

Ordinance adopting the Water Conservation Plan and Drought Contingency Plan; Amending City Code of Ordinances, Chapter 55, Article XII Water Conservation, regarding water resource management including drought restrictions and surcharges, providing an effective date of June 3, 2013; and providing for penalties.

Section 1. The Water Conservation Plan attached as Exhibit A is hereby adopted.

Section 2. The Drought Contingency Plan attached as Exhibit B is hereby adopted.

Section 3. The Corpus Christi Code of Ordinances, Chapter 55, Utilities, Article XII Water Conservation, Sections 55-150 through 55-156, and Sections 55-158 through 55-159 are repealed and replaced with the following sections to read as follows:

ARTICLE XII WATER RESOURCE MANAGEMENT

Sec. 55-150 Scope, purpose, and authorization

(a) Scope. There is hereby established a City of Corpus Christi Water Conservation Plan and Drought Contingency Plan. The City of Corpus Christi Water Conservation Plan and Drought Contingency Plan 2013, dated May 28, 2013, a true copy of which is on file in the office of the city secretary, is adopted, and shall be followed in matters concerning water conservation, drought management, and water supply enhancement programs.

(b) Declaration of policy.

(1) It is hereby declared that the general welfare requires that the water resources available to the city be put to the maximum beneficial use to the extent to which they are capable, and that the waste or unreasonable use, or unreasonable method of use of water be prevented, and the conservation of such water is to be extended with a view to the reasonable and beneficial use thereof in the interests of the people of the area served by the city's water resources and for the public welfare.

(2) In making decisions under this article concerning the allocation of water between conflicting interests, highest priority will be given to allocation necessary to support human life and health; i.e., the minimum amount of water necessary for drinking, prevention of disease, and the like. Second highest priority will be given to allocations which will result in the least loss of employment to persons whose income is essential to their families.

(c) Authorization. The city manager, or his designee, upon the recommendation of the assistant city manager, public works and utilities, is hereby authorized and directed to implement the applicable provisions of this article upon their determination that such implementation is

necessary to protect the public welfare and safety.

(d) In this Article, “City Manager” means the City Manager or the City Manager’s designee.

Sec. 55-151 Water Conservation Measures at All Times.

(a) The following measures are year-round water conservation best management practices that are in effect at all times, regardless of the reservoir levels or drought contingency levels.

(1) **Prohibition on wasting water:** Actions leading to wasting of water are prohibited and will be enforced. No person shall:

- a. Allow water to run off property into gutters or streets.
- b. Permit or maintain defective plumbing in a home, business establishment or any location where water is used on the premises. Defective plumbing includes out-of-repair water closets, underground leaks, defective or leaking faucets and taps.
- c. Allow water to flow constantly through a tap, hydrant, valve, or otherwise by any use of water connected to the City water system.
- d. Use any non-recycling decorative water fountain.
- e. Allow irrigation heads or sprinklers to spray directly on paved surfaces such as driveways, parking lots, and sidewalks in public right-of-ways.
- f. Operate an irrigation system at water pressure higher than recommended, causing heads to mist, or to operate with broken heads.

(2) **Time of Irrigation:** Irrigation by spray or sprinklers is prohibited between the hours of 10:00 AM and 6:00 PM. It is still permissible to water by hand or by drip irrigation at any time of day, unless the City enters Stage 4 Drought.

(3) **Restaurant Water Saving:** Commercial dining facilities must only serve water upon request.

Sec. 55-152 Drought Management: Drought Contingency Stages.

(a) The level of drought severity determines the extent of potential water use restrictions that shall be implemented. Following are the levels of drought in the form of Stages:

1. Stage 1: Mild water shortage condition
2. Stage 2: Moderate water shortage condition
3. Stage 3: Severe water shortage condition
4. Stage 4: Critical water shortage condition
5. Stage 5: Emergency water shortage condition

