Mandatory Restrictions

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

All requirements of Stage 2 and 3 shall remain in effect during Stage 4 except:

(1) Irrigation of landscaped areas shall be limited to designated watering days between the hours of 6:00 a.m. and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight and shall be by means of hand-held hoses, hand-held buckets, or drip irrigation

only. The use of hose-end sprinklers or permanently installed automatic sprinkler systems are prohibited at all times.

(2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial car wash and commercial service stations and not in the immediate interest of public health, safety, and welfare is prohibited. Further, such vehicle washing at commercial car washes and commercial service stations shall occur only between the hours of 6:00 a.m. and 10:00 a.m. and between 6:00 p.m. and 10 p.m.

(3) The filling, refilling, or adding of water to swimming pools, wading pools, and Jacuzzi-type pools is prohibited.

(4) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.

(5) 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 drought response stage or a higher-numbered stage shall be in effect.

Stage 5 - Emergency Water Shortage Conditions-Mandatory Measures

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

All requirements of Stage 2, 3 and 4 shall remain in effect during Stage 5 except:

(1) Irrigation of landscaped areas is absolutely prohibited.

(2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.

Sec. 42-374 ProRata Water Allocation

In the event that the triggering criteria specified for Stage 3 - Severe Water Shortage Conditions have been met, the City Manager or his/her designee is hereby authorized to initiate allocation of water supplies on a pro rata basis in accordance with Texas Water Code Section 11.039 and according to the following water allocation policies and procedures:

(1) A customer's monthly allocation shall be a percentage of the customer's water usage baseline. The percentage will be set by resolution of the City Council based on the City Manager's or his/her designee's assessment of the severity of the water shortage condition and the need to curtail water diversions and/or deliveries and may be adjusted periodically by resolution of the City Council as conditions warrant. Once pro rata allocation is in effect, water diversions by or deliveries to each customer shall be limited to the allocation established for each month.

(2) A monthly water usage allocation shall be established by the City Manager, or his/her designee, for each customer. The customer's water usage baseline will be computed on the average water usage by month for the 99-01 period as shown in the table on page 9 of the Plan.

If the water customer's billing history is less than 5 years, the monthly average for the period for which there is a record shall be used for any monthly period for which no billing history exists.

(3) The City Manager or his/her designee shall provide notice, by certified mail, to each customer informing them of their monthly water usage allocations and shall notify the news media and the executive director of the Texas Commission on Environmental Quality upon initiation of pro rata water allocation.

(4) Upon request of the customer or at the initiative of the City Manager or his/her designee the allocation may be reduced or increased if, (1) the designated period does not accurately reflect the customer's normal water usage; (2) the customer agrees to transfer part of its allocation to another customer; or (3) other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the City Council of the City of Elgin.

Sec. 42-374 Enforcement

During any period when pro rata allocation of available water supplies is in effect, customers must comply or be subject to disconnection and shall pay the following surcharges on excess water diversions and/or deliveries based on historical data as described herein:

(1) 1.5 times the normal water charge per 1,000 gallons of water diversions and/or deliveries in excess of the monthly allocation up through 5 percent above the monthly allocation.

(2) 2 times the normal water charge per 1,000 gallons for water diversions and/or deliveries in excess of the monthly allocation from 5 percent through 10 percent above the monthly allocation.

(3) 3 times the normal water charge per 1,000 gallons for water diversions and/or deliveries in excess of the monthly allocation from 10 percent through 15 percent above the monthly allocation.

(4) 4 times the normal water charge per 1,000 gallons for water diversions and/or deliveries more than 15 percent above the monthly allocation.

(5) The above surcharges shall be cumulative.

Sec. 42-375 Variances

The City Manager or his/her designee, may, in writing, grant a temporary variance to the pro rata water allocation policies provided by this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the public health, welfare, or safety and if one or more of the following conditions are met:

(1) 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.

(2) 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 Plan shall file a petition for variance with the City Manager or his/her designee within 5 days after pro rata allocation has

been invoked. All petitions for variances shall be reviewed by the City Council and shall include the following:

- a) Name and address of the petitioner(s)
- b) Detailed statement with supporting data and information as to how the pro rata allocation of water under the policies and procedures established in the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Ordinance.
- c) Description of the relief requested.
- d) Period of time for which the variance is sought.
- e) Alternative measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.
- f) Other pertinent information.

Variances granted by the City Council shall be subject to the following conditions, unless waived or modified by the City Council or the City Manager or 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.

II.

A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

C. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this Ordinance

and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

By motion duly made, seconded and passed with an affirmative vote of all the Council members present, the requirement for reading this ordinance on two separate days was dispensed with.

READ, PASSED, and ADOPTED on this ____ day of _____, 2019.

CHRIS CANNON, Mayor

City of Elgin, Texas

ATTEST:

AMELIA SANCHEZ, City Secretary