

**TOWN OF ADDISON, TEXAS**

**ORDINANCE NO. 011-071**

**AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING THE TOWN'S CODE OF ORDINANCES BY AMENDING ARTICLE V (DROUGHT CONTINGENCY PLAN) OF CHAPTER 34 (ENVIRONMENT) OF THE CODE AS SET FORTH HEREIN; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the recent drought conditions occurring in the Dallas-Fort Worth metroplex and throughout the State of Texas, along with plans of the City of Dallas to make certain enhancements and improvements to its water supply system of which the Town of Addison, Texas ("City") is a wholesale customer, have cause the City to evaluate changes to its drought contingency plan; and

**WHEREAS**, the changes to the City's drought contingency plan as set forth herein are adopted to protect the public health, safety and welfare and are in the best interests of the City and its citizens.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:**

Section 1. Amendment. The Code of Ordinances ("Code") of the Town of Addison, Texas ("City") is hereby amended by amending Article V, Drought Contingency Plan, of Chapter 34, Environment, of the Code to read as set forth in Exhibit A attached to this Ordinance and incorporated herein for all purposes (additions are underlined; deletions are ~~struck through~~).

Section 2. Savings; Repealer. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance. Provided, however, that the repeal of such ordinances or parts of such ordinances, and the amendments and changes made by this Ordinance, shall not affect any right, property or claim which was or is vested in the City, or any act done, or right accruing or accrued, or established, or any suit, action or proceeding had or commenced before the time when this Ordinance shall take effect; nor shall said repeals, amendments or changes affect any offense committed, or any penalty or forfeiture incurred, or any suit or prosecution pending at the time when this Ordinance shall take effect under any of the ordinances or sections thereof so repealed, amended or changed; and to that extent and for that purpose the provisions of such ordinances or parts of such ordinances shall be deemed to remain and continue in full force and effect.


Section 3. Severability. The provisions of this Ordinance, including the provisions added to the Code by Section 1 of this Ordinance, are severable, and if any section or provision of this Ordinance or the application of any section or provision to any person, firm, corporation, entity, situation or circumstance is for any reason adjudged invalid or held unconstitutional by a court of competent jurisdiction, the same shall not affect the validity of any other section or

provision of this Ordinance or the application of any other section or provision to any other person, firm, corporation, entity, situation or circumstance, and the City Council declares that it would have adopted the valid portions of this Ordinance adopted herein without the invalid or unconstitutional parts and to this end the provisions of this Ordinance adopted herein shall remain in full force and effect.

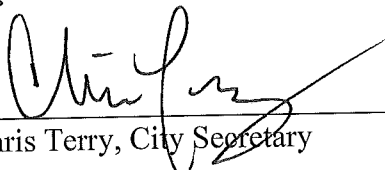
Section 4. Incorporation of Recitals. The above and foregoing recitals are true and correct and are incorporated into this Ordinance and made a part hereof for all purposes.

Section 5. Effective Date. This Ordinance shall become effective from and after its passage and approval.


**PASSED AND APPROVED** by the City Council of the Town of Addison, Texas this the 22<sup>nd</sup> day of November, 2011.

  
\_\_\_\_\_  
Todd Meier, Mayor

**ATTEST:**

By:   
\_\_\_\_\_  
Chris Terry, City Secretary

**APPROVED AS TO FORM:**

By:   
\_\_\_\_\_  
John Hill, City Attorney

**EXHIBIT A  
TO ORDINANCE NO. 011-071**

**ARTICLE V. - DROUGHT CONTINGENCY PLAN**

**Section 34-171. - Non-essential water uses.**

Water uses regulated or prohibited under this article (hereinafter referred to as the "Drought Contingency Plan" or the "Plan") are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in section 34-179 of this plan.

**Section 34-172. - Public education and notification.**

(a) The city, by and through its department of public works, shall periodically provide the public with information about the plan, including information about the conditions under which each stage of the plan is to be initiated or terminated and the drought response measures to be implemented in each stage.

(b) When drought contingency measures appear to be necessary, the public will be notified through available news media, and additional information on water conservation methods will be distributed. In the event that a trigger condition is reached, the public will be kept fully informed of the status of the drought condition through all available media.

