

**ORDINANCE NO. 2018-09**

**A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EAGLE PASS (“CITY”) APPROVING THE CITY’S 2018 DROUGHT CONTINGENCY PLAN; AMENDING SECTION 21-51, ARTICLE II, CHAPTER 21 (PLUMBING) OF THE CITY OF EAGLE PASS CODE OF ORDINANCES BY REPLACING THE CURRENTLY REFERENCED DROUGHT CONTINGENCY PLAN (ON FILE IN THE OFFICE OF THE CITY SECRETARY) WITH THE 2018 DROUGHT CONTINGENCY PLAN APPROVED BY AND ATTACHED TO THIS ORDINANCE; AUTHORIZING AND DIRECTING THAT THE CITY MANAGER OR HIS DESIGNEE FILE THE 2018 DROUGHT CONTINGENCY PLAN WITH THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AS REQUIRED BY LAW; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE**

**WHEREAS**, The City of Eagle Pass, is Texas municipal corporation operating as a home rule municipality (“City”) in accordance with the provisions of Chapter 26 of the Texas Local Government Code and the Eagle Pass City Charter; and

**WHEREAS**, the City created and established a separate waterworks system pursuant to Article X, Section 10-4(d) of the Eagle Pass City Charter for the use of the public to furnish water and wastewater service and to make and collect such charges and fees for such waterworks as may be fixed by the City Council of the City (“City Council”); and

**WHEREAS**, the City’s waterworks system known as the City of Eagle Pass Water Works System (a) is owned by and is an agency of the City; and (b) manages and operates (i) a water supply, treatment, storage, transmission and distribution system; and (ii) a wastewater collection, transportation, treatment and disposal system; and

**WHEREAS**, pursuant to Title 30, Part 1, Rules 288.30 and 295.9 of the Texas Administrative Code, entities that appropriate or use state (*i.e.*, surface) water for municipal use and/or amend existing water rights to change the place of use are required to submit a drought contingency plan to the Texas Commission on Environmental Quality (“TCEQ”); and

**WHEREAS**, pursuant to Section 11.1272 of the Texas Water Code and Title 30, Part 1, Rules 288.20 and 288.30 of the Texas Administrative Code Section, a retail public water supplier with 3,300 or more water connections has to develop drought contingency plans consistent with the appropriate approved regional water plan to be implemented during periods of water shortages and drought, and resubmit updates to the TCEQ every five (5) years thereafter to coincide with the regional water planning group; and

**WHEREAS**, the drought contingency plan must include specific, quantified targets for water use reductions to be achieved during periods of water shortages and drought; and

**WHEREAS**, Section 13.002(19) of the Texas Water Code, defines a “Retail Public Utility” as “any ... municipality, political subdivision ...operating, maintaining, or controlling in this state facilities for providing potable water service or sewer service, or both, for compensation;” and

**WHEREAS**, the City of Eagle Pass Water Works System (“EPWWS”) is a Retail Public Utility, has 17,116 water connections and obtains its water supply through surface water and water rights; and

**WHEREAS**, the City through its EPWWS prepared its first drought contingency plan and filed it with TCEQ prior to the required deadline of May 1, 2005, and has since updated the plan every five (5) years in compliance with the law; and

**WHEREAS**, the City through its EPWWS has once again updated its drought contingency plan which is due on May 1, 2019; and

**WHEREAS**, the EPWWS Board of Trustees approved the updated drought contingency plan attached hereto as Exhibit “A” and incorporated herein for all purposes (“2018 Drought Contingency Plan”); and

**WHEREAS**, the EPWWS Board of Trustees further recommended to and requested that the City Council approve the 2018 Drought Contingency Plan; and

**WHEREAS**, the City Council finds and determines that approving the 2018 Drought Contingency Plan is necessary, required by law, is worthwhile and beneficial for the citizens of the City, and is in the best interest of and will promote the public health, safety, morals and general welfare of the community;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EAGLE PASS:**

**SECTION 1.** That the 2018 Drought Contingency Plan is hereby adopted and approved.

**SECTION 2.** That Section 21-51 of the City of Eagle Pass Code of Ordinances is hereby amended to replace the currently referenced drought contingency plan (on file in the office of the City Secretary) with the 2018 Drought Contingency Plan approved by and attached to this Ordinance.

**SECTION 3.** That the City Manager or his designee are hereby authorized and directed to file the 2018 Drought Contingency Plan with the TCEQ within the time required by law (*i.e.*, within 90 days of adoption of the Plan and this Ordinance) and further to transmit a copy of the 2018 Drought Contingency Plan to the Region M Planning Group.

**SECTION 4.** It is officially found, determined and declared that the meeting at which this Ordinance is adopted was open to the public, and that public notice of the time, place, and subject matter of the public business to be conducted at such meeting, including this Ordinance,

was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

**SECTION 5.** If any part, section, paragraph, sentence, phrase, or word of this Ordinance is for any reason held to be unconstitutional, illegal, inoperative, invalid or ineffective, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, inoperative, invalid or ineffective, the remainder of this Ordinance shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, inoperative, invalid or ineffective.

**SECTION 6.** This Ordinance becomes effective immediately upon its passage after a third and final reading.

**READ, PASSED, AND APPROVED ON FIRST READING, this 20<sup>th</sup> Day of March, A.D., 2018.**

ATTEST:

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Ramsey English Cantu  
Mayor

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Imelda B. Rodriguez  
City Secretary

AYES: English-Cantu, Ramon, Davis, Villalpando, Sifuentes  
NAYS: None  
ABSTAINED: None  
ABSENT: None

**READ, PASSED, AND APPROVED ON SECOND READING, on this 3<sup>rd</sup> Day of April, A.D., 2018.**

ATTEST:

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Ramsey English Cantu  
Mayor

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Imelda B. Rodriguez  
City Secretary

AYES: English-Cantu, Ramon, Davis, Villalpando, Sifuentes  
NAYS: None  
ABSTAINED: None  
ABSENT: None

**READ, PASSED, AND APPROVED ON THIRD AND FINAL READING, this 10<sup>th</sup> Day of April, A.D., 2018.**

ATTEST:

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Ramsey English Cantu  
Mayor

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Imelda B. Rodriguez  
City Secretary

AYES: English-Cantu, Davis, Villalpando, Sifuentes  
NAYS: None  
ABSTAINED: None  
ABSENT: Ramon

**APPROVED AS TO FORM AND LEGALITY:**

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Langley & Banack, Inc.  
City Attorney