

**AN ORDINANCE OF THE CITY OF LEANDER, TEXAS**

**ORDINANCE NO. 24-044-00**

**AN ORDINANCE OF THE CITY OF LEANDER, TEXAS AMENDING ARTICLE 13.09, WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN OF THE CODE OF ORDINANCES WHICH ESTABLISHES CONSERVATION PHASES AND RESTRICTIONS ON WATER USAGE FOR EACH PHASE; ENACTING AMENDMENTS TO MAKE THE PLAN CONSISTENT WITH THE LOWER COLORADO RIVER AUTHORITY'S DROUGHT CONTINGENCY PLAN; PROVIDING FOR ENFORCEMENT OF THE PLAN; ESTABLISHING ADMINISTRATIVE AND CRIMINAL PENALTIES; PROVIDING FOR APPEAL OF ADMINISTRATIVE PENALTIES TO A HEARING OFFICER; PROVIDING A SEVERABILITY CLAUSE, PROVIDING SAVINGS, EFFECTIVE DATE AND OPEN MEETINGS CLAUSES, AND PROVIDING FOR RELATED MATTERS.**

**WHEREAS**, water is a scarce resource and the City of Leander, Texas (the "City") desires to continue to implement water conservation measures to help ensure adequate water supply for the current and future population of the City;

**WHEREAS**, the review and update of water conservation and drought contingency regulations is reasonable and necessary for the public health, safety, and welfare;

**WHEREAS**, the regulations adopted herein promote the preservation of a scarce resource during drought conditions and are reasonable and necessary for the public health, safety, and welfare;

**THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEANDER, TEXAS, THAT:**

**Section 1. Findings of Fact.** The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact. The City Council hereby further finds and determines that the rules, regulations, terms, conditions, provisions and requirements of this ordinance are reasonable and necessary to protect the public health, safety and quality of life.

**Section 2. Amendment of Article 13.09, Water Conservation and Drought Contingency Plan of the City of Leander Code of Ordinances.** Article 13.09 of the City of Leander Code of Ordinances is hereby amended in its entirety to read as follows:

ARTICLE 13.09  
WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN

**§ 13.09.001 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 and minimize the adverse impacts of extreme drought, periods of abnormally high water usage, system contamination, or extended reduction in ability to supply water due to equipment failure, facility construction delays, water supply shortage or other water supply emergency conditions, the city hereby adopts the following regulations and restrictions on the delivery and consumption of water (“the plan”).
- (b) Water uses regulated or prohibited under this article are considered to be nonessential and continuation of such uses during times of water shortage or other emergency water supply condition deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in section **13.09.014** of this article.

**§ 13.09.002 Public involvement.**

Opportunity for the public to provide input into the preparation of plan was provided by the City by means of notifying the public in the agenda posted on the city’s website and at city hall at least 72-hours in advance of the regularly scheduled meeting at which the council considered the plan. A copy of the proposed plan was included in the agenda materials available to the public on the City’s website. The City accepted any public comments provided by email before the meeting and in person at the meeting.

**§ 13.09.003 Public education.**

The city will periodically provide the public with information about the plan, including information about the conditions under which each phase of the plan is to be initiated or terminated and the drought response measures to be implemented in each phase. This information may be provided by, but is not limited to, public meeting, media releases, bill inserts, website announcements, digital platform messages, or other similar methods of mass communication.

**§ 13.09.004 Coordination with regional water planning groups.**

The service area of the city is located within Regional Water Planning Group (RWPG) G, Brazos River Authority, and the city has given this plan to the Lower Colorado River Authority, and the Brazos River Authority.

#### **§ 13.09.005 Authority to implement response measures.**

In the event of unusual operational events, catastrophic occurrences, severe weather events, or other public emergencies, the city manager or city manager's designee may implement mandatory water restrictions in addition to those set out in this article. The city manager or city manager's designee is hereby authorized and directed to implement the applicable provisions of this article upon determination that such implementation is necessary to protect public health, safety and welfare. The city manager or city manager's designee shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this article. Unless otherwise specified by the city manager, the city manager's primary designee is the public works director and the alternate designee is the city engineer.

#### **§ 13.09.006 Notice of implementation of mandatory provisions.**

The city shall notify the executive director of the state commission on environmental quality and the LCRA general manager in writing within five (5) business days of the implementation of any mandatory provisions of the drought contingency plan.

