

ORDINANCE NO. 7072

AN ORDINANCE AMENDING CHAPTER 51, "GENERAL UTILITY PROVISIONS", OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A PENALTY CLAUSE, A SAVINGS CLAUSE, AND A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1

That Article VI of Chapter 51, "General Utility Provisions", of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"ARTICLE VI. WATER RESOURCE EMERGENCY MANAGEMENT PLAN

Sec. 51.90 Declaration of policy, purpose, and intent

(A) In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection; and to protect and preserve public health, welfare, and safety; minimize the adverse impacts of a water supply shortage or other water supply emergency conditions, the following regulations and restrictions on the delivery and consumption of water are hereby adopted.

(B) Water uses regulated or prohibited under this water resource emergency management plan (the "plan") are considered to be nonessential and the continuation of such uses during times of a water shortage or other emergency water supply conditions are deemed to constitute a waste of water that will subject offenders to both civil and criminal fines and penalties.

Sec. 51.91 Definitions

In this article:

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

(2) Aquatic life means a vertebrate organism dependent upon an aquatic environment to sustain its life.

(3) Athletic Field means a sports competition field used primarily for organized sports practice, competition or exhibition events for schools, professional sports or sanctioned league play.

(4) Automatic Shutoff Nozzle means a device which permits water to flow through it only when outside pressure is applied.

(5) Cool season grasses means varieties of turf grass that grow best in cool climates primarily in northern and central regions of the United States (i.e. perennial and annual rye grass, Kentucky blue grass and fescues).

(6) Commercial users means commercial, institutional and industrial customers using water that is integral to its operations.

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

(8) Customer means any person (as that term is defined in section 10.03 of this Code) using or receiving water supplied by the City.

(9) Director means the Managing Director of Water, Wastewater, and Water Recycling of the City, his or her designee, or such other individual to whom the City Manager has appointed the duties and authority under this article.

(10) Drip irrigation (also known as micro irrigation) means the application of small quantities of water as drops, small streams or miniature sprays through emitters of applicators placed along a water delivery line. The drip method encompasses a number of systems or concepts such as bubbler, dripper, trickle, line source mist or miniature spray.

(11) Landscaped areas mean areas of decorative plantings of vegetation generally consisting of shrubs, vines, groundcovers, trees, ornamental trees, and decorative grass species that are planted to improve aesthetic

qualities or natural beauty of a site and/or to stabilize the soil conditions, thereby minimizing water runoff. These areas may also include vegetation planted in containers intended to supplement or highlight areas of the landscape or garden.

(12) 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.

(13) Lawns mean an open area covered by closely mown and cultivated perennial turf grass.

(14) Soaker hose means a type of water hose made of porous material that allows water to seep out of the hose without spraying water into the air.

Sec. 51.92 Triggering criteria for initiation and termination of emergency response stages

(A) The Director shall monitor water supply or demand conditions on a daily basis and will determine when conditions warrant the initiation or termination of any emergency response stage of the plan. The Director shall endeavor to provide public notification of the initiation or termination of an emergency response stage by means of publication of notice in a newspaper of general circulation in the City, the "City Press," and the City's internal website, by posting notices on the City's public access CATV channel, and social media channels, through Customer mailings when applicable, and by posting signs in City buildings. The Director shall endeavor to notify North Texas Municipal Water District ("NTMWD") by telephone and a follow-up letter, e-mail, or fax when an emergency response stage is initiated. The Director shall notify the executive director of the TCEQ within 5 business days when any mandatory provisions of the plan are activated.

(B) When the Director determines that a water shortage or water supply emergency requires activation of the plan, the provisions of the plan shall go into effect immediately upon the first publication of notice and shall remain in effect until terminated by the Director.

