

**Ordinance amending City Code of Ordinances, Sections 55-152 and 55-153, to revise Drought contingency Stage 1 and 2 triggers and Drought Management Practices; authorizing amendment to the Drought Contingency Plan approved by Ordinance No. 029846 and amended by Ordinance No. 030545 to reflect the changes to Sections 55-152 and 55-153; and providing for publication.**

**Section 1.** The Corpus Christi Code of Ordinances, Chapter 55, Utilities, Article XII Water Resource Management, Section 55-152 and Section 55-153, is amended, with the new text shown in underlined redline text, and the deleted text shown in redline strike through text, as follows:

**ARTICLE XII. - WATER RESOURCE MANAGEMENT**

**Sec. 55-150. - Scope, purpose, authorization, and definitions.**

- (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, as amended by ordinance, 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) *Definitions.* The following terms used in this article are defined as follows:
  - (1) *"City manager"* means the city manager or the city manager's designee.
  - (2) *"Drip irrigation"* means an irrigation system that applies water at a controlled low-flow levels directly to the soil.
  - (3) *"Fountain"* means an artificially created jet or stream of water; a structure, often decorative, from which a jet or stream of water issues.
  - (4) *"Industrial customers use of water for processing"* means the use of water in processes designed to convert materials of lower value into forms having greater usability.

- (5) *"Non-essential purpose"* means water uses that are not essential or not required for the protection of public health, safety and welfare.

(Ord. No. 24396, § 1, 3-20-2001; Ord. No. 029846, § 3, 5-28-2013; Ord. No. 029946, § 1, 9-10-2013; Ord. No. 030545, § 1, 7-14-2015)

**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 rights-of-way.
    - 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 a.m. and 6:00 p.m. It is still permissible to water by hand or by drip irrigation at any time of day, unless the city enters Stage 4 Drought. However, the use of water is permitted at any hour for short periods of time for testing related to the installation, maintenance, and repair of sprinkler systems.
  - (3) *Restaurant water saving:* Commercial dining facilities must only serve water upon request.

(Ord. No. 24396, § 1, 3-20-2001; Ord. No. 24726, § 1, 1-8-2002; Ord. No. 026235, § 1, 4-26-2005; Ord. No. 026542, § 1, 11-15-2005; Ord. No. 028141, § 1, 4-28-2009; Ord. No. 029846, § 3, 5-28-2013; Ord. No. 029946, § 1, 9-10-2013)

**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 watch.
  - (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 the combined reservoir storage levels of Choke Canyon Reservoir and Lake Corpus Christi.
  - (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 watch:*

Requirements for initiation - ~~This stage is always in effect. Customers shall be requested to voluntarily conserve water and adhere to prescribed restrictions on certain water used when the combined storage level of Choke Canyon Reservoir and Lake Corpus Christi declines below (50) per cent or Lake Texana storage level declines below (40) per cent.~~

Requirement for termination - ~~This stage is always in effect. Stage 1 of the DCP may be rescinded when the combined storage level of Choke Canyon Reservoir and Lake Corpus Christi increases above (60) per cent or Lake Texana storage level increases above (50) per cent. 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 ~~fortyeighty (4080)~~ per cent.

Requirement for termination - Stage 2 of the plan may be rescinded when the combined storage level increases above ~~fiftyninety (5090)~~ per cent for a period of fifteen (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 thirty (30) per cent.

Requirement for termination - Stage 3 of the plan may be rescinded when the combined storage level increases above forty (40) per cent for a period of fifteen (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 twenty (20) per cent.

Requirement for termination - Stage 4 of the plan may be rescinded when the combined storage level increases above thirty (30) per cent for a period of fifteen (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 manmade 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.