(c) When a trigger condition has been reached and/or the City of Dallas Water Utilities Department informs the town that drought contingency measures may be necessary, the city manager of the town or the city manager's designee (for purposes of this article, "city manager") ~~duly appointed representative~~ will order the initiation of a public notification process. The public notification process will include, but is not limited to the following:

(1) A notice of drought condition will be posted at town hall, the post office, recreation center, and major supermarkets, ~~and shopping centers.~~

(2) The notice will be circulated to local newspapers and radio stations via public service announcement. Information regarding the contingency measures for the drought condition will be mailed to all water customers by means of utility bill inserts and posted on the town's web page.

**Section 34-173. - Coordination with regional water planning groups.**

The service area of the city is located within Texas Commission on Environmental Quality ("TCEQ") Region C and the Town of Addison, Texas ("town" or "city") has provided a copy of this plan to the TCEQ, City of Dallas, and State Planning Region.

**Section 34-174. - Authorization.**

The city manager, ~~or his/her designee~~, is hereby authorized and directed to implement the applicable provisions of the plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The city manager ~~or his/her designee~~, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this plan.

\*

### **Sec. 34-175. - Application.**

The provisions of this plan shall apply to all persons, customers, and property using water provided by the city. The terms "person" and "customer" as used in the plan include individuals, corporations, partnerships, associations, and all other legal entities.

### **Sec. 34-176. - Definitions.**

For the purposes of this plan, the following definitions shall apply:

*Aesthetic water use* means water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.

*Commercial and institutional water use* means water use which is integral to the operations of commercial and non-profit establishments and governmental entities such as retail establishments, hotels, and motels, restaurants, and office buildings.

*Conservation* means those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

*Customer* means any person, company, or organization using water supplied by the city.

*Domestic water use* means water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

*Even number address* means servicestreet addresses on the utility account, ~~box numbers, or rural postal route numbers~~ ending in 0, 2, 4, 6, or 8 and locations without addresses.

*Industrial water use* means the use of water in processes designed to convert materials of lower value into forms having greater usability and value.

*Landscape irrigation use* means water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-way and medians.

*Non-essential water use* means water uses that are not essential nor required for the protection of public, health, safety, and welfare, including:

- (1) Irrigation of landscape areas, including parks, athletic fields, and golf courses, except as otherwise provided under this plan;

- (2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- (3) Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- (4) Use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (5) Flushing gutters or permitting water to run or accumulate in any gutter or street;
- (6) Use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;
- (7) Use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- (8) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
- (9) Use of water from hydrants for construction purposes or any other purposes other than fire fighting.

*Odd numbered address* means servicestreet addresses on the utility account, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

**Sec. 34-177. - Triggering criteria for initiation and termination of drought response stages.**

The city purchases 100 percent of its potable water from the City of Dallas. Therefore, the emergency water management triggering measures will be the same as those of the City of Dallas. Also, triggering criteria may be initiated as a result of short term deficiencies and or emergencies specific to the Town of Addison.

Following are the triggering criteria for initiation and termination of drought response stages:

**Stage 1: ~~Water Awareness~~**

*Triggering criteria:* Total raw water supply in connected lakes drops below ~~65~~55 percent of total conservation storage, demand exceeds ~~85~~90 percent of deliverable capacity for ~~four~~three consecutive days, ~~or~~ short term deficiencies in distribution system limit supply capability, or natural or man-made contamination of the water supply source(s) occurs.

Below are examples of the types of triggering criteria that might be used in a drought contingency plan. One or a combination of such criteria may be defined for each drought response stage:

*Example 1:* When, pursuant to requirements specified in the city wholesale water purchase contract with the City of Dallas, notification is received requesting initiation of Stage 1 of the drought contingency plan.

*Example 2:* Continually falling treated water reservoir levels which do not refill above ~~60~~50 percent overnight (e.g., based on an evaluation of minimum treated water storage required to avoid system outage).

*Goal for use reduction and action available under Stage 1, ~~water awareness~~.*

The goal for water use reduction under Stage 1 is a five percent voluntary reduction in water use that would have occurred in the absence of drought contingency measures. ~~Stage 1, Awareness, is intended to raise public awareness of potential drought problems. There is no goal for reduction of water use. The city manager or the official designee may order the implementation of any of the actions listed below, as deemed necessary:~~

- The city manager ~~or designee~~ requests voluntary reductions in water use.
- Prohibit residential or commercial lawn watering and car washing between the hours of 9:00 a.m. and 8:00 p.m.
- Accelerate public information efforts to teach and encourage reduced water use.
- Staff will begin a review of the problems which initiated the Stage 1 actions.
- Intensify efforts on leak detection and repair.
- Notify major water users and work with them to achieve voluntary water use reduction.
- Reduce city government use of water for street washing, vehicle washing, operation of ornamental fountains and all other nonessential use.
- Request a reduction in landscape watering by city government.

