

ORDINANCE NO. 2015-05-01

AN ORDINANCE OF THE CITY OF BRACKETTVILLE, TEXAS, ADOPTING A DROUGHT CONTINGENCY PLAN; ESTABLISHING CRITERIA FOR THE INITIATION AND TERMINATION OF DROUGHT RESPONSE STAGES; ESTABLISHING RESTRICTIONS ON CERTAIN WATER USES; ESTABLISHING PENALTIES FOR THE VIOLATION OF AND PROVISIONS FOR ENFORCEMENT OF THESE RESTRICTIONS; ESTABLISHING PROCEDURES FOR GRANTING VARIANCES; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Brackettville, Texas, recognizes that the amount of water available to the City and its water utility customers is limited and subject to depletion during periods of extended drought; and

WHEREAS, the City recognizes that natural limitations due to drought conditions cannot guarantee an uninterrupted water supply for all purposes; and

WHEREAS, Section 11.1272 of the Texas Water Code and applicable rules of the Texas Commission on Environmental Quality require all public water supply systems in Texas to prepare a drought contingency plan; and

WHEREAS, it is in the best interests of the residents of the City of Brackettville, Texas, for the City Council of the City of Brackettville, Texas, to adopt a drought contingency plan;

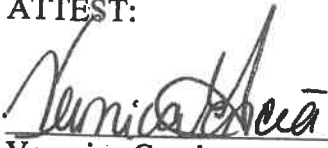
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRACKETTVILLE, TEXAS, THAT:

- SECTION 1. The Drought Contingency Plan attached hereto as Exhibit A and made part hereof for all purposes be, and the same is hereby, adopted as the official policy of the City.
- SECTION 2. All ordinances that are in conflict with the provisions of this Ordinance, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.
- SECTION 3. Any paragraph, sentence, subdivision, clause, phrase, or section of this Ordinance held to be unconstitutional, illegal or invalid shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.
- SECTION 4. This Ordinance or a caption that summarizes the purpose of this Ordinance and the penalty for violating this Ordinance shall be published as provided by Section 52.011 of the Texas Local Government Code.
- SECTION 5. This Ordinance shall be effective immediately upon adoption. However, no violation established by this Ordinance shall be enforced until publication has occurred in compliance with Section 4 of this Ordinance.

PASSED, APPROVED AND ADOPTED on this 18th Day of May, A.D., 2015,
by the affirmative vote of the necessary quorum of the City Council present and voting.



Andres Rodriguez
Mayor

ATTEST:


Veronica Garcia
City Administrator

AYES:

NAYS:

ABSENT:

APPROVED AS TO LEGALITY:

Langley & Banack, Inc.
City Attorney



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

DROUGHT CONTINGENCY PLAN FOR A WHOLESALE PUBLIC WATER SUPPLIER Texas Commission on Environmental Quality

CITY OF BRACKETTVILLE
119 WEST SPRING STREET
BRACKETTVILLE, TEXAS 78832

11020
(CNN#)

1360001
(PWS #s)

September 30, 2008
Revised April 14, 2015

Section I: Declaration of Policy, Purpose, and Intent

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 Brackettville adopts the following Drought Contingency Plan (the "Plan").

Section II: Public Involvement

Opportunity for the public and wholesale water customers to provide input into the preparation of the Plan was provided by the City of Brackettville by means of news media, fliers, bulletin boards, and public meetings.

Section III: Wholesale Water Customer Education

The City of Brackettville will periodically provide wholesale water customers 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 local news media, fliers, and bulletin boards.

Section IV: Coordinate with Regional Water Planning Groups:

The water service area of the City of Brackettville is located within the Region J Water Planning Area and the City of Brackettville has provided a copy of the Plan to the Region J Water Planning Group.

Section V: Authorization

The City Administrator, 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 Administrator, 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.

Section VI: Application

The provisions of this Plan shall apply to all customers utilizing water provided by the City of Brackettville. The terms "person" and "customer" as used in the Plan include individuals, corporations, partnerships, associations, and all other legal entities.

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

The City of Brackettville shall monitor water supply and/or demand conditions on a periodic (e.g., weekly, monthly) 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:
Totality of Well Levels

Stage 1 Triggers – MILD Water Shortage Conditions

Requirements for initiation - The City of Brackettville will recognize that a mild water shortage condition exists when well level is Fifty feet (50') or less from ground level when pumping based on a 10 day moving average.

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 45 consecutive days. The City of Brackettville will notify its wholesale customers and the media of the termination of Stage 1 in the same manner as the notification of initiation of Stage 1 of the Plan.

Stage 2 Triggers – MODERATE Water Shortage Conditions

Requirements for initiation - The City of Brackettville will recognize that a moderate water shortage condition exists when well level is Sixty-Five feet (65') or less from ground level when pumping based on a 10 day moving average.

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 45 consecutive days. Upon termination of Stage 2,

Stage 1 becomes operative. The City of Brackettville will notify its wholesale customers and the media of the termination of Stage 2 in the same manner as the notification of initiation of Stage 2 of the Plan.

Stage 3 Triggers – SEVERE Water Shortage Conditions

Requirements for initiation - The City of Brackettville will recognize that a severe water shortage condition exists when well level is Eighty-Five feet (85') or less from ground level when pumping based on a 10 day moving average.

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 45 consecutive days. Upon termination of Stage 3, Stage 2 becomes operative. The City of Brackettville will notify its wholesale customers and the media of the termination of Stage 3 in the same manner as the notification of initiation of Stage 3 of the Plan.