(Ord. No. 24396, § 1, 3-20-2001; Ord. No. 24576, § 1, 9-11-2001; Ord. No. 029846, § 3, 5-28-2013; Ord. No. 029946, § 1, 9-10-2013; Ord. No. 030545, § 1, 7-14-2015)

**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 director of water operations or his designee.
- (b) *Stage 1 response - Mild water shortage watch.*
  - (1) Target: ~~Because Stage 1 is always in effect, the water use in this stage will be the basis for reduction targets in more severe drought stages.~~ Achieve a voluntary (5) per cent reduction in daily water demand for each wholesale customers utilizing City's water supply system.
  - (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 nonpotable 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 ten (10) per cent 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 director of water operations or his designee for the following uses: new plantings (for up to sixty (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 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 of Corpus Christi Water Department.
  - c. 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.
  - d. The use of water to maintain integrity of building foundations is permitted on any day at any time only by use of hand-held hose or drip irrigation.
  - e. Except for immediate fire protection or flushing of water lines, the use of water from a hydrant is only allowed with a permit granted by the director of water operation or his designee and a construction meter obtained from the utility business office.
- (d) *Stage 3 response - Severe water shortage conditions.*
- (1) Target: During Stage 3, achieve a fifteen (15) per cent 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: All requirements of Stage 2 shall remain in effect during Stage 3 except as modified below:
    - 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 director of water operations or his designee, for the following uses: new plantings (for up to sixty (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 with potable water 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, with city council approval, as conditions warrant:
- a. For residential and multi-unit customers, a drought surcharge of up to and including one hundred (100) per cent of the total monthly water bill over the monthly allocation 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 thirty (30) per cent 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:
  - a. Irrigation of landscaped areas shall be prohibited at all times.
  - b. Use of water to wash any motor vehicle, motorbike, boat, trailer, 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.
  - c. 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.
  - d. The use of water to maintain the integrity of a building foundation is still permitted on the designated Stage 3 watering day and shall be done by hand or drip irrigation method.
  - e. All fountains shall only operate to circulate water in order to maintain equipment.
  - f. The use of water for construction purposes from designated fire hydrants with a special permit will continue with a ten (10) per cent surcharge added to the water rate.
- (4) During Stage 4, the following measures are optional water use restrictions that may be implemented by the city manager, or designee, with city council approval, as conditions warrant:
  - a. 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.
  - b. For residential and multi-unit customers, a drought surcharge of up to and including one hundred (100) per cent of the total monthly water bill over the monthly allocation 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 fifty (50) per cent 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 ten (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 except as modified below:
  - a. Irrigation of landscaped areas is absolutely prohibited.
  - b. Use of water to wash any motor vehicle, motorbike, boat, trailer, or other vehicle is absolutely prohibited.
  - c. Associated uses of water not related to business process which are discretionary, 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, with city council approval, as conditions warrant:

For residential and multi-unit customers, a drought surcharge of up to and including one hundred (100) per cent of the total monthly water bill over the monthly allocation may be added to the customers' bill to deter discretionary water use.

(Ord. No. 24396, § 1, 3-20-2001; Ord. No. 24576, § 2, 9-11-2001; Ord. No. 029846, § 3, 5-28-2013; Ord. No. 029946, § 1, 9-10-2013; Ord. No. 030545, § 1, 7-14-2015)

Sec. 55-154. - Surcharges for drought Stages 3, 4 and 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) With city council approval, 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 director of water operations or his designee on grounds of unnecessary hardship through the process outlined in section 55-155.



