

ORDINANCE NO. 23-1999

AN ORDINANCE AMENDING CHAPTER 32. UTILITIES, ARTICLE VI. DROUGHT CONTINGENCY PLAN, OF THE CITY OF ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, the City Council of the City of Abilene finds that the recent drought conditions have resulted in decreasing availability of water resources in Abilene and the general welfare requires that these resources be put to their maximum beneficial use, and that the waste, unreasonable use, or unreasonable method of use of water be prevented; and

WHEREAS, certain conditions have changed since the Drought Contingency Plan was last called into use which necessitates revising and amending the Drought Contingency Plan.

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

- PART 1:** That Chapter 32. Utilities, Article VI. Drought Contingency Plan, of the City of Abilene Municipal Code be amended as set out in EXHIBIT A, attached hereto and made a part of this Ordinance for all purposes.
- PART 2:** That if any provision or section of this Ordinance is held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining Ordinance provisions or sections, which shall remain in full force and effect.
- PART 3:** That any person, firm, or corporation violating any of the Stage 1, 2, or 3 provisions of this Ordinance shall be deemed guilty of a misdemeanor, which upon conviction thereof shall be punishable by a fine as set forth in Section 32-146 (Penalties for Violations). Each day such violation shall continue or be permitted to continue shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective 10 days after its publication in the newspaper, as provided by Section 19 of the City of Abilene Charter.
- PART 4:** A notice of the time and place said Ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, on May 2, 1999, more than 15 days before a public hearing to be held in the Council Chambers of the Abilene City Hall, at 9:00 a.m., on May 27, 1999, to permit the public to be heard before final consideration of this Ordinance.


PASSED ON FIRST READING THIS 6th day of May, 1999.

PASSED ON SECOND AND FINAL READING THIS 27th day of May, 1999.

ATTEST:


CITY SECRETARY

APPROVED:


CITY ATTORNEY

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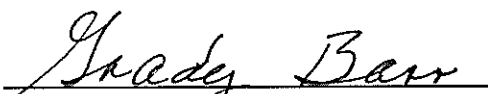

MAYOR

EXHIBIT A:
CODE OF THE CITY OF ABILENE
ARTICLE VI. DROUGHT AND EMERGENCY CONTINGENCY PLAN

DIVISION 1. GENERALLY

Sec. 32-140. Declaration of policy.

It is hereby declared that, under certain conditions water supplies may be limited in the City of Abilene. The general public welfare requires that the available water resources be put to the maximum beneficial use and that the waste, unreasonable use, or unreasonable method of use of water be prevented. This Drought or Emergency Contingency Plan (the "Plan") provides a reasonable beneficial use plan that protects the health and welfare of the citizens of Abilene.

Sec. 32-141. Authorization.

The mayor is hereby authorized, consistent with the mayor's emergency powers under the city charter, to declare a water emergency and to direct the city manager to implement the Plan.

Sec. 32-142. Application.

The provisions of this chapter shall apply to persons, customers, and property served by the department of water utilities wherever situated, including customers such as water supply corporations, and any others that receive water from the city on a contract basis.

These water use restrictions only apply to water from the City of Abilene water system. Customers are encouraged to develop and use alternate sources of water for outdoor uses and commercial carwashes.

DIVISION 2. DROUGHT AND EMERGENCY CONTINGENCY PROCEDURES

Sec. 32-143. Mandatory drought contingency stage implementation.

The water utilities department shall monitor the projected supply and demand for water by its customers on a daily basis and shall recommend to the city manager the extent of the conservation required through the implementation and/or termination of particular drought contingency stages in order for the department to prudently plan for and supply water to its customers. Thereafter, the city manager will order that the appropriate drought contingency stage be implemented or terminated in accordance with the applicable provisions of this article. Said order shall be made by public announcement and shall be publicized until such time as all restrictions are removed and shall become effective immediately upon such announcement.

Sec. 32-144. Implementation and termination criteria guidelines.

The city manager, upon recommendation of the director of water utilities, or his/her designee, shall determine whether conditions warrant implementation and/or termination of the Plan and recommend accordingly to the mayor. Changes in water supply conditions due to unanticipated higher water usage, weather, or other developments may necessitate changes in the implementation of different stages. Specifically, the implementation of the stages referred to herein may occur when the elevation of the Ft. Phantom Reservoir is within four-tenths of a foot either side of the suggested elevation for implementation of that stage.