(C) The Director may order the termination of an emergency response stage or water emergency when the conditions for termination are met or at his discretion. The Director may decide not to order the

termination of an emergency response stage or water emergency even though the conditions for termination of the stage are met. Factors which could influence such a decision include, but are not limited to, the time of the year, weather conditions, or the anticipation of potential changed conditions that warrant the continuation of the emergency response stage. The Director shall endeavor to take the following actions when an emergency response stage is terminated:

(1) Notify the public by means of publication of notices in a newspaper of general circulation in the City; publication in the "City press"; posting notices on the City's website, social media channels, and on the City's public access CATV channel; through Customer mailings, if applicable, and by posting signs in City buildings;

(2) Notify the NTMWD in a timely manner; and

(3) Notify the executive director of the TCEQ within five (5) business days that activated mandatory provisions of the plan are terminated.

(D) Depending on the circumstances prevailing at the time the plan is put into effect, the Director may determine that a water shortage or other water supply emergency exists under one of the following stages:

(1) Stage 1.

(a) Requirements for initiation. The Director may initiate restrictions on certain nonessential water uses applicable to a Stage 1 water shortage when:

(i) The City's wholesale water provider, NTMWD, notifies the Director of delivery or source shortages, requests initiation of Stage 1 of the plan, and the Director concurs;

(ii) Total daily water demand exceeds 95 percent of the amount that can be delivered to Customers for three consecutive days;

(iii) Water demand for all or part of the delivery system equals delivery capacity because delivery capacity is inadequate;

(iv) Supply source becomes contaminated;

(v) Water system is unable to deliver water due to the failure or damage of major water system components; or

(vi) The water system experiences continually falling treated water storage levels that do not refill above 65 percent overnight.

(b) Stage 1 may terminate when the circumstances that caused the initiation of Stage 1 no longer prevail and the Director authorizes.

(2) Stage 2.

(a) Requirements for initiation. The Director may initiate restrictions on certain nonessential water uses applicable to a Stage 2 water shortage when:

(i) The City's wholesale water provider, NTMWD, notifies the Director of delivery or source shortages, requests initiation of Stage 2 of the plan, and the Director concurs;

(ii) Total daily water demand exceeds 98 percent of the amount that can be delivered to Customers for three consecutive days;

(iii) Water demand for all or part of the delivery system exceeds delivery capacity because delivery capacity is inadequate;

(iv) Supply source becomes contaminated;

(v) Water system is unable to deliver water due to the failure or damage of major water system components; or

(vi) The water system experiences continually falling treated water storage levels that do not refill above 50 percent overnight.

(b) Stage 2 may terminate when the circumstances that caused the initiation of Stage 2 no longer prevail and the Director authorizes.

(3) Stage 3.

(a) Requirements for initiation. The Director may initiate restrictions on certain nonessential water uses applicable to a Stage 3 water shortage when:

(i) The City's wholesale water provider, NTMWD, notifies the Director of delivery or source shortages, requests initiation of Stage 3 of the plan, and the Director concurs;

(ii) Total daily water demand exceeds the amount that can be delivered to Customers;

(iii) Water demand for all or part of the delivery system seriously exceeds delivery capacity because delivery capacity is inadequate;

(iv) Supply source becomes contaminated;

(v) Water supply system is unable to deliver water due to the failure or damage of major water system components; or

(vi) The water system experiences continually falling treated water storage levels that do not refill above 20 percent overnight.

(b) Stage 3 may terminate when the circumstances that caused the initiation of Stage 3 no longer prevail and the Director authorizes.

Sec. 51.93 Emergency Response Stages

Based upon an analysis of water supply and demand conditions and in accordance with the triggering criteria set forth above, the Director may implement the following responses as appropriate to the water shortage or water emergency being experienced.

(1) Stage 1. The goal for water use reduction under Stage 1 is a two percent (2%) reduction in the use that would have occurred in the absence of emergency management measures. During a Stage 1 shortage:

(a) The City will, in the manner it deems necessary and appropriate, endeavor to:

(i) Accelerate public education efforts on ways to reduce water use.

(ii) Halt nonessential City government water use.

(iii) Encourage the public to wait until the current drought or emergency situation has passed before establishing new landscaping.

