

**ORDINANCE 2019-0415-04**

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

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

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

**WHEREAS**, Section 12.1272 of the Texas Water Code and applicable rules of the Texas Natural Resource Conservation Commission require all public water supply systems in Texas to prepare a drought contingency plan; and

**WHEREAS**, as authorized under law, and in the best interest of the citizens of Lorena, Texas, the City Council deems it expedient and necessary to establish certain rules and policies for the orderly and efficient management of limited water supplies during drought and other water supply emergencies;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY OF LORENA, TEXAS:**

**SECTION 1.**

That the City of Lorena, Texas, Drought Contingency Plan attached hereto as Exhibit "A" and made part hereof for all purposes be, and the same is hereby, adopted as the official policy of the City.

**SECTION 2.**

That all ordinances that are in conflict with the provisions of this ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3.

Should any paragraph, sentence, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

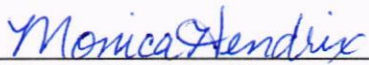
SECTION 4.

This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.

PASSED AND APPROVED THIS 15<sup>TH</sup> DAY OF APRIL 2019.

  
\_\_\_\_\_  
Chuck Roper, Mayor

ATTEST:

  
\_\_\_\_\_  
Monica Hendrix, City Secretary



# Exhibit "A"

## **DROUGHT CONTINGENCY PLAN FOR THE CITY OF LORENA**

April 9, 2019

### **Section I: Declaration of Policy, Purpose, and Intent**

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 and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the City of Lorena, hereby adopts the following regulations and restrictions on the delivery and consumption of water.

Water uses regulated or prohibited under this Drought Contingency Plan (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 XI of this Plan.

### **Section II: Public Involvement**

Opportunity for the public to provide input into the preparation of the Plan was provided by the City of Lorena by means of monthly City Council meetings.

### **Section III: Public Education**

The City of Lorena will 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. This information will be provided by means of a press release and utility bill inserts.

### **Section IV: Coordination with Regional Water Planning Groups**

The service area of the City of Lorena is located within the Brazos Region and the City of Lorena has provided a copy of this Plan to the Brazos River Authority.

### **Section V: Authorization**

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

### **Section VI: Application**

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

## Section VII: Definitions

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

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

Commercial and institutional water use: 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: 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: any person, company, or organization using water supplied by City of Lorena.

Domestic water use: 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: street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.

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

Landscape irrigation use: 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: water uses that are neither essential nor required for the protection of public, health, safety, and welfare, including:

- (a) irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this Plan;
- (b) use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- (c) use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- (d) use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (e) flushing gutters or permitting water to run or accumulate in any gutter or street;
- (f) use of water to fill, refill, or add to any indoor or outdoor swimming pools or jacuzzi-type pools;
- (g) use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- (h) failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
- (i) use of water from hydrants for construction purposes or any other purposes other than firefighting.

Odd numbered address: street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

## **Section VIII: Criteria for Initiation and Termination of Drought Response Stages**

The Mayor, or his/her designee shall monitor water supply and/or demand conditions on a daily basis and shall determine when conditions warrant initiation or termination of each stage of the Plan, that is, when the specified "triggers" are reached.

The triggering criteria described below are based on known system capacity limits.

### **Stage 1 Triggers - MILD Water Shortage Conditions**

#### Requirements for initiation

Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain water uses, defined in Section VII- Definitions, when the total daily water demand equals or exceeds 1 million gallons for three (3) consecutive days or water pressure in the distribution system remains below 45 psi for more than six (6) consecutive hours.

#### Requirements for termination

Stage I of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days.

### **Stage 2 Triggers - MODERATE Water Shortage Conditions**

#### Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses provided in Section IX of this Plan when the total daily water demand equals or exceeds 1.1 million gallons for three (3) consecutive days or water pressure in the distribution system remains below 40 psi for more than six (6) consecutive hours, or ground storage reservoirs remain below 80 percent of the total storage for more than two (2) consecutive days, or failure of one well during a simultaneous period.

#### Requirements for termination

Stage 2 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of Stage 2, Stage 1 becomes operative.

### **Stage 3 Triggers - SEVERE Water Shortage Conditions**

#### Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 3 of this Plan when the total daily water demand equals or exceeds 1.2 million gallons for three (3) consecutive days or failure of one (1) well or imminent failure of system components where immediate health or safety hazards exist.

#### Requirements for termination

Stage 3 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of Stage 3, Stage 2 becomes operative.

## **Stage 4 Triggers - EMERGENCY Water Shortage Conditions**

### Requirements for initiation

Customers shall be required to comply with the requirements and restrictions for Stage 4 of this Plan when Mayor, or his/her designee, determines that a water supply emergency exists based on:

1. Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; or
2. Failure of (2) two wells during the months of June, July, and August or
3. Natural or man-made contamination of the water supply source(s).

### Requirements for termination

Stage 4 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist.

## **Section IX: Drought Response Stages**

The Mayor, or his/her designee, shall monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in Section VIII of this Plan, shall determine that a mild, moderate, severe, critical, emergency or water shortage condition exists and shall implement the following notification procedures:

Notification:

### Notification of the Public

The Mayor or his/ her designee shall notify the public by means of:

- (1) publication in a newspaper of general circulation,
- (2) direct mail to each customer,
- (3) public service announcements,
- (4) signs posted in public places.

### Additional Notification

The Mayor or his/ her designee shall notify directly, or cause to be notified directly, the following individuals and entities:

- (1) Mayor and members of the City Council
- (2) Fire Chief
- (3) County Emergency Management Coordinator
- (4) TCEQ (*required when mandatory restrictions are imposed*)

## **Stage 1 Response - MILD Water Shortage Conditions**

### Goal

Achieve a voluntary reduction in total water use.