*Termination criteria:* All initiated actions will remain in effect until the conditions which triggered Stage 1 have been alleviated and would be unlikely to recur upon termination. If Stage 1 is initiated because of excessive demands, all initiated actions will remain in effect ~~through September 30 of the year in which they were triggered, or until the city manager or the director of Dallas Water Utilities determines that these measures are no longer required.~~

### **~~Stage 2: Water Watch~~**

*Triggering criteria:* Total raw water supply in connected lakes drops below ~~55~~50 percent of total conservation storage or demand exceeds ~~90~~95 percent of deliverable capacity for threetwo consecutive days, or short term deficiencies in distribution system limit supply capability, or natural or man-made contamination of the water supply source(s) occurs. Stage 2 actions will not ordinarily be taken until Stage 1 actions have first been implemented.

*Goals for reduction and actions available under Stage 2, ~~water watch~~.*

The goal for water use reduction under Stage 2, ~~water watch~~, is a fifteen percent reduction in the use that would have occurred in the absence of drought contingency measures. All requirements implemented under Stage 1 shall remain in effect during Stage 2, and ~~t~~The city manager ~~or the official designee~~ may order the implementation of any of the actions listed below, as deemed necessary:

~~• Continue public information efforts regarding water supply conditions and conservation efforts.~~

~~• Begin mandatory water use restrictions as follows:~~

- Prohibit hosing off of paved areas, buildings or windows; operation of swimming pool draining followed by refilling, washing or rinsing vehicles by hose; using water in such a manner as to allow runoff or other water wastes.

*Exceptions:* Vehicles may be washed or rinsed with a hose at commercial car washes; vehicles may be washed at any location with a bucket or other container.

- Limit landscape watering at each service address to ~~once every five days~~two days per week based on the last digit of the address per the schedule below.

Last Digit of Address	Allowed Water <u>Days</u> <u>Dates</u>
<u>Odd Numbered Address</u> <del>0 and 5</del>	<u>Tuesday and Saturday</u> <del>5th, 10th, 15th, 20th, 25th, 30th</del>
<u>Even Number Address</u> <del>1 and 6</del>	<u>Wednesday and Sunday</u> <del>1st, 6th, 11th, 16th, 21st, 26th</del>
<del>2 and 7</del>	<del>2nd, 7th, 12th, 17th, 22nd, 27th</del>
<del>3 and 8</del>	<del>3rd, 8th, 13th, 18th, 23rd, 28th</del>
<del>4 and 9</del>	<del>4th, 9th, 14th, 19th, 24th, 29th</del>

~~No watering will be allowed on the 31st.~~ Apartments, office building complexes or other property containing multiple addresses will be identified by the lowest address number.

Where there are no numbers, a number will be assigned by the city manager~~director~~. These restrictions also apply to government facilities.

*Exceptions:* Foundations, ~~azaleas~~, and new plantings (first year) of trees and shrubs may be watered with a hand-held or soaker hose on any day for up to two

hours; nurseries may water plant stock only without restrictions; public gardens may water ~~without restriction, twice per week on Mondays and Fridays.~~

*Enforcement:* Violations of restrictions will result in a warning, and then a citation may be issued with a fine not to exceed \$2,000.00 per incident.

*Termination criteria:* All initiated actions will remain in effect until the conditions which triggered Stage 2 have been alleviated and would be unlikely to recur upon termination. If Stage 2 is initiated because of excessive demands, all initiated actions will remain in effect ~~through September 30 of the year in which they were triggered, or~~ until the city manager or the director of Dallas Water Utilities determines that conditions exist which will allow removal of Stage 2 actions.

### **Stage 3: Water Warning**

*Triggering criteria:* Total raw water supply in connected lakes drops below 4535 percent of total conservation storage, or demand exceeds 95 percent of deliverable capacity for two ~~five~~ consecutive days, short term deficiencies in distribution system limit supply capability, or natural or man-made contamination of the water supply source(s) occurs. Stage 3 actions will not ordinarily be taken until Stage 2 actions have first been implemented.