(b) **Criteria for Initiation and Termination of Drought Response Stages**

- (1) The City Manager, or 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, that is, when the specified “triggers” are reached. However, the City Manager, in the exercise of the City Manager’s discretion, may initiate or terminate any stage when the City Manager deems necessary at any particular time.
 - (2) The triggering criterion to be monitored for determining drought response stages is (1) the combined reservoir storage levels of Choke Canyon Reservoir and Lake Corpus Christi or (2), in the alternative for Stage 1, Lake Texana’s level.
 - (3) Whenever any of the stages listed below are triggered, the City Manager shall publish a public notice of the particular stage, in the daily newspaper of general circulation in Nueces County.
 - (4) To the extent of City’s legal authority, the City Manager shall require the City’s raw water and wholesale treated water customers to issue public notice advising their water customers of conservation and drought management activities consistent with the stages listed below.
- (c) **The triggering criteria are as follows:**
- (1) **Stage 1 – Mild Water Shortage Condition**

Requirements for initiation – The combined storage level of Choke Canyon Reservoir and Lake Corpus Christi declines below **50 percent** or Lake Texana storage level declines below 40%.

Requirement for termination – Stage 1 of the Plan may be rescinded when the combined storage level of Choke Canyon Reservoir and Lake Corpus Christi increases above 60 percent or Lake Texana storage level increases above 50%. Either of these conditions must exist for a period of 15 consecutive days before termination of Stage 1.
 - (2) **Stage 2 – Moderate Water Shortage Condition**

Requirements for initiation – The combined storage level for Choke Canyon Reservoir and Lake Corpus Christi declines to below **40 percent**.

Requirement for termination – Stage 2 of the Plan may be rescinded when the combined storage level increases above 50 percent for a period of 15 consecutive days. Upon termination of Stage 2, Stage 1 becomes operative.
 - (3) **Stage 3 – Severe Water Shortage Condition**

Requirements for initiation – The combined storage levels declines to below 30 percent.

Requirement for termination – Stage 3 of the Plan may be rescinded when the combined storage level increases above 40 percent for a period of 15 consecutive days. Upon termination of Stage 3, Stage 2 becomes operative.

(4) Stage 4 – Critical Water Shortage Condition

Requirements for initiation – The combined storage levels of Choke Canyon Reservoir and Lake Corpus Christi declines to below 20 percent.

Requirement for termination – Stage 4 of the Plan may be rescinded when the combined storage level increases above 30 percent for a period of 15 consecutive days. Upon termination of Stage 4, Stage 3 becomes operative.

(5) Stage 5 – Emergency Water Shortage Condition

Requirements for initiation – When the City Manager, or designee, determines that a water supply emergency exists based on:

- A major water line breaks, or pump or system failures occur, which causes unprecedented loss of capability to provide water service; or
- Water production or distribution system limitations; or
- Natural or man-made contamination of the water supply source occurs.

Requirement for termination – The emergency water shortage condition may be rescinded when the City Manager, or designee, deems appropriate.

Sec. 55-153. Drought Management: Drought Best Management Practices Per Stage

(a) In order to achieve water use reduction during drought, a series of best management practices will be enacted and enforced at each stage of a drought. These best management practices (BMP) are listed below by stage. During Stages 2, 3, and 4, requests for exceptions may be presented to the Water Allocation and Review Committee.

(b) Stage 1 Response – MILD Water Shortage Conditions

- (1)** Target: Achieve a voluntary 5% reduction in daily treated water demand relative to treated water demand with the water use restrictions below.

(2) Best Management Practices for Supply Management:

The City will enact voluntary measures to reduce or discontinue the flushing of water mains if practicable and utilize reclaimed water for non-potable uses to the greatest extent possible.

(3) Water Use Restrictions for Reducing Demand

a. Water customers are requested to voluntarily limit the irrigation of landscaped areas to **once per week**. The watering schedule will be determined by the City Manager or designee.

b. All operations of the City of Corpus Christi shall adhere to water use restrictions prescribed for Stage 2 of the Plan.

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

(c) Stage 2 Response – MODERATE Water Shortage Conditions

(1) Target: During Stage 2, achieve a 10% reduction in daily treated water demand relative to treated water demand with the water use restrictions below.

(2) Best Management Practices for Supply Management:

In addition to the best management practices for supply management listed under Stage 1, the City will also do the following during Stage 2:

a. Use more repair crews if necessary to allow for a quicker response time for water-line leak repair; and

b. City crews (Water and other departments) begin monitoring customers' compliance with Stage 2 restrictions during the course of their daily rounds.

(3) The following water use restrictions shall apply to all persons during Stage 2:

a. Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to **once per week**. The watering schedule will be determined by the City Manager or designee. Customers will be made aware of their designated watering day in accordance with Drought Contingency Plan.