Stage 4 Triggers – EMERGENCY Water Shortage Conditions

Requirements for initiation - The City of Brackettville will recognize that an emergency water shortage condition exists when well level is One Hundred Ten feet (110') or less from ground level when pumping based on a 10 day moving average.

Requirements of 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 45 consecutive days. Upon termination of Stage 4, Stage 3 becomes operative. The City of Brackettville will notify its wholesale customers and the media of the termination of Stage 4 in the same manner as the notification of initiation of Stage 4 of the Plan.

Section VIII: Drought Response Stages

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

Stage 1 Response – MILD Water Shortage Conditions

Target: Achieve a voluntary 10% percent reduction in daily water use by all users.

Water Use Restrictions for Reducing Demand:

- a) The City Administrator, or his/her designee(s), will contact wholesale water customers to discuss water supply and/or demand conditions and will request that wholesale water customers initiate voluntary measures to reduce water use (e.g., implement Stage 1 of the customer's drought contingency plan).
- b) The City Administrator, or his/her designee(s), will provide a weekly report to news media with information regarding current water supply and/or demand conditions, projected water supply and demand conditions if drought conditions persist, and consumer information on water conservation measures and practices.

Stage 2 Response – MODERATE Water Shortage Conditions

Target: Achieve a 15% percent reduction in daily water use by all users.

Water Use Restrictions for Reducing Demand:

- a) The City Administrator, or his/her designee(s), will initiate weekly contact with wholesale water customers to discuss water supply and/or demand conditions and the possibility of pro rata curtailment of water diversions and/or deliveries.
- b) The City Administrator, or his/her designee(s), will request wholesale water customers to initiate mandatory measures to reduce non-essential water use (e.g., implement Stage 2 of the customer's drought contingency plan).
- c) The City Administrator, or his/her designee(s), will initiate preparations for the implementation of pro rata curtailment of water diversions and/or deliveries by preparing a monthly water usage allocation baseline for each wholesale customer according to the procedures specified in Section VII of the Plan.
- d) The City Administrator, or his/her designee(s), will provide a weekly report to news media with information regarding current water supply and/or demand conditions, projected water supply and demand conditions if drought conditions persist, and consumer information on water conservation measures and practices.

Stage 3 Response – SEVERE Water Shortage Conditions

Target: Achieve a 25% percent reduction in daily water use by all users.

Water Use Restrictions for Reducing Demand:

- a) The City Administrator, or his/her designee(s), will contact wholesale water customers to discuss water supply and/or demand conditions and will request that wholesale water customers initiate additional mandatory measures to reduce non-essential water use (e.g., implement Stage 3 of the customer's drought contingency plan).
- b) The City Administrator, or his/her designee(s), will initiate pro rata curtailment of water diversions and/or deliveries for each wholesale customer according to the procedures specified in Section VII of the Plan.
- c) The City Administrator, or his/her designee(s), will provide a weekly report to news media with information regarding current water supply and/or demand conditions, projected water supply and demand conditions if drought conditions persist, and consumer information on water conservation measures and practices.

Stage 4 Response – EMERGENCY Water Shortage Conditions

Whenever emergency water shortage conditions exist as defined in Section VII of the Plan, the City Administrator, or his/her designee(s), shall:

1. Assess the severity of the problem and identify the actions needed and time required to solve the problem.
2. Inform the utility director or other responsible official of each wholesale water customer by telephone or in person and suggest actions, as appropriate, to alleviate problems (e.g., notification of the public to reduce water use until service is restored).
3. If appropriate, notify city, county, and/or state emergency response officials for assistance.
4. Undertake necessary actions, including repairs and/or clean-up as needed.
5. Prepare a post-event assessment report on the incident and critique of emergency response procedures and actions.

Section IX: Pro Rata Water Allocation

In the event that the triggering criteria specified in Section VII of the Plan for Stage 3 Severe Water Shortage Conditions have been met, the City Administrator, or his/her designee(s), is hereby authorized to initiate allocation of water supplies on a pro rata basis in accordance with Texas Water Code Section 11.039.

Section X: Water Contracts

The City will include a provision in every wholesale water contract entered into or renewed after adoption of the Plan, including contract extensions, that in case of a shortage of water resulting from drought, the water to be distributed shall be allocated in accordance with Texas Water Code Section 11.039.

Section XI: Enforcement

During any period when pro rata allocation of available water supplies is in effect, wholesale customers shall be put on notice that citations will be issued, fines levied and that water service to the customer may be discontinued for any violation of the Plan.

Section XII: Variances

The City Administrator, 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:

- 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 Plan shall file a petition for variance with the City Administrator, or his/her designee(s), within 5 days after pro rata allocation has been invoked. All petitions for variances shall be reviewed by the City Council of the City of Brackettville at a regular scheduled meeting, 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 Plan.
- 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 of the City of Brackettville shall be subject to the following conditions, unless waived or modified by the City Council of the City of Brackettville:

- 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 XIII: Severability

It is hereby declared to be the intention of the City Council of the City of Brackettville that the sections, paragraphs, sentences, clauses, and phrases of this Plan are severable and, if any phrase, clause, sentence, paragraph, or section of this Plan shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Plan, since the same would not have been enacted by the City Council of the City of Brackettville without the incorporation into this Plan of any such unconstitutional phrase, clause, sentence, paragraph, or section.