*Goals for reduction and actions available under Stage 3, ~~water warning.~~*

The goal for water use reduction under Stage 3, ~~water warning,~~ is a 20 percent reduction in the use that would have occurred in the absence of drought contingency measures. All requirements implemented in Stages 1 and 2 shall remain in effect, and ~~t~~The city manager ~~or the official designee~~ may order the implementation of any of the actions listed below, as deemed necessary:

- ~~• Implement and recommend engineering alternatives.~~
- ~~• Continue implementation of all restrictions from previous stages.~~
- Commercial and residential landscape watering will be limited to foundations, shrubs, and trees, which may be watered with soaker or hand-held hose on the same two days per week ~~five-day rotational basis set forth in the schedule in Stage 2 above~~ and landscapes for up to two hours.
- Public gardens may water on the same two days per week basis set forth in the schedule in Stage 2 above ~~only between the hours of 9:00 p.m. and 9:00 a.m.~~
- Nurseries may water plant stock only between the hours of 9:00 p.m. and 9:00 a.m.
- Prohibit operations of ornamental fountains, except where necessary to support aquatic life or where equipped with a recirculation system.

*Enforcement:* Violations of restrictions will result in a warning, and then a



citation may be issued with a fine not to exceed \$2,000.00 per incident.

*Termination criteria:* All initiated actions will remain in effect until the conditions which triggered Stage 3 have been alleviated and would be unlikely to recur upon termination. If Stage 3 is initiated because of excessive demands, all initiated actions will remain in effect ~~through September 30 of the year in which they were triggered, or until the city manager or the director of Dallas Water Utilities determines that conditions exist which will allow removal of Stage 3 actions.~~

#### **Stage 4: ~~Water Emergency~~**

*Triggering criteria:* Total raw water supply in connected lakes drops below ~~30~~20 percent of total conservation storage, ~~or demand exceeds 98-100 percent of deliverable capacity for onetwo consecutive days, short term deficiencies in distribution system limit supply capability, or natural or man-made contamination of the water supply source(s) occurs.~~ Stage 4 actions will not ordinarily be taken until Stage 3 actions have first been implemented.

*Goals for reduction and actions available under Stage 4, ~~water emergency:~~*

The goal for water use reduction under Stage 4, ~~water emergency,~~ is a 25 percent reduction in the use that would have occurred in the absence of drought contingency measures. If circumstances warrant or if required by Dallas Water Utilities (“DWU”), city manager ~~or the official designee~~ can set a goal for a greater water use reduction.

The city manager ~~or the official designee~~ must implement any action(s) required by DWU. In addition, the city manager ~~or the official designee~~ may order the implementation of any of the actions listed below, as deemed necessary. All requirements implemented in Stages 1, 2 and 3 shall remain in effect during Stage 4. Measures described as “requires notification to TCEQ” impose mandatory requirements on customers. The supplier must notify TCEQ within five business days if these measures are implemented:

- ~~• Continue implementation of all restrictions from previous stages.~~
- Prohibit all commercial and residential landscape watering with the following exceptions:
  - Nurseries' plant stock may be watered between the hours of 9:00 p.m. and 9:00 a.m. two days per week, once every five days based on the last digit of their address per the schedule in Stage 2.
  - Public gardens may water foundations, shrubs and trees between the hours of 9:00 p.m. and 9:00 a.m. two days per week, once every five days based on the last digit of their address per the schedule in Stage 2.
  - Foundations may be watered for a two-hour period between the hours of 9:00 p.m. and 9:00 a.m. with a soaker or hand-held hose on

the ~~two day per week~~ ~~five day~~ rotational basis prescribed for landscape watering in Stage 2.

- Any and all washing of vehicles is prohibited.
- All commercial water users may be required to reduce water consumption by a percentage determined by the ~~city manager~~ director.

*Enforcement:* Violations of restrictions will result in a warning, and then a citation may be issued with a fine not to exceed \$2,000.00 per incident.

*Termination criteria:* All initiated actions will remain in effect until the conditions which triggered Stage 4 have been alleviated and are unlikely to recur upon termination. If Stage 4 is initiated because of excessive demands, all initiated actions will remain in effect ~~through September 30 of the year in which they were triggered, or until the city manager or the~~ director of Dallas Water Utilities determines that conditions exist which will allow removal of Stage 4 actions.

### **~~Stage 5: Emergency Water Shortage~~**

(a) *System outage due to major water system components—Triggering criteria:* A system outage to one of the town's two water pump stations, which are located at each end of town. In the event of such outage, the second pump station will be used. In addition, the Town of Addison has four City of Dallas emergency stand-by meters connected to the town's distribution system that can be used to supplement the town's supply after notification to the City of Dallas.