However, irrigation of landscaped areas is permitted on any day if it is by means of a hand-held hose (with positive shutoff nozzle), a faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system with a positive shutoff device. Exceptions for this restriction may be permitted, upon

review and approval by the Water Allocation and Review Committee, for the following uses: new plantings (for up to 60 days), vegetable gardens, athletic playing fields, and botanical gardens. In addition, this restriction does not apply to customers irrigating with well water or an aerobic septic system. Customers irrigating with well water or an aerobic septic system must apply for a permit from the City Water Department to be prominently posted on the premises within two (2) feet of the street number located on the premises.

- b. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days. However, washing of boats and/or flushing of boat motors is permitted upon immediate exit of water body. 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 rinses. Vehicle washing may be done at any time on the immediate premises of a commercial car wash. Further, such washing may be exempted from these regulations upon review and approval by the Water Allocation and Review Committee 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.
- d. Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life.
- 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 of Corpus Christi Water Department.
- f. Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days. However, if the golf course utilizes a water source other than that provided through City of Corpus Christi Water Department infrastructure, the facility shall not be subject to these regulations.

- g. The use of water to maintain integrity of building foundations is limited to designated watering days and is only permitted by use of hand-held hose or drip irrigation.
- 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, except if it is in the interest of public health and safety.
 - 2) Use of water to wash down buildings or structures for purposes other than immediate fire protection without permit granted by the Water Allocation and Review Committee.
 - 3) Use of water for dust control without permit granted by the Water Allocation and Review Committee.

(d) **Stage 3 Response – SEVERE Water Shortage Conditions**

- (1) Target: During Stage 3, achieve a 15% reduction in total daily treated water demand relative to treated water demand with the water use restrictions below.
- (2) Best Management Practices for Supply Management:

In addition to the best management practices for supply management listed under Stage 2, the City will also do the following during Stage 3:

- a. Eliminate the flushing of water mains unless required for decontamination and/or public safety; and
- b. Review customers' water usage for compliance based on the previous month's water use and notify violators verbally or in writing as the situation dictates.
- (3) Water Use Restrictions for Demand Reduction:
 - a. Irrigation of landscaped areas shall be **limited to once every other week**. The watering schedule will be determined by the City Manager or designee. Customers will be made aware of their designated watering day. However, irrigation of landscaped areas is permitted on any day if it is by means of a hand-held hose (with positive shutoff nozzle), a

faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system with a positive shutoff device. Exceptions for this restriction may be permitted, upon review and approval by the Water Allocation and Review Committee, for the following uses: new plantings (for up to 60 days), vegetable gardens, athletic playing fields, and botanical gardens. In addition, this restriction does not apply to customers irrigating with well water or an aerobic septic system. Customers irrigating with well water or an aerobic septic system shall still apply for a permit from the City Water Department to be prominently posted on the premises within two (2) feet of the street number located on the premises.

- b. The watering of golf course fairways is prohibited. The watering of greens and tees are limited to once every other week unless the golf course utilizes a water source other than that provided through City of Corpus Christi Water Department infrastructure or done by means of hand-held hoses, hand-held buckets, or drip irrigation.

(4) During Stage 3, the following measures are optional water use restrictions that may be implemented by the City Manager, or designee as conditions warrant:

- a. The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued, with City Council consent.
- b. For residential and multi-unit customers, a drought surcharge of up to and including 100% of the current water rate may be added to the customers' bill to deter discretionary water use.

(e) **Stage 4 Response – CRITICAL Water Shortage Conditions**

(1) Target: During Stage 4, achieve a 30% or greater reduction in daily treated water demand relative to treated water demand with the water use restrictions below. An additional surcharge will be added to each utility bill during Stage 4 water shortage conditions to discourage discretionary water use, as described in Section 55-154 for retail customers and Section 55-159 for wholesale customers.

(2) Best Management Practices for Supply Management:

In addition to the best management practices for supply management listed under Stage 3, the City will also do the following during Stage 4:

- Upon written notice, disconnect the water meters of willful violators if absolutely necessary to prevent the deliberate wasting of water.

(3) Water Use Restrictions for Demand Reduction:

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

- Irrigation of landscaped areas shall be **prohibited at all times.**
- 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 not in the immediate interest of public health, safety, and welfare is prohibited.
- The filling, refilling, or adding of water to swimming pools, wading pools, and jacuzzi-type pools, and water parks (unless utilizing water from a non-city alternative source) is prohibited.
- The use of water to maintain the integrity of a building foundation is still permitted on the designated Stage 3 watering day.