Termination of any stage may occur when all of the conditions listed as implementation criteria for that stage have ceased to exist for a period of time as determined by the city manager upon recommendation of the director of water utilities or his/her designee.

The minimum criteria for each stage shall be as follows:



- (a) *Stage 1. Water alert.* Combined treatment plant pumpage in excess of 50 mgd for two consecutive days; or, continually falling ground and elevated reservoir levels which do not refill above 50 percent overnight; or, depletion of the Ft. Phantom Reservoir to the elevation 1620.9 (15 feet below spillway) operating at 38 percent of capacity.
- (b) *Stage 2. Water emergency.* Combined treatment plant pumpage in excess of 52 mgd for one day; or, depletion of the Ft. Phantom Reservoir to the elevation 1615.9 (20 feet below spillway) operating at 24 percent of capacity; or major line breaks, or pump system failure which causes unprecedented loss of capability to provide service.
- (c) *Stage 3. Water crisis.* Depletion of the Ft. Phantom Reservoir to the elevation 1612.9 (23 feet below spillway) operating at 18 per cent of capacity; or, major line breaks, or, pump or system failure which causes unprecedented loss of capability to provide service; or system demand is exceeding delivery capability from the Lake Hubbard Creek System.

Sec. 32-145. Drought or emergency contingency stages.

No person shall make, cause, use or permit the use of water from the City of Abilene Water System for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to provisions of this article or in an amount in excess of that use permitted by the conservation stage in effect pursuant to action taken by the mayor or designee in accordance with the provisions of this article.

The guidelines below shall set forth the criteria for determining which mandatory restrictions shall apply during a particular drought contingency stage. Such guidelines shall be updated when the city manager determines, upon recommendation of the director of water utilities, that the conditions of the utility system have changed so as to necessitate such updating. The city manager shall include in such guidelines a calendar system designating allowed days for irrigation by customers. These guidelines shall be available for inspection at the city secretary's office and the water administration office during normal business hours.

- (a) ***Stage 1. Mandatory compliance - Water alert.*** Upon announcement and implementation by the city manager, the following restrictions shall apply to all persons:
 - 1. a. Irrigation by all commercial, industrial and residential customers utilizing individual sprinklers or sprinkler systems of lawns, gardens, landscaped areas, trees, shrubs or other plants is prohibited except on a designated day which shall be once every seven days and only then during the hours of 12:00 midnight to 10:00 a.m. and from 9:00 p.m. until 12:00 midnight. Provided, however, irrigation of gardens, trees and shrubs is permitted at any time on any day if:
 - i. a hand-held hose is used, or
 - ii. a faucet-filled container of five gallons or less is used, or
 - iii. a drip irrigation system such as soaker hose, deep root water system, or bubbler is used.