- (6) Drought surcharge funds will first be applied towards annual debt service payments and operating and maintenance expenses of the water department as reflected in the city operating budget to offset revenue loss due to drought conditions. Additional funds will be reported to city council for city council direction.
- (b) *Residential water customers, who are not billed through a master water meter.*
  - (1) A monthly base amount of three thousand (3,000) gallons shall be established as a trigger point for each customer. Water consumption up to and including this amount will not include a drought surcharge.
  - (2) Above the three thousand (3,000) gallon monthly consumption trigger point, with city council approval, a drought surcharge shall be added up to and including one hundred (100) per cent of the customer's total monthly water bill over the allocation.
- (c) *Residential customers who are billed from a master water meter.*
  - (1) Once Stage 2 condition has been declared, property managers of multi-tenant units shall notify the city director of water operations of number of residential units in their facility for determination of allocations. Until so notified, the city shall calculate the allocation based on two (2) residential units per master water meter. A monthly base amount of three thousand (3,000) gallons shall be established as a trigger point for each residential unit.
  - (2) When consumption for the month is less than or equal to three thousand (3,000) gallons times the number of residential units, there will be no surcharge.
  - (3) With city council approval, when consumption is above the three thousand (3,000) gallons times the number of units, a drought surcharge shall be added up to and including one hundred (100) per cent of the customer's total monthly water bill over the allocation.
- (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 twenty (20) per cent of total capacity (Stage 4), the commercial or institutional customer's allocation shall be ninety (90) per cent of the customer's usage for the corresponding month's billing period during the previous twelve (12) months prior to the implementation of Stage 2 condition.
    - b. If the customer's billing history is shorter than twelve (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, ninety (90) per cent of whose monthly usage is less than six thousand (6,000) gallons, shall be allocated six thousand (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's 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 (1) 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 twenty (20) per cent of total capacity (Stage 4), the industrial customer allocation shall be ninety (90) per cent of the customer's usage for the corresponding month's billing period during the previous twelve (12) months prior to the implementation of Stage 2 condition.
- b. If the customer's billing history is shorter than twelve (12) months, the monthly allocation shall be one-twelfth of ninety (90) per cent of the customer's maximum annual contracted amount until twelve (12) months of billing history are established. However if the industrial customer does not have a water contract and does not have at least twelve (12) months of billing history, then the new industrial customer will provide data regarding expected water use and city will determine allocation based on ninety (90) per cent of expected use to determine initial allocation until twelve (12) months of billing history are established.
- 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 drought surcharges:*

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

- a. Five dollars (\$5.00) per one thousand (1,000) gallons for the first one thousand (1,000) gallons over allocation.
- b. Eight dollars (\$8.00) per one thousand (1,000) gallons for the second one thousand (1,000) gallons over allocation.
- c. Sixteen dollars (\$16.00) per one thousand (1,000) gallons for the third one thousand (1,000) gallons over allocation.
- d. Forty dollars (\$40.00) for each additional one thousand (1,000) gallons over allocation.

- (2) Customers whose allocation is twenty-one thousand (21,000) gallons per month or more:
  - a. One (1) times the block rate for each one thousand (1,000) gallons in excess of the allocation up through five (5) per cent above allocation.
  - b. Three (3) times the block rate for each one thousand (1,000) gallons from five (5) per cent through ten (10) per cent above allocation.
  - c. Five (5) times the block rate for each one thousand (1,000) gallons from ten (10) per cent through fifteen (15) per cent above allocation.
  - d. Ten (10) times the block rate for each one thousand (1,000) gallons more than fifteen (15) per cent above allocation.
  - e. The surcharges shall be cumulative.
  - f. As used herein, "block rate" means the charge to the customer per one thousand (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) For residential customers, the following measures come into effect after city council approves a drought rate surcharge; for nonresidential customers, these measures come into effect at Stage 4. Water service to the customer may be terminated under the following conditions:
  - (1) Monthly residential water usage exceeds trigger point by four thousand (4,000) gallons or more two (2) 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 trigger point by four thousand (4,000) gallons times the number of dwelling units or more two (2) or more times (which need not be consecutive months).
  - (3) Monthly nonresidential water usage for a customer whose allocation is six thousand (6,000) gallons through twenty thousand (20,000) gallons exceeds its allocation by seven thousand (7,000) gallons or more two (2) or more times (which need not be consecutive months).
  - (4) Monthly nonresidential water usage for a customer whose allocation is twenty-one thousand (21,000) gallons or more exceeds its allocation by fifteen (15) per cent or more two (2) or more times (which need not be consecutive months).
  - (5) For residential customers and nonresidential customers, after the first disconnection, water service shall be restored upon request for a fee of fifty dollars (\$50.00).
  - (6) For such customers, after the second disconnection, water service shall be restored within twenty-four (24) hours of the request for a fee of five hundred dollars (\$500.00).

- (7) 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. For master meter customers, the service restoration fees shall be the same as above times the number of dwelling units.
- (8) 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 thirty (30) days, but a variance of two (2) 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.