(4) During Stage 4, the following measures are optional water use restrictions that may be implemented by the City Manager, or designee, as conditions warrant:

- 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 shall be in effect, with City Council consent.
- For residential and multi-unit customers, a drought surcharge of up to and including 100% of the current water rate may be added to the customers' bill to deter discretionary water use.

(f) Stage 5 Response – EMERGENCY Water Shortage Conditions

(1) Target: During Stage 5, achieve a 50% or greater reduction in daily treated water demand relative to treated water demand with the below water use restrictions. Surcharges and reduced allocations are enforceable during Stage 5 water shortage conditions, as described in Section 55-154.

During emergency conditions such as system outage, supply source contamination, or supply sources draining empty, alternative water sources and/or alternative delivery mechanisms may be necessary with prior approval of the City Manager. For emergency water shortage conditions associated with contamination of Nueces Basin stored supplies, the City, under the City Manager's direction, will cease pumping from the Nueces River and will contact the LNRA to identify additional, temporary water that may be available from Lake Texana on a short-term basis to meet essential water needs. For emergency water shortage conditions associated with contamination of Lake Texana supplies, the City, under the City Manager's direction, will cease pumping from the Mary Rhodes Pipeline.

(2) Best Management Practices for Supply Management:

In addition to the best management practices for supply management listed under Stage 4, the City will also do the following:

- Call the 10 largest water customers in the area affected by the emergency condition, and if necessary, use runners in key areas to begin spreading the message of a major outage.

(3) Water Use Restrictions for Demand Reduction:

During Stage 5, all requirements of Stage 2, 3, and 4 shall remain in effect during Stage 5 except as modified below:

- a) Irrigation of landscaped areas is absolutely prohibited.
- b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.
- c) Associated uses of business process water shall, such as equipment washing, shall be deferred until the Stage 5 emergency has been terminated.

(4) During Stage 5, the following measures are optional water use restrictions that may be implemented by the City Manager, or designee, as conditions warrant:

For residential and multi-unit customers, a drought surcharge of up to and including 100% of the current water rate may be added to the customers' bill to deter discretionary water use.

Sec. 55-154. Surcharges for Drought Stages 3, 4 – 5 and Service Measures

(a) General

- (1) The surcharges established herein are solely intended to regulate and deter the use of water during a period of serious drought in order to achieve necessary water conservation. The City Council expressly finds that the drought poses a serious and immediate threat to the public and economic health and general welfare of this community, and that the surcharges and other measures adopted herein are essential to protect said public health and welfare.
- (2) This section, and the surcharges and measures adopted herein are an exercise of the City's regulatory and police power, and the surcharges and connection fees are conservation rates intended to meet fixed costs as a result of lost revenue.
- (3) The City Manager or designee is authorized to determine trigger points and surcharges during Stages 3, 4 and 5 Emergency Water Shortage conditions.
- (4) In this section, institutional customer means city utility customer which operates as a not-for-profit entity.
- (5) A customer may appeal an allocation or drought surcharge triggering point established under this Section to the Water Allocation and Review Committee on grounds of unnecessary hardship.

(b) Residential water customers, who are not billed through a master water meter.

1. A monthly water usage trigger point shall be established by the City Manager or designee for residential customers. This trigger point is the maximum amount of water that a customer can use in a month before being charged a drought rate surcharge.
2. The drought surcharge can be up to and including 100% of the most current water rate.
3. The drought surcharge will be added to the most current rate at each block.

(c) Residential customers who are billed from a master water meter.

1. A monthly water usage trigger point shall be established by the City Manager or designee for residential customers. This trigger point is the maximum amount of water that a customer can use in a month before being charged a drought rate surcharge.
2. The drought surcharge can be up to and including 100% of the most current water rate.
3. The drought surcharge will be added to the most current rate at each block.

(d) Commercial or institutional customer

(1) A monthly water usage allocation shall be established by the City Manager or designee for each commercial or institutional customer.