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- b. New lawns that have been seeded, sodded or mulched may be watered daily for eight minutes once during each of the following periods: 11:00 a.m. to 1:00 p.m.; 2:00 p.m. to 4:00 p.m.; 5:00 p.m. to 7:00 p.m.; and at regular intervals between 9:00 p.m. and 10:00 a.m. for a maximum of three weeks.
- 2. a. It is permissible to wash automobiles, trucks, trailers, boats, and other types of mobile equipment at any time on the immediate premises of a commercial car wash or commercial service station or by using a five-gallon container and a hand held hose equipped with a quick shut-off nozzle for quick rinses. The nozzle shall be removed when the hose is not in use.
 - b. If the health, safety and welfare of the public depends upon frequent vehicle cleaning, as determined by the director of water utilities or his/her designee, then washing of vehicles such as emergency vehicles, aircraft, garbage trucks, and vehicles used to transport food and perishables will be allowed.
 - c. Charity car washes are prohibited.
- 3. Water may be added to swimming pools to sustain appropriate maintenance levels only on designated irrigation days.
 - 4. The operation of any ornamental fountain or other structure making similar use of water is prohibited.
 - 5. Use of water from fire hydrants shall be limited to firefighting activities or other activities necessary to maintain public health, safety and welfare. By written approval from the Director of Water Utilities, businesses may purchase and draw water from fire hydrants for land development and building construction processes.
 - 6. The following uses of water are defined as "waste of water" and are absolutely prohibited:
 - a. Allowing water to run off through the gutter, ditch or drain for more than 75 feet from the downgrade of the property line;
 - b. Failure to repair a controllable leak;
 - c. Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire, health and safety hazards, or to prepare an area for pavement repair or application.
 - 7. Commercial and industrial users of water shall, in addition to complying with other applicable articles in this ordinance, reduce their monthly consumption of water by a minimum of 15 percent compared to use during the same month of the previous year. Industrial users may present a conservation plan to the director of water utilities for his/her approval.
- (b) **Stage 2. Mandatory compliance - Water emergency.** Upon announcement and implementation by the city manager, the following restrictions shall apply to all persons:
- 1. Irrigation of lawns, grass, gardens, trees and shrubs by all commercial, industrial, and residential customers is permitted at any time on any day only if:
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- i. a hand-held hose is used, or
 - ii. a faucet-filled container of five gallons or less is used, or
 - iii. a drip irrigation system such as soaker hose, deep root water system, or bubbler is used.
- 2. a. It is permissible to wash automobiles, trucks, trailers, boats, and other types of mobile equipment at any time on the immediate premises of a commercial car wash or commercial service station or by using a five-gallon container and a hand held hose equipped with a quick shut-off nozzle for quick rinses. The nozzle shall be removed when the hose is not in use.
- b. If the health, safety and welfare of the public depends upon frequent vehicle cleaning, as determined by the director of water utilities or his/her designee, then washing of vehicles such as emergency vehicles, aircraft, garbage trucks, and vehicles used to transport food and perishables will be allowed.
 - b. Charity car washes are prohibited.
- 3. Water may be added to swimming pools to sustain appropriate maintenance levels only on designated irrigation days.
- 4. The operation of any ornamental fountain or similar structure is prohibited.
- 5. Use of water from fire hydrants shall be limited to fire-fighting activities. By written approval from the Director of Water Utilities, businesses may purchase and draw water from fire hydrants for land development and building construction processes.
- 6. The following uses of water are defined as "waste of water" and are absolutely prohibited:
 - a. Allowing water to run off through the gutter, ditch, or drain for more than 75 feet from the downgrade of the property line;
 - b. Failure to repair a controllable leak;
 - c. Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire, health or safety hazards, or to prepare an area for pavement repair or application.
- 7 a. Commercial and industrial users of water shall continue to maintain at least a 15 percent monthly reduction of water use compared to use during the same month of the previous year. Industrial users may present a conservation plan to the director of water utilities for his/her approval.

A surcharge rate will be assessed for any water consumption that does not comply with the required reductions. The surcharge in addition to regular charges is as follows:

	<u>First Occurrence</u>	<u>Subsequent Occurrence(s)</u>
First 5,000 gallons over allowed amount, per 1,000 gallons . . .	\$ 5.00	\$10.00
Next 5,000 gallons, per 1,000 gallons	\$10.00	\$20.00
For higher usage, per 1,000 gallons	\$20.00	\$30.00



Additionally, if a customer uses more than the allowed amount more than once at any time during Stage 2, the customer's water may be turned off and there will be a \$200.00 re-connect fee, in addition to the listed fees.


Individual allotments may be adjusted by the director based on historical water usage conservation practices of customer. The other restrictions of Stage 2 still apply to commercial and industrial users.

- b. Each golf course shall be allotted no more than the necessary quantity of raw water from the city per calendar month (such allotment is intended to maintain tees and greens).
- (c) **Stage 3. Mandatory compliance - Water crisis.** Upon announcement and implementation by the city manager, the following restrictions shall apply to all persons:
- 1. All outdoor irrigation of vegetation is prohibited.
 - 2. Only washing of mobile equipment in the critical interest of the public health or safety shall be allowed.
 - 3. The filling, refilling or adding of water to swimming and/or wading pools is prohibited.
 - 4. The operation of any ornamental fountain or similar structure is prohibited.
 - 5. Use of water from fire hydrants shall be limited to firefighting and related activities. Water for domestic use only may be purchased from the bulk loading station.
 - 6. The following uses of water are defined as "waste of water" and are absolutely prohibited:
 - a. Allowing water to run off more than 75 feet from the downgrade of the property line;
 - b. Failure to repair a controllable leak;
 - c. Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire, health or safety hazards;
 - 7a. Commercial and industrial users of water (for other than drinking water and rest rooms) shall continue to maintain at least a 15 percent reduction of water use compared to use during the same month of the previous year. Industrial users may present a conservation plan to the director of water utilities for his/her approval.