(iv) The City will, in the manner it deems necessary and appropriate, endeavor to implement viable alternative supply strategies.

(v) Allow irrigation in Stage 1 as follows:

A. Between April 1 and October 31, irrigation of landscape areas, foundations, trees and lawns with hose-end sprinklers or automatic irrigation systems is prohibited except on Tuesdays and Saturdays; and from November 1 to March 31 the irrigation of landscape areas, foundations, trees and lawns with hose-end sprinklers or automatic irrigation systems is limited to once a week as approved by the Director. An exception is allowed where establishment of vegetation is required by TCEQ for storm water permits on new construction.

B. Irrigation of landscape areas, foundations, and trees is allowed on any day provided it is accomplished using a handheld hose equipped with an automatic shutoff nozzle, a hose-filled bucket or watering can of five (5) gallons or less, a soaker hose, or a drip irrigation system. Excessive run-off is prohibited.

C. The City and School District may water parks, sports fields, landscaped and lawn areas of medians and parkways, or other municipal facilities throughout the week in a manner that achieves the equivalent of two water days between April 1 and October 31 and from November 1 to March 31 the equivalent of once a week as approved by the Director.

D. Except for hand watering with an automatic shutoff nozzle, or the use of soaker hoses or drip irrigation systems, irrigation of lawns or landscape areas is prohibited between the hours

of 10:00 a.m. and 6:00 p.m. from April 1 to October 31.

(vi) Discourage over seeding of cool season turf grasses (such as rye grass or other similar grasses) that intensify cool season water requirements, except where establishment of vegetation is required by TCEQ for storm water permits on new construction.

(2) Stage 2. The goal for water use reduction under Stage 2 is a reduction of ten percent (10%) in the use that would have occurred in the absence of emergency management measures. During a Stage 2 shortage:

(a) The City will endeavor to continue or initiate actions available under stage 1.

(b) The City will, in the manner it deems necessary and appropriate, endeavor to implement viable alternative water supply strategies.

(c) The operation of any ornamental fountain or pond for aesthetic or scenic purposes, if it uses potable water, is prohibited except when necessary to support aquatic life.

(d) The use of water to wash down sidewalks, walkways, driveways, parking lots, tennis courts, or other hard surfaces areas is prohibited except for human health and safety purposes. Use of water for dust control on construction projects is permitted to the extent allowed or required by law or regulation.

(e) Use of water to wash any vehicle, including without limitation a motor vehicle, motorcycle, boat, trailer, or airplane, is prohibited unless the source of water is equipped with an automatic shutoff nozzle that will stop the flow of water when that flow is not needed to rinse the vehicle being washed.

(f) Use of water in such a manner as to allow excessive water runoff or other waste is prohibited. Water runoff is excessive when it extends for a distance greater than ten (10) feet from the property's boundary lines; onto an adjacent property; or ten (10) feet past the targeted irrigation area for commercial sites.

Excessive water runoff is cause for termination of water service.

(g) Irrigation is allowed in Stage 2 as follows:

(i) Between April 1 and October 31, irrigation of landscape areas, foundations, trees and lawns with hose-end sprinklers or automatic irrigations systems is limited to one day per week on the day designated for residential trash pickup in Customer's area; and from November 1 to March 31 the irrigation of landscaped areas, foundations, trees and lawns with hose-end sprinklers or automatic irrigation systems is limited to one day every other week on the day designated for collection of recyclable materials in Customer's area.

(ii) The City and School District may water parks, sports fields, landscaped and lawn areas of medians and parkways, or other municipal facilities throughout the week in a manner that achieves the equivalent of one water day between April 1 and October 31 and from November 1 to March 31 the equivalent of once every other week as approved by the Director.

(iii) Irrigation of landscaped areas, trees, lawns or foundations is permitted at any time if it is done by means of a handheld hose equipped with an automatic shutoff nozzle, soaker hoses, or by drip irrigation except that water runoff continues to be prohibited.