### Supply Management Measures

The City of Lorena in an effort to manage limited water supplies and/or reduce water demand will reduce or discontinue flushing of water mains, reduce or discontinue irrigation of public landscaped areas.

Voluntary Water Use Restrictions

(a) Water customers are requested to voluntarily limit the irrigation of landscaped areas to Mondays, Thursdays, and Saturdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Tuesdays, Fridays and Sundays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and to irrigate landscapes only between the hours of 6:00 A.M. to 10:00 A.M. and 8:00 P.M. to 10:00 P.M. on designated watering days. NO WATERING ON WEDNESDAYS. The City will publicize watering schedule.

(b) All operations of the City of Lorena 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.

**Stage 2 Response - MODERATE Water Shortage Conditions**

Goal

Achieve a 20 percent reduction in total water use.

Supply Management Measures

The City of Lorena in an effort to manage limited water supplies and/or reduce water demand will reduce or discontinue flushing of water mains, reduce or discontinue irrigation of public landscaped areas.

Water Use Restrictions

Under threat of penalty for violation, the following water use restrictions shall apply to all persons:

- (a) Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Mondays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Tuesdays and Fridays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and irrigation of landscaped areas is further limited to the hours of 6:00 A.M. until 10:00 A.M. and between 8:00 P.M. and 10:00 P.M. on designated watering days. NO WATERING ON WEDNESDAYS, SATURDAYS, OR SUNDAYS.
- (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days between the hours of 6:00 A.M. and 10:00 A.M. and between 8:00 P.M. and 10:00 P.M. Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rises. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public are contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.

- (c) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited except on designated watering days between the hours of 6:00 A.M. and 10:00 A.M., and between 8 P.M. and 10:00 P.M.
- (d) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculating system.
- (e) 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 Lorena.
- (f) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours 6:00 A.M. and 10:00 A.M. and between 8 P.M. and 10:00 P.M. However, if the golf course utilizes a water source other than that provided by the City of Lorena, the facility shall not be subject to these regulations.
- (g) All restaurants are prohibited from serving water to patrons except upon request of the patron.
- (h) The following uses of water are defined as non-essential and are prohibited:
  - 1. Wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
  - 2. Use of water to wash clown buildings or structures for purposes other than immediate fire protection;
  - 3. Use of water for dust control;
  - 4. Flushing gutters or permitting water to run or accumulate in any gutter or street; and
  - 5. Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

### **Stage 3 Response - SEVERE Water Shortage Conditions**

#### Goal

Achieve a 30 percent reduction in total water use.

#### Supply Management Measures

The City of Lorena in an effort to manage limited water supplies and/or reduce water demand will reduce or discontinue flushing of water mains, reduce or discontinue irrigation of public landscaped areas.



### Water Use Restrictions

All requirements of Stage 2 shall remain in effect during Stage 3 except:

- (a) No Outdoor water use.
- (b) The filling, refilling, or adding of water to swimming pools, wading pools, and jacuzzi-type pools is prohibited.
- (c) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculating system.
- (d) 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 or a higher-numbered stage shall be in effect.

### **Stage 4 Response - EMERGENCY Water Shortage Conditions**

#### Goal

Discontinue all water system operations.

#### Supply Management Measures

The City of Lorena will initiate emergency response procedures.

#### Water Use Restrictions

### **Section X: Enforcement**

- (a) No person shall knowingly or intentionally allow the use of water from the City of Lorena for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this Plan, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by Mayor, or his/her designee, in accordance with provisions of this Plan.
- (b) Any person who violates this Plan is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than ten dollars (\$10.00) and not more than two hundred dollars (\$200.00). Each day that one or more of the provisions in this Plan is violated shall constitute a separate offense. If a person is convicted of three or more distinct violations of this Plan, the Mayor shall, upon clue notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a re-connect ion charge, hereby established at \$50.00, and any other costs incurred by the City of Lorena in discontinuing service. In addition, suitable assurance must be given to the Mayor that the same action shall not be repeated while the Plan is in effect. Compliance with this plan may also be sought through injunctive relief in the district court.
- (c) Any person, including a person classified as a water customer of the City of Lorena, in apparent

control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parents' control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this Plan and that the parent could not have reasonably known of the violation.

- (d) Any employee of the City of Lorena, police officer, or other city employee designated by the Mayor, may issue a citation to a person he/she reasonably believes to be in violation of this Ordinance. The citation shall be prepared in duplicate and shall contain the name and addresses of the alleged violator, if known, the offense charged, and shall direct him/her to appear in the municipal court on the date shown on the citation for which the date shall not be less than 3 days nor more than 5 days from the date the citation was issued. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over 14 years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in municipal court to enter a plea of guilty or not guilty for the violation of this Plan. If the alleged violator fails to appear in municipal court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant. These cases shall be expedited and given preferential setting in municipal court before all other cases.

## **Section XI: Variances**

The Mayor, 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 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:

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

Persons requesting an exemption from the provisions of this Ordinance shall file a petition for variance with the City of Lorena within 5 days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the Mayor, or his/her designee, and shall include the following:

- (a) Name and address of the petitioner(s).
- (b) Purpose of water use.

- (c) Specific provision(s) of the Plan from which the petitioner is requesting relief.
- (d) 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 Ordinance.
- (e) Description of the relief requested.
- (f) Period of time for which the variance is sought.
- (g) 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 elate.
- (h) Other pertinent information.

Variations granted by the City of Lorena shall be subject to the following conditions, unless waived or modified by the Mayor or his/her designee:

- (a) Variations granted shall include a timetable for compliance.
- (b) Variations granted shall expire when the Plan is no longer in effect, unless the petitioner has failed to meet specified requirements.

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