*Goals for reduction and actions available under Stage 5, ~~emergency water shortage:~~*

The goal for water use reduction under Stage 5, ~~emergency water shortage,~~ is a reduction to prevent public health emergencies that would have occurred in the absence of drought contingency measures. If circumstances warrant or if required by Dallas Water Utilities (“DWU”), city manager ~~or the official designee~~ can set a goal for a greater water use reduction.

The city manager ~~or the official designee~~ must implement any action(s) required by DWU. In addition, the city manager ~~or the official designee~~ may order the implementation of any of the actions listed below, or other actions not included, as deemed necessary. Measures described as “requires notification to TCEQ” impose mandatory requirements on member cities and customers. The supplier must notify TCEQ within five business days if these measures are implemented:

- Initiate or continue implementation of all restrictions from previous stages as directed by the city manager ~~or his designee~~.
- Prohibit all commercial and residential landscape watering. All commercial water users will be required to reduce water consumption by a percentage determined by the city manager ~~or his designee~~.

(b) *Supply source contamination special precautions—Triggering criteria:* Water system contamination caused by low distribution pressures (below 20 psi), repeated

unacceptable microbiological samples, or failure to maintain adequate chlorine residuals. In the event of such contamination, the affected area shall be isolated from the distribution system immediately and special precautions shall be taken in accordance with subsection (q), "Special Precautions," of Section 290.46, "Minimum Acceptable Operating Practices for Public Drinking Water Systems," of Subchapter D, "Rules and Regulations for Public Water Systems," of Chapter 290, "Public Drinking Water," of Part 1, "Texas Commission on Environmental Quality," of Title 30, "Environmental Quality," of the Texas Administrative Code, in its current form and as it may hereafter be amended.

Water customers in the affected area shall be notified immediately with a "boil water notice" and a letter explaining the situation and containing recommendations to the water customer regarding the use of bottled water. The "Flow chart" contained in Appendix H of Section 290.47, "Appendices," of Subchapter D, "Rules and Regulations for Public Water Systems," of Chapter 290, "Public Drinking Water," of Part 1, "Texas Commission on Environmental Quality," of Title 30, "Environmental Quality," of the Texas Administrative Code, in its current form and as it may hereafter be amended, shall be used to evaluate the response measures necessary to correct the condition.

Actions available (applied to all affected customers).

- Hand deliver boil water notice to all water customers affected.
- Prohibit all water usage for human consumption for 24 to 36 hours, as determined by the city manager or his designee.

*Enforcement:* Violations of restrictions will result in a warning, and then a citation may be issued with a fine not to exceed \$2,000.00 per incident.

*Termination criteria:* All initiated actions will remain in effect until the conditions which triggered Stage 5 have been alleviated. If Stage 5 is initiated because of water supply contamination, all initiated actions will remain in effect until the city manager or his designee determines that conditions exist which will allow removal of Stage 5 actions.

### **Sec. 34-178. - Variances.**

(a) *Temporary variances.* The city manager (~~designated official~~), or his/her designee, may, in writing, grant temporary variance for existing water uses otherwise prohibited under this plan if it is determined that failure to grant such a variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:

- (1) Compliance with this plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the plan is in effect.
- (2) Alternative methods can be implemented which will achieve the same level of reduction in water use.

(b) *Exemptions.* Persons requesting an exemption from the provisions of this article shall file a petition for a variance with the city within 5 days after the plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the city manager, ~~or his/her designee~~, and shall include the following:

- (1) Name and address of the petitioner(s).
- (2) Purpose of water use.
- (3) Specific provision(s) of the plan from which the petitioner is requesting relief.
- (4) Detailed statement as to how the specific provision of the plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this article.
- (5) Description of the relief requested.
- (6) Period of time for which the variance is sought.
- (7) Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this plan and the compliance date.
- (8) Other pertinent information as may be required by the city manager ~~or his designee~~.

(c) *Special conditions.* Variances granted by the city manager ~~or his designee~~ shall be subject to the following conditions, unless waived or modified by the city manager ~~(designated official) or his/her designee~~:

- Variances granted shall include a timetable for compliance.
- Variances granted shall expire when the plan is no longer in effect, unless the petitioner has failed to meet specified requirements.

No variance shall be retroactive or otherwise justify any violation of the plan occurring prior to the issuance of the variance.

**Sec. 34-179. - Penalty.**

It shall be unlawful for any person to violate any provision of this article, and any person violating or failing to comply with any provision hereof shall be fined, upon conviction, in an amount not more than \$2,000.00, and a separate offense shall be deemed committed each day during or on which a violation occurs or continues.