(iv) Golf courses using potable water may water fairways on designated watering days only, but may water greens and tee boxes as necessary. Athletic fields may be watered as necessary to insure the safety and well-being of the public.

(v) An exception is allowed where establishment of vegetation is required by TCEQ for storm water permits on new construction.

(vi) Irrigation systems may run for ten (10) minutes per station to test and repair the system and insure proper operation.

(vii) Except for hand watering with a hand-held hose equipped with an automatic shutoff nozzle, or the use of soaker hoses or drip irrigation systems, irrigation of lawns or landscape areas is prohibited between the hours of 10:00 a.m. and 6:00 p.m. from April 1 to October 31.

(h) Existing swimming pools, wading pools, hot tubs or spa-type pools may not be drained and refilled; provided however that water may be added to swimming pools to replace losses during normal use or may be refilled immediately after repair by a commercial pool company.

(i) Discourage hydroseeding, hydromulching, and sprigging, except where establishment of vegetation is required by TCEQ for stormwater permits on new construction.

(3) Stage 3. The goal for water use reduction under Stage 3 is a reduction of whatever amount is deemed necessary under the circumstances to accomplish objectives of this Article. During a Stage 3 shortage:

(a) The City may continue or initiate any actions available under Stages 1 and 2.

(b) The City will, in the manner it deems necessary and appropriate, endeavor to implement viable alternative water supply strategies.

(c) Use of water to wash any vehicle at any location other than a commercial vehicle washing facility, including without limitation a motor vehicle, motorcycle, boat, trailer, or airplane, is prohibited unless for health, sanitation or safety reasons and for essential governmental purposes. A hose-end automatic shutoff nozzle must be used for this exception.

(d) Irrigation of landscape areas, foundations, trees and lawns with hose-end sprinklers or automatic irrigation systems is prohibited. Landscape areas, foundations, and trees may be watered for up to 2 hours on any day by a handheld hose equipped with an automatic shutoff nozzle, a soaker hose, or a drip irrigation system. Athletic fields may be watered as necessary to

insure the safety and wellbeing of the public. Runoff continues to be prohibited.

(e) Permitting of pools is prohibited. Pools already permitted may be completed and filled with water. Existing pools may add water to maintain pool levels but may not be drained and refilled.

(f) Discourage the establishment of new landscaping. An exception is allowed where establishment of vegetation is required by TCEQ for storm water permits on new construction.

(g) Prohibit golf course watering with potable water except for greens and tee boxes.

(h) Require all commercial users to reduce water use by a percentage established by the City Manager or his designee.

(i) The operation of any ornamental fountain or pond for aesthetic or scenic purposes, if it uses potable water, is prohibited except where necessary to support aquatic life.

Sec. 51.94 Water rationing surcharges

Surcharges on water consumption may be imposed and collected during any emergency response stage approved by the Council.

Sec. 51.95 Enforcement

Water use restrictions imposed in Stage 1, 2 and 3 emergency response stages may be enforced as follows:

(1) Upon the first or a subsequent violation, a Customer may be issued a citation, with minimum and maximum fines as established by ordinance.

(2) Upon the second or a subsequent violation, the City may terminate water service to the Customer. Services discontinued pursuant to this subsection will be restored only upon payment of a reconnection charge as set forth in section 50.30(D)(1)(b) of this Code.

(3) Any person in apparent control of the premises where a violation occurs or originates is presumed to be the

violator, and proof that the violation occurred on the person's premises constitutes a rebuttal presumption that the person in apparent control of the property committed the violation. Parents are presumed to be responsible for violations of their minor children and proof that a violation committed by a child occurred on premises under the parent's control constitutes a rebuttal presumption that the parent committed the violation. The presumption may be rebutted by proof that the parent had previously directed the child not to use the water as it was used in violation of the plan and that the parent could not have reasonably known of the violation.