(2) Method of establishing allocation:

- a. When the combined reservoir capacity is less than 20% of total capacity (Stage 4), the commercial or institutional customer's allocation shall be 90 percent of the customer's usage for the corresponding month's billing period during the previous 12 months prior to the implementation of Stage 2 condition.
- b. If the customer's billing history is shorter than 12 months, the monthly average for the period for which there is a record shall be used for any monthly period for which no history exists.
- c. Provided, however, a customer, 90 percent of whose monthly usage is less than 6,000 gallons, shall be allocated 6,000 gallons.
- d. The City Manager shall give best effort to see that notice of each commercial or institutional customer's allocation is mailed to such customer.
- e. If, however, the customer does not receive such notice, it shall be the customer's responsibility to contact the City' Utilities Billing Office to determine the allocation, and the allocation shall be fully effective notwithstanding lack of receipt of written notice.
- f. Upon request of the customer or at the initiative of the City Manager, the allocation may be reduced or increased by the City Manager,
 1. if one nonresidential customer agrees to transfer part of its allocation to another nonresidential customer, or
 2. if other objective evidence demonstrates that the designated allocation is inaccurate under present conditions.

(e) Industrial customers, who use water for processing.

- (1) A monthly water usage allocation shall be established by the City Manager or designee for each an industrial customer, which uses water for processing (e.g., an industrial customer).

(2) Method of establishing allocation.

- a. When the combined reservoir capacity of Choke Canyon Reservoir and Lake Corpus Christi is less than 20% of total capacity (Stage 4), the industrial customer allocation shall be 90 percent of the customer's usage for the corresponding month's billing period during the previous 12 months prior to the implementation of Stage 2 condition.
- b. If the customer's billing history is shorter than 12 months, the monthly average for the period for which there is a record shall be used for any monthly period for which no history exists.
- c. The City Manager shall give his best effort to see that notice of each industrial customer's allocation is mailed to such customer.
- d. If, however, the industrial customer does not receive such notice, it shall be the customer's responsibility to contact the City Utilities Billing Office to determine the allocation, and the allocation shall be fully effective notwithstanding lack of receipt of written notice.
- e. Upon request of the industrial customer or at the initiative of the City Manager, the allocation may be reduced or increased by the City Manager, if:
 1. The designated period does not accurately reflect the customer's normal water usage because customer had to shut down a major processing unit for overhaul during the period.
 2. The customer has added or is in the process of adding significant additional processing capacity.
 3. The customer has shut down or significantly reduced the production of a major processing unit.
 4. The customer has previously implemented significant permanent water conservation measures.
 5. The customer agrees to transfer part of its allocation to another industrial customer.
 6. Other objective evidence demonstrates that the designated allocation is inaccurate under present conditions.
- (f) Commercial, institutional, and industrial customers shall pay the following surcharges:

(1) Customers whose allocation is 6,000 gallons through 20,000 gallons per month:

- a. \$5.00 per 1,000 gallons for the first 1,000 gallons over allocation.
- b. \$8.00 per 1,000 gallons for the second 1,000 gallons over allocation.
- c. \$16.00 per 1,000 gallons for the third 1,000 gallons over allocation.
- d. \$40.00 for each additional 1,000 gallons over allocation.

(2) Customers whose allocation is 21,000 gallons per month or more:

- a. One times the block rate for each 1,000 gallons in excess of the allocation up through 5 percent above allocation.
- b. Three times the block rate for each 1,000 gallons from 5 percent through 10 percent above allocation.
- c. Five times the block rate for each 1,000 gallons from 10 percent through 15 percent above allocation.
- d. Ten times the block rate for each 1,000 gallons more than 15 percent above allocation.
- e. The surcharges shall be cumulative.
- f. As used herein, "block rate" means the charge to the customer per 1,000 gallons at the regular water rate schedule at the level of the customer's allocation.

(g) Nonresidential customer is billed from a master meter.

(1) When a nonresidential customer is billed from a master meter which jointly measures water to multiple residential dwelling units (for example: apartments, mobile homes), the customer may pass along any surcharges assessed under this plan to the tenants or occupants, provided that:

- a. The customer notifies each tenant in writing:
 1. That the surcharge will be passed along.
 2. How the surcharge will be apportioned.
 3. That the landlord must be notified immediately of any plumbing leaks.
 4. Methods to conserve water (which shall be obtained from the City).