(Ord. No. 24396, § 1, 3-20-2001; Ord. No. 029846, § 3, 5-28-2013; Ord. No. 029946, § 1, 9-10-2013)

**Sec. 55-155. - Requests for exemptions and variances.**

- (a) The director of water operations or his designee, may, in writing, grant a temporary variance to any of the provisions for water users found in this article XII upon 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 or variance from the provisions of this article shall file request on city-provided application for exemption/variance with the city water department within five (5) days after a particular drought response stage has been invoked. All request forms shall be reviewed by the director of water operations or his designee, 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 or variance requested.
  - (6) Period of time for which the exemption or variance 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 nor variance shall be retroactive or otherwise justify any violation of this article occurring prior to the issuance of the exemption/variance.
- (d) All requests for variances/exemptions shall be reviewed and determined within three (3) business days of receipt of complete application.
- (e) The director of water operations or his designee shall consider requests of water users for special consideration to be given as to their respective particular circumstances 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, it shall be in effect from the time of granting through the termination of the then current stage, unless revoked by the director of water operations 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) A person denied request for permit or exception from these rules may appeal the decision to the assistant city manager for public works, utilities and transportation by submitting written request for appeal to the assistant city manager within five (5) business days from issuance of denial. The decision of the assistant city manager shall be final.
- (h) Violations of any permit condition may be enforced under section 55-156.

(Ord. No. 24396, § 1, 3-20-2001; Ord. No. 24576, § 3, 9-11-2001; Ord. No. 029846, § 3, 5-28-2013; Ord. No. 029946, § 1, 9-10-2013)

#### 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 V.T.C.A., Penal Code § 6.02 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.

(Ord. No. 24396, § 1, 3-20-2001; Ord. No. 24576, § 4, 9-11-2001; Ord. No. 029846, § 3, 5-28-2013; Ord. No. 029946, § 1, 9-10-2013)

Sec. 55-157. - Effluent distribution; permit and regulations.

- (a) Upon implementation of the City of Corpus Christi Water Conservation Plan as provided in this section, the city may make available effluent water discharged from its sewage treatment plants for the purpose of watering lawns, grass, and other plants, dust control and similar uses.
  - (1) Such effluent water shall be made available only under the terms and conditions herein provided and only to such persons as are duly permitted as distributors as provided in this section.
  - (2) The city shall be under no obligation to provide such effluent and reserves the right to discontinue such service at any time and to limit the volume and to establish or alter loading procedures and/or locations as necessary for the efficient administration of the wastewater division.
- (b) No effluent distribution permit shall be issued except upon application filed with the wastewater division of the city. Every such application shall contain the following information:
  - (1) Name of applicant.
  - (2) Name of authorized representative (e.g., president of corporation; partner, etc.) if applicant is other than an individual.
  - (3) Business address and phone number.
  - (4) Residence address and phone number of authorized individual representative.
  - (5) Description of each vehicle and container unit to be used in the transportation or distribution of effluent water, including the make, year, model, type, weight and gross vehicle weight, container capacity in gallons, vehicle registration number, and the state safety inspection certificate number and expiration date.
  - (6) Names and driver's license number of every proposed driver of such vehicles.
  - (7) Statement of previous use of container units and any proposed use after or concurrently with such units use for effluent distribution.
  - (8) Statement of the proposed uses of any effluent water, including whether the use is proposed for residential, commercial, or industrial purpose.
- (c) Upon the filing of the required application, and payment of the permit fee specified herein for each container unit, the wastewater superintendent, or the superintendent's designee, shall upon his determination that the applicant and vehicles and container units are in compliance with all applicable provisions of this article, issue a permit for each such container unit.
  - (1) The permit shall identify the particular unit for which it is issued and shall be displayed in a prominent place upon the unit.
  - (2) Each unit shall be separately permitted.
- (d) The permit fee shall be fifty dollars (\$50.00) per month for each unit plus five dollars (\$5.00) per month for each unit per one thousand (1,000) gallons of capacity (or portion thereof) over the first one thousand (1,000) gallons of capacity.
- (e) Permits shall be issued on a quarterly basis from the effective date of this plan; fee proration shall be on a monthly basis.
- (f) Notwithstanding subsection (g) of this section, a resident of the City of Corpus Christi may obtain effluent at no charge from a wastewater treatment plant, designated by the wastewater superintendent, for the irrigation of vegetation, dust control, or watering a foundation at the individual's personal residence.