Sec. 51.96 Variances

(A) The Director may, in writing, grant a temporary variance of existing water uses otherwise prohibited under the plan if the Director determines that the failure to grant such a variance would cause an emergency condition adversely affecting the public health, safety or welfare, or the person requesting the variance would suffer an undue hardship and the person demonstrates that:

(1) Compliance with the plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the plan is in effect; or

(2) Alternative methods can be implemented which will achieve a similar level of reduction in water use.

(B) A petition for a variance must include the following:

(1) The name and address of petitioners;

(2) The purpose of the intended water use;

(3) The specific requirement of the plan from which the petitioner is requesting relief;

(4) A detailed statement as to how the specific requirement creates a hardship unique to the petitioner or adversely affects the petitioner, and a statement as to what damage or harm will occur to the petitioner or others if the petitioner complies with this article;

(5) A description of the relief requested;

(6) The period of time for which the variance is sought;
and

(7) A description of what alternative water use restrictions or other measures the petitioner is taking or proposes to take in order to meet the intent of this plan.

(C) Unless waived or modified in writing by the Director, a variance granted under this section shall include a timetable for compliance and shall contain a condition terminating the variance if the petitioner fails to meet a specified requirement of the variance.

(D) No variance will be retroactive or otherwise justify any violation of this plan that occurs prior to the issuance of the variance.

Sec. 51.97 Provisions to inform the public and opportunity for public comment

The City will provide the opportunity for public input in the development of this water resource emergency plan by the following means:

(1) Providing written notice of the proposed plan and opportunity to comment on the plan by newspaper, posted notice and/or notice on the City's website;

(2) Providing the draft plan to anyone requesting a copy;
and

(3) Holding a public meeting to give the public the opportunity to provide input on the plan. The meeting will be held at a time and location convenient to the public.

Sec. 51.98 Provisions for continuing public education and information

(A) The City will inform and educate the public about the water resource emergency plan by the following means:

(1) Preparing a bulletin describing the plan and making it available at City Hall and other appropriate locations;

(2) Making the plan available to the public through the City's website;

(3) Including information about the water resource emergency plan on the City's website; and

(4) Notifying local organizations, schools, and civic groups that staff are available to make presentations on the plan (usually in conjunction with presentations on water conservation programs).

(B) At any time that the plan is activated or the emergency response stage changes, the City will notify local media of the issues, the current emergency response stage, and the specific actions required of the public. The information will also be publicized on the City's website and social media channels. Billing inserts will also be used as appropriate.

Sec. 51.99 Coordination with the regional water planning group

A letter will be sent to the chair of the Region C water planning group with a copy of this water resource emergency plan. The City will also send a copy of this water resource emergency plan to NTMWD.

Sec. 51.99.1 Review and update of water resource emergency plan

As required by TCEQ rules, the City will review and update the water resource emergency plan every five years. The plan will be updated as appropriate based on new or updated information."

SECTION 2

That, except as otherwise provided in this Ordinance, a violation of any provision of this Ordinance shall be a misdemeanor punishable in accordance with Section 10.05 of the Code of Ordinances of the City of Garland, Texas. The City's authority to seek injunctive relief or other civil relief available under the law is not limited by this section.

SECTION 3

That Chapter 51, "General Utility Provisions", of the Code of Ordinances of the City of Garland, Texas, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

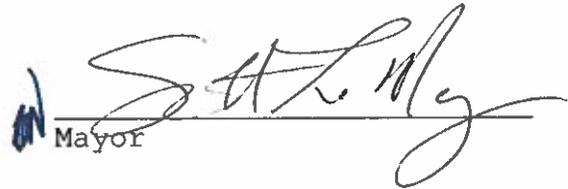
SECTION 4

That terms and provisions of this Ordinance are severable and are governed by Section 10.06 of the Code of Ordinances of the City of Garland, Texas.

SECTION 5

That this Ordinance shall be and become effective immediately upon and after its passage and approval.

PASSED AND APPROVED this the 18th day of June, 2019.
CITY OF GARLAND, TEXAS


Mayor

ATTEST:

City Secretary