- b. The customer diligently maintains the plumbing system to prevent leaks.
 - c. The customer installs water saving devices and measures (ideas for which are available from the City) to the extent reasonable and practical under the circumstances.
- (h) Water service to the customer may be terminated under the following conditions:
- (1) Monthly residential water usage exceeds allocation by 4,000 gallons or more two or more times (which need not be consecutive months).
 - (2) Monthly water usage on a master meter which jointly measures water usage to multiple residential dwelling units exceeds allocation by 4,000 gallons times the number of dwelling units or more two or more times (which need not be consecutive months).
 - (3) Monthly nonresidential water usage for a customer whose allocation is 6,000 gallons through 20,000 gallons exceeds its allocation by 7,000 gallons or more two or more times (which need not be consecutive months).
 - (4) Monthly nonresidential water usage for a customer whose allocation is 21,000 gallons or more exceeds its allocation by 15 percent or more two or more times (which need not be consecutive months).
 - (5) For residential customers and nonresidential customers whose allocation does not exceed 20,000 gallons, after the first disconnection water service shall be restored upon request for a fee of \$50.
 - (6) For such customers, after the second disconnection, water service shall be restored within 24 hours of the request for a fee of \$500.
 - (7) If water service is disconnected a third time for such customer, water service
 - (8) shall not be restored until the City re-enters a level of water conservation less than Stage 3. For master meter customers, the service restoration fees shall be the same as above times the number of dwelling units.
 - (9) For nonresidential customers whose allocation is 21,000 gallons per month or more:
 - a. After the first disconnection, water service shall be restored upon request for a fee in the amount of "X" in the following formula:

$$X = \$ 50 \times \text{Customer's Allocation in gallons} / 20,000 \text{ gallons}$$
 - b. After the second disconnection for said customers, water service shall be restored within 24 hours of the request for a fee of 10 times "X".
 - c. If water service is disconnected a third time for such customer, water service shall not be restored until the City re-enters a level of water conservation less than Stage 3.

- d. The City Manager is directed to institute written guidelines for disconnection of water service under this provision, which will satisfy minimum due process requirements, if any.
- (i) It shall be a defense to imposition of a surcharge hereunder, or to termination of service, that water used over allocation resulted from loss of water through no fault of the customer (for example, a major water line break) for the following conditions:
1. The customer shall have the burden to prove such defense by objective evidence (for example, a written certification of the circumstances by a plumber).
 2. A sworn statement may be required of the customer.
 3. This defense shall not apply if the customer failed to take reasonable steps for upkeep of the plumbing system, failed to reasonably inspect the system and discover the leak, failed to take immediate steps to correct the leak after discovered, or was in any other way negligent in causing or permitting the loss of water.
- (j) When this section refers to allocation or water usage periods as "month," monthly," "billing period," and the like, such references shall mean the period in the City's ordinary billing cycle which commences with the reading of a meter one month and commences with the next reading of that meter which is usually the next month.
- (1) The goal for the length of such period is 30 days, but a variance of two days, more or less, will necessarily exist as to particular meters.
 - (2) If the meter reader system is prevented from timely reading a meter by any obstacle which is attributable to the customer, the original allocation shall apply to the longer period without modification.

Sec. 55-155. Water Allocation and Review Committee, establishment, composition, powers, and duties.

- (a) The Water Allocation and Review Committee ("Committee") may, in writing, grant a temporary variance to any of the provisions for water users found in this Article XII upon Committee determination that failure to grant such variance would cause an emergency condition adversely affecting the public health, sanitation, or fire protection for the public or person requesting such a variance.
- (b) A person requesting an exemption from the provisions of this Ordinance shall file an exemption request on City-provided application for variance with the City Water Department within 5 days after a particular drought response stage has been invoked. All exemption request forms shall be reviewed by the Committee, and shall include the following:

1. Name and address of the water user(s).
2. Purpose of water use.
3. Specific provision(s) of the Ordinance from which the water user is requesting relief.
4. Detailed statement as to how the specific provision of the Ordinance adversely affects the water user or what damage or harm will occur to the water user or others if water user complies with this Plan.
5. Description of the exemption requested
6. Period of time for which the exemption is sought.
7. Alternative water use restrictions or other measures the water user is taking or proposes to take to meet the intent of this Plan and the compliance date.
8. Other pertinent information; or as required on permit application

(c) No exemption shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the exemption.