A surcharge rate will be assessed for any water consumption that does not comply with the required reductions. The surcharge in addition to regular charges is as follows:

	<u>First Occurrence</u>	<u>Subsequent Occurrence(s)</u>
First 5,000 gallons over allowed amount, per 1,000 gallons . . .	\$10.00	\$20.00
Next 5,000 gallons, per 1,000 gallons	\$20.00	\$40.00
For higher usage, per 1,000 gallons	\$30.00	\$60.00

Additionally, if a customer uses more than the allowed amount more than once at any time during Stage 3, then after each such overuse these surcharges will be added and the customer's water may be turned off and there will be a \$500.00 re-connect fee, in addition to the listed fees.



Individual allotments may be adjusted by the director based on historical water usage and conservation practices of the customer. The other restrictions of Stage 3 still apply to commercial and industrial users.

- b. Each golf course shall be allotted no more than the necessary quantity of raw water from the city per calendar month (such allotment is intended to maintain greens).
8. Water used for industrial purposes not in the immediate interest of the public health, safety and welfare will be curtailed to the extent necessary to effectuate the needs and purposes of this Plan.

Sec. 32-146. Penalties for violations.

- (a) Any violation of Stage 1 is hereby prohibited, declared to be unlawful, and subjects the violator to the following range of penalties in addition to applicable court costs:
 - (1) Upon conviction of any violation at a residence, \$25 to \$75 per violation.
 - (2) Upon conviction of any violation at a commercial (including apartments) or industrial location, \$75 to \$225 per violation.
- (b) Any violation of Stage 2 is hereby prohibited, declared to be unlawful, and subjects the violator to the following range of penalties in addition to applicable court costs:
 - (1) Upon conviction of any violation at a residence, \$50 to \$150 per violation. Repeated violations may result in termination of water service with an associated \$100 reconnect fee.
 - (2) Upon conviction of any violation at a commercial (including apartments) or industrial location, \$100 to \$300 per violation. Repeated violations may result in termination of water service with an associated \$200 reconnect fee.
- (c) Any violation of Stage 3 is hereby prohibited, declared to be unlawful, and subjects the violator to the following range of penalties in addition to applicable court costs:
 - (1) Upon conviction of any violation at a residence, \$100 to \$300 per violation. Repeated violations may result in termination of water service with an associated \$200 reconnect fee.
 - (2) Upon conviction of any violation at a commercial (including apartments) or industrial location, \$300 to \$900 per violation. Repeated violations may result in termination of water service with an associated \$500 reconnect fee.
- (d) It is an affirmative defense to any violation of this article if the customer proves that the misused wasted water is from an operable water well serving said property.

DIVISION 3. THE CALENDAR SYSTEM

Sec. 32-147. Legend.

The Plan is based upon a calendar system. Although the calendar system is especially important for yard watering, it may provide guidance for other water conservation activities.

- (a) A customer's watering day is determined by the last number of his house or property address. Multi-unit properties will use the lowest address number. Customers on rural routes will use the last number of their post office box number or their route number if they do not have a post office box number. Customers at Ft. Phantom Lake will use the last number of their lake lot. Customers in trailer parks will use the last number of their lot number.

If customer's last number is:	Customer's watering day is:
7 or 8	Sunday
9	Monday
0	Tuesday
1	Wednesday
2	Thursday
3 or 4	Friday
5 or 6	Saturday

For example: If an address is 555 Walnut Street, the last number is 5 and the watering day is Saturday.

- (b) Entities with large, open spaces (e.g., schools, universities, city parks, golf courses) may submit alternate watering schedules to the director of water utilities. Upon his/her approval, these entities may follow the approved schedule rather than the calendar system, and will be held responsible for all the provisions of this article, based on the approved schedule.