- (1) Any effluent received under this subsection may not be sold or transferred to another individual or used for commercial purposes.
  - a. Before receiving effluent the resident must obtain a permit from the wastewater superintendent, or the superintendent's designee.
  - b. Prior to receiving a permit, the resident must complete a course of instruction on the handling of wastewater effluent that has been developed by the city's health department.
  - c. Any container used to receive and transport effluent must have a lid or cap, be watertight, and be properly secured to the vehicle.
  - d. All containers are subject to inspection and approval of the city health department or wastewater department.
  - e. Any effluent received under this subsection must be immediately transported to the personal residence of the individual receiving the effluent and used for the irrigation of vegetation, dust control, or watering a foundation.
  - f. The effluent may not be stored for future use.
  - g. A resident using effluent for the irrigation of vegetation or dust control must post a sign on the property legible from the street stating that effluent is being used on the property.
  - h. Every resident obtaining effluent under this subsection must either:
    1. Provide proof of and maintain in force a property liability insurance policy (homeowner/renter) in the amount of three hundred thousand dollars (\$300,000.00) per occurrence; or
    2. Sign a form provided by the superintendent that releases the City of Corpus Christi from any liability resulting from the resident's improper use or transportation of the effluent and agree to hold the city harmless, including reimbursing the city for the costs of defending itself.
- (g) Every effluent distribution permit shall be subject to the following terms and conditions and no person shall receive or distribute effluent water except in compliance herewith:
  - (1) Container units or tanks shall have a minimum capacity of five hundred (500) gallons; shall be capable of being closed water-tight and shall be so closed during transport of effluent water; and shall be maintained in a leak-proof condition; provided, however, that special permits may be issued for container units with a capacity of less than five hundred (500) gallons upon the determination by the wastewater division superintendent that all other container unit specifications herein required have been met and that the particular container unit does not create an increased risk to the public health and safety.
  - (2) No vehicle may be used in connection herewith which has not been reported on the application and approved for such use.
  - (3) Every driver or handler must be certified by the wastewater division prior to receiving any effluent water from the city.
    - a. The wastewater division may certify a driver or handler who has completed a course of instruction on the handling of wastewater effluent that has been developed by the city's health department.
  - (4) Effluent water shall be used as soon as possible to prevent regrowth of bacteria.
    - a. Permittees shall check effluent water in their units not less than every four (4) hours for chlorine residual, except for effluent stored in fixed-site containers which shall be checked not less than every eight (8) hours.
  - (5) Chlorine residuals shall be maintained at one (1) milligram per liter (parts per million) [one (1) mg/one (l) (ppm)], consistent throughout the effluent container.

- (6) The minimum quality of the effluent must not exceed conditions on the use of effluent set out in any permits or authorizations issued to the city by a federal or state regulatory agency or the applicable regulations of a federal or state regulatory agency.
- (7) Effluent containers, including those used for storage, shall be subject to inspection and approval of the city health department or wastewater division, whose inspectors are hereby authorized to prohibit the use of any container or effluent water which is determined to be outside the parameters established in this section or is otherwise determined to present a danger to public health.
- (8) Every permittee shall provide proof of, and shall maintain in force, a policy of comprehensive general liability insurance in the amount specified by the city's risk manager under section 17-19; or shall maintain a policy of general business liability insurance in the same or greater amount with a contractual liability endorsement; and shall maintain a policy of automobile liability insurance in the minimum amounts set by state law. The city shall be named as an additional insured on the general liability insurance policies.
- (9) By acceptance of a permit under this section and/or receipt of effluent water from the city system, the permittee and/or recipient of such effluent agree to fully indemnify, save and hold harmless, the City of Corpus Christi, Texas, its agents and employees, from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, based upon or arising out of damages or injuries to person or property in any way related to or in connection with the use or distribution of effluent water under this section.
- (10) Permittees shall provide a written notice to every person to whom effluent is furnished which shall state in not less than 10-point type, substantially as follows:

**"CAUTION"**

"You are hereby advised that effluent water is the discharged water from a sewage treatment plant. The Director of Public Health has determined that improper use or handling could be harmful and recommends the following precautions:

1. Do not use effluent water for drinking, bathing, or personal hygiene purposes.
  2. Do not use effluent water for washing autos, clothes, or other personal contact items.
  3. Do not use effluent water in swimming pools or for similar recreational uses.
  4. Do not allow children to play on grass wet with effluent water, wait until it dries.
  5. Do not use effluent which has been stored for more than four (4) hours unless the chlorine residual level has been tested and is not less than one (1) part per million [one (1) mg/one (1)(p.m.)].
  6. Application of effluent shall be by coarse stream and shall not be by fine spray."
- (h) Violation of any of the cautions set forth in subsection (g)(10) of this section, by any person, is a violation of this section.
  - (i) Violation of any of the provisions of this section, in addition to the general penalties provided in this particle, shall result in denial or revocation of any such violator's effluent distribution permit.

(Ord. No. 24396, § 1, 3-20-2001; Ord. No. 24576, § 4, 9-11-2001)

**Editor's note**— Formerly numbered § 55-158.

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 one thousand two hundred (1,200) 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.

(Ord. No. 24396, § 1, 3-20-2001; Ord. No. 24576, § 4, 9-11-2001; Ord. No. 029846, § 3, 5-28-2013; Ord. No. 029946, § 1, 9-10-2013)

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 V.T.C.A., 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. Two (2.0) times the normal water charge per unit for water diversions and/or deliveries in excess of the monthly allocation up through five (5) per cent above the monthly allocation.
    - b. Two and one-half (2.5) times the normal water charge per unit for water diversions and/or deliveries in excess of the monthly allocation from five (5) per cent through ten (10) per cent above the monthly allocation.
    - c. Three (3.0) times the normal water charge per unit for water diversions and/or deliveries in excess of the monthly allocation from ten (10) per cent through fifteen (15) per cent above the monthly allocation.
    - d. Three and one-half (3.5) times the normal water charge per unit for water diversions and/or deliveries more than fifteen (15) per cent 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.

(Ord. No. 24605, § 1, 10-9-2001; Ord. No. 029846, § 3, 5-28-2013; Ord. No. 029946, § 1, 9-10-2013)

**Editor's note**— Formerly numbered § 55-159.1.

**Section 2.** That the Drought Contingency Plan adopted by Ordinance No. 029846 and amended by Ordinance 030545 be amended to reflect these changes to Section 55-152 and 55-153, and the amended Drought Plan be filed of record with the City Secretary's office. City staff is directed to submit the amended drought plan to the Texas Commission on Environmental Quality and as required by law. Staff is directed to submit a copy of the revisions to Section 55-152 and 55-153 to wholesale water customers.

**Section 3.** This ordinance shall be published in newspaper of general circulation. This Ordinance takes effect upon date of publication.

#### **Section 4. 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 5.** 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 \_\_\_\_\_, 2017, by the following vote:

Mayor McComb	_____	Ben Molina	_____
Rudy Garza	_____	Lucy Rubio	_____
Paulette Guajardo	_____	Greg Smith	_____
Michael Hunter	_____	Carolyn Vaughn	_____
Council Member	_____		

That the foregoing ordinance was read for the second time and passed finally on this the \_\_\_\_\_ day of \_\_\_\_\_, 2017, by the following vote:

Mayor McComb \_\_\_\_\_  
Rudy Garza \_\_\_\_\_  
Paulette Guajardo \_\_\_\_\_  
Michael Hunter \_\_\_\_\_  
Council Member \_\_\_\_\_

Ben Molina \_\_\_\_\_  
Lucy Rubio \_\_\_\_\_  
Greg Smith \_\_\_\_\_  
Carolyn Vaughn \_\_\_\_\_

PASSED AND APPROVED, this the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

ATTEST:

\_\_\_\_\_  
Rebecca Huerta  
City Secretary

\_\_\_\_\_  
Joe McComb  
Mayor