(d) The Water Allocation and Review Committee (“Committee”) shall be composed of seven (7) members: the Assistant City Manager for Public Works and Utilities, the Director of Public Health, a representative of industry, a representative of business or commerce, one non-profit representative, and two citizens of the city. The industry, business, non-profit, and citizen members shall be appointed by the Mayor and Council and shall serve at the pleasure of the City Council. In addition, seven (7) alternate members shall be appointed. Each alternate shall serve in place of his/her respective regular Committee member whenever that regular Committee member is unavailable to participate. The City Manager shall appoint alternates for the Assistant City Manager for Public Works and Utilities and the Director of Public Health. The Mayor and Council shall appoint alternates for the industry, business, non-profit, and citizen members of the Committee. Alternate members appointed shall have qualifications similar to those of their respective regular member. An alternate serving in place of a regular Committee member shall exercise the same powers and have the same duties as a regular member.

(e) The Committee shall consider requests of water users for special consideration to be given as to their respective particular circumstances and the Committee shall hear and decide such requests in an open meeting and is hereby authorized to, in special cases, grant such variance from the terms of this plan if such compliance would cause an emergency condition adversely affecting the public health, sanitation, or fire protection for the public or person requesting such a variance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this plan will result in unnecessary hardship, and so that the spirit of this plan shall be observed and substantial justice done.

(f) Should a permit for special exception be granted by such Committee, it shall be in effect from the time of granting through the termination of the then current stage, unless revoked by

the Committee for noncompliance; provided, that the permit is prominently posted on the premises within two (2) feet of the street number located on the premises.

(g) Should written protest be received in the Office of the City Secretary after the granting of any such special permit, the Committee shall consider the revocation of such permit and shall reconsider the granting of such permit at a public hearing, notice of which shall have been given at least 72 hours prior to the holding of such hearing. After the conclusion of such hearing, the Committee shall take such action by way of revocation of such permit, or refusal to revoke the same, or modification of such permit as the Committee may deem proper under the circumstances.

(h) Complaints regarding noncompliance of any permit granted by the Committee shall be submitted through the City Water Department to the Committee for its review. The Committee may decide to revoke or modify the permit, or leave the permit in place. Violations of any permit condition may be enforced under Section 55-156.

Sec. 55-156 Violations, penalties, and Enforcement

(a) A violation under this article is a Class C misdemeanor. Any person that violates any provision of this article shall be subject to a fine of not more than five hundred dollars (\$500.00) per violation per day. The culpable mental state required by Section 6.02 of the Texas Penal Code is specifically negated and dispensed with and a violation of this article is a strict liability offense.

(b) The commission of a violation of each provision, and each separate violation thereof, shall be deemed a separate offense, in and upon conviction thereof, shall be fined as hereinabove provided.

(c) If any person or a second person in the same household or premises, is found guilty of a second violation of this article, the water superintendent shall be authorized to discontinue water service to the premises where such violation occurs.

(d) Cases filed under this section shall be expedited and given preferential setting in municipal court before all other cases.

(e) Any person whose name is on file with the utilities billing office as the customer on the water account for the property where the violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on said premises shall constitute prima facie evidence that the customer committed the violation, but said customer shall have the right to show that he did not commit the violation.

(f) If any person fails to respond to a citation or summons issued for a violation of this article within the time allowed, upon receipt of notice from the director or a judge of the municipal courts, the water superintendent is authorized to discontinue water service to the premises where such violation occurs.

Sec. 55-157 Effluent distribution; permit and regulations

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Sec. 55-158. - Operations plan for reservoir system.

To maximize the amount of water reliably available to the city and its water customers, the city manager shall operate the Lake Corpus Christi/Choke Canyon Reservoir System as follows:

- (1) A minimum of two thousand (2,000) acre-feet per month will be released from Choke Canyon Reservoir to meet conditions of the release agreement between the City of Corpus Christi and the Texas Parks and Wildlife Department.
- (2) In order to provide maximum dependable yield from the two (2) reservoirs, the water level in Lake Corpus Christi will be allowed to drop to elevation seventy-four (74) feet before water is released from Choke Canyon Reservoir in excess of the two thousand (2,000) acre-feet per month requirement.
- (3) Under the Agreed Order of the Texas Natural Resource Conservation Commission under Certificate of Adjudication No. 21-3214, City shall (1) reduce targeted inflows of water to Nueces Bay to 1200 acre feet when reservoir system storage falls below forty (40) per cent of capacity, and (2) suspend targeted inflows when reservoir system storage falls below thirty (30) per cent of capacity.

Sec. 55-159. Procedures for allocating water to raw water and wholesale treated water customers on a pro rata basis during a water shortage.

(a) In the event that the triggering criterion specified in Section 55-152 for Stage 3 have been met, the City Manager, or designee, is hereby authorized to initiate allocation preparations of water supplies on a pro rata basis to raw water and wholesale treated water customers in accordance with Texas Water Code §11.039.

(1) A raw water or wholesale treated water 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 assessment of the severity of the water shortage condition and the need to curtail water diversions and 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 raw water or wholesale treated water 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 the City

Manager's designee, for each raw water or wholesale treated water customer. The raw water or wholesale treated water customer's water usage baseline will be computed on the average water usage by month for the previous five-year period. If the raw water or wholesale treated water customer's billing history is less than five (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 shall provide notice, by certified mail, to each raw water or wholesale treated water 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 raw water or wholesale treated water customer or at the initiative of the City Manager, the allocation may be reduced or increased if:

- a. The designated period does not accurately reflect the raw water or wholesale treated water customer's normal water usage;
- b. The customer agrees to transfer part of its allocation to another raw water or wholesale treated water customer; or
- c. Other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established under this section to the City Council of the City of Corpus Christi.

(b) Pro Rata Surcharges and Enforcement

(1) During any period when pro rata allocation of available water supplies is in effect, wholesale customers shall pay the following surcharges on excess water diversions:

- a. 2.0 times the normal water charge per unit for water diversions and/or deliveries in excess of the monthly allocation up through 5 percent above the monthly allocation.
- b. 2.5 times the normal water charge per unit for water diversions and/or deliveries in excess of the monthly allocation from 5 percent through 10 percent above the monthly allocation.
- c. 3.0 times the normal water charge per unit for water diversions and/or deliveries in excess of the monthly allocation from 10 percent through 15 percent above the monthly allocation.
- d. 3.5 times the normal water charge per unit for water diversions and/or deliveries more than 15 percent above the monthly allocation.

(c) Variances.

(1) The city manager, or the City Manager's designee, may, in writing, grant a temporary variance to the pro rata water allocation policies provided by this section 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 (1) or more of the following conditions are met:

- a. Compliance 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.

(2) Raw water or wholesale treated water customers requesting an exemption from the provisions of this section shall file a petition for variance with the City Manager within five (5) days after pro rata allocation has been invoked.

(3) 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 this section adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this section.
- 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 section and the compliance date.
- f. Other pertinent information.

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

- a. Variances granted shall include a timetable for compliance.
- b. Variances granted shall expire when the pro-rata allocation of water to raw water or wholesale treated water customers is no longer in effect, unless the petitioner has failed to meet specified requirements.
- c. No variance shall be retroactive or otherwise justify any violation of this section occurring prior to the issuance of the variance.

(d) Contractual remedies not affected. Nothing in this section supersedes any remedies

available to the City under any contract with a raw water or wholesale treated water customer due to the customer's failure to adopt or impose water conservation measures required by the contract.

Section 4. This ordinance takes effect on June 3, 2013.

Section 5. Severability

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

Section 6.

The change in law made by this Ordinance applies only to an offense committed on or after the effective date of this Ordinance. An offense committed before the effective date of this Ordinance is governed by the Ordinance in effect when the offense was committed, and the former Ordinance is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Ordinance if any element of the offense occurred before that date.

That the foregoing ordinance was read for the first time and passed to its second reading on this the ____ day of _____, _____, by the following vote:

Nelda Martinez	_____	Chad Magill	_____
Kelley Allen	_____	Colleen McIntyre	_____
Rudy Garza	_____	Lillian Riojas	_____
Priscilla Leal	_____	Mark Scott	_____
David Loeb	_____		

That the foregoing ordinance was read for the second time and passed finally on this the _____ day of _____, _____, by the following vote:

Nelda Martinez	_____	Chad Magill	_____
Kelley Allen	_____	Colleen McIntyre	_____
Rudy Garza	_____	Lillian Riojas	_____
Priscilla Leal	_____	Mark Scott	_____
David Loeb	_____		

PASSED AND APPROVED, this the ____ day of _____, _____.

ATTEST:

_____	_____
Armando Chapa	Nelda Martinez
City Secretary	Mayor