#### **§ 13.09.007 Applicability.**

The provisions of this plan shall apply to all persons, customers, and property utilizing 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. The provisions of this article do not apply to:

- (1) Persons who use water from private wells;
- (2) Persons who use water from the city's reuse water system; or
- (3) Persons who otherwise use water from a source other than the city's water utility system.

*(Ordinance 21-020-00 adopted 3/18/21)*

#### **§ 13.09.008 Definitions.**

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

***BRA.*** - The Brazos River Authority or successor agency.

***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 the city.

***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.

***Drought contingency plan (DCP)*** – A strategy or combination of strategies that a water supplier, such as a city, develops and implements to monitor and respond to a drought or other temporary water supply shortage that can severely disrupt the supply of water to customers.

***Industrial water use.*** - The use of water in processes designed to convert materials of lower value into forms having greater usability and value, including the development of power by means other than hydroelectric.

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

***LCRA.*** - The Lower Colorado River Authority, or successor agency.

***Nonessential water use.*** - Water uses that are neither essential nor required for the protection of public health, safety, and welfare, including, but not limited to:

- (1) Landscape irrigation, except as otherwise provided under this article;
- (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 only to the extent to preserve the structural integrity and/or functionality of the pool;
- (7) Use of water to fill, refill, or add to any wading pools, ornamental ponds, or similar structures;
- (8) Use of water in a fountain or pond for aesthetic or scenic purposes such as fountains, reflecting pools, and water gardens except where necessary to support aquatic life;
- (9) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and

- (10) Use of water from hydrants or flush valves for construction purposes or any other purposes other than firefighting.

**System.** - The combination of components of the water supply network that carry, store, or move potable water from a centralized treatment plant to water customers. Components include but are not limited to transmission lines, pumps, ground and elevated storage tanks.

**TAC.** - Texas Administrative Code.

**TCEQ.** - Texas Commission on Environmental Quality.

*(Ordinance 21-020-00 adopted 3/18/21)*

**§ 13.09.009 Initiation and termination of water conservation and drought response phases.**

- (a) The city manager or city manager's designee shall monitor the water supply and/or demand conditions on a daily basis and determine when conditions warrant initiation or termination of each phase of the plan. The city manager or city manager's designee is further authorized to determine and establish watering schedules that are different than those set forth in this article if the city manager or designee determines that that conditions warrant a different watering schedule. The base water conservation plan, outlined in phase 1, shall be in force at all times unless subsequent phases are enacted. Water supply conditions will be determined by the source of supply, system capacity, and weather conditions. Water demand will be measured by the peak daily demands on the system.
- (b) The city manager or city manager's designee shall implement the applicable provisions of this article upon determination that such implementation is necessary to protect public health, safety and welfare.
- (c) The triggering criteria described below are based on information provided by LCRA and BRA; and are further based on known system capacity limits.
- (d) Public notification of the initiation or termination of water conservation and drought response phases shall be by one or more combination of methods which may include, but is not limited to, media releases, bill inserts, website announcements, digital platform messages, automated telephone calls, and signs posted at service area entry points.

**§ 13.09.010 Conservation phase 1 - base conditions.**

- (a) Water use requirements. Phase 1 base conditions will be in effect year-round.
  - (1) Notice(s) will be designed to increase customer awareness of water conservation and encourage the most efficient use of water. The city shall keep a copy of the current public announcement on water conservation awareness on file and available for inspection by TCEQ.
- (b) City actions. To manage supply, the city will:

- (1) Continually review system operations, identify ways to improve system efficiency and accountability, and actively promote water conservation.
  - (2) Request water customers to voluntarily limit and reduce the use of water for nonessential purposes and to practice water conservation.
  - (3) Establish mechanisms to remind water customers to practice water conservation year-round.
- (c) Customer actions. Under threat of penalty for violation, the following conditions shall apply to all retail water customers:
- (1) It is unlawful for any customer to waste water through use that serves no practical purpose. Such water waste includes the failure to repair a leak, either inside or outside a home, building, or facility, within a reasonable time, not to exceed 10 days from the date that a notice was provided about the leak resulting in water runoff or accumulation in a street, gutter, or parking lot.
  - (2) Automatic Irrigation System Audits. Homeowners' associations and non-residential lot owners must cause their automatic irrigation systems to be inspected by a person licensed under V.T.C.A., Occupations Code § 1903.251, as amended, and V.T.C.A., Water Code Ch. 37, as amended, (unless a statutory exemption to the licensing requirements applies, in which case the reason for the exemption must be clearly stated) every year to verify compliance with this Chapter. The City shall be authorized discontinue water service to the premises if the homeowners' association or non-residential lot owner does not submit proof of the inspection, and completion of any required repairs, to the City on the City's request.
  - (3) Residential water customers who choose to use water for landscape irrigation may only do so in accordance with a twice-weekly watering schedule on designated days, shown below, and designated times, shown in part (5) of this section, or as otherwise determined and established by the city manager or designee:

<b>Residential – Phase 1</b>		
<b>Automatic Irrigation Systems, Hose-End Sprinklers, Soaker Hoses, and Drip Irrigation</b>		
<b>Last Digit of Meter Address</b>	<b>Allowed Watering Day(s)</b>	<b>Allowed Watering Hours</b>
2, 4	Monday and/or Thursday	Midnight to 7 a.m.
1, 5, 9	Tuesday and/or Friday	7 p.m. to Midnight

6, 8	Wednesday and/or Saturday	
0, 3, 7	Thursday and/or Sunday	

- (4) Commercial, multi-family, and homeowners association water customers who choose to use water for landscape irrigation may only do so in accordance with a once-weekly watering schedule on designated days, shown below, and designated times, shown in part (5) of this section or as otherwise determined and established by the city manager or designee:

<b>Commercial/HOA/Multi-Family – Phase 1</b>		
<b>Automatic Irrigation Systems, Hose-End Sprinklers, Soaker Hoses, and Drip Irrigation</b>		
<b>Last Digit of Meter Address</b>	<b>Allowed Watering Day</b>	<b>Allowed Watering Hours</b>
2, 4	Monday	Midnight to 7 a.m. 7 p.m. to Midnight
1, 5	Tuesday	
6	Wednesday	
0	Thursday	
9	Friday	
8	Saturday	
3, 7	Sunday	

- (5) Landscape irrigation by way of automatic systems, hose-end sprinklers, soaker hose, or drip irrigation is limited to the hours from 12:00 a.m. (midnight) to 7:00 a.m. and from 7:00 p.m. to 12:00 a.m. (midnight), in accordance with the applicable watering schedules and designated watering days or as otherwise determined and established by the city manager or designee. Watering hours apply to all irrigation methods listed above to include landscape establishment for new construction.
- (6) Landscape irrigation limits do not apply if the irrigation is performed:
- (A) By means of a hand-held hose.

- (B) At a commercial plant nursery.
  - (C) During the testing of new irrigation system installation or existing irrigation system repair.
- (7) Requests for one-time variances to conservation measures may be considered by the city on a case-by-case basis and may be granted for up to 21 days for new lawn installations. A variance may be requested in accordance with the procedures set forth in in Section 13.09.015. However, irrigation of new lawn installation authorized under this exception provision is still limited to the watering hours of 7:00 p.m. to 7:00 a.m. Variances will not be granted in the months of June, July, or August.

**§ 13.09.011 Conservation phase 2 - water use reduction.**

- (a) Triggers. Customers shall adhere to phase 2 conditions when one or more of the following occurs:
  - (1) Total daily water demand equals or exceeds 90% of the total operation system treatment capacity for 3 consecutive days;
  - (2) Total daily water demand equals or exceeds 90% of the firm capacity of key pump stations for 3 consecutive days;
  - (3) The combined storage of Lake Travis and Lake Buchanan reaches 900,000 acre-feet, or on March 1 or July 1, the combined storage in Lakes Buchanan and Travis is below 1.1 million acre-feet and the cumulative prior three months of inflows total to those lakes is less than the 25<sup>th</sup> percentile of historic inflows for the three-month periods consistent with the LCRA DCP.
  - (4) The city manager or city manager's designee determines that phase 2 response measures are necessary to protect public health, safety, and welfare.
- (b) Demand reduction target. Phase 2 response measures are designed to achieve a 20% reduction in water use.
- (c) City actions. To manage supply, the city will:
  - (1) Discontinue water main and line flushing unless necessary to maintain regulatory compliance or for the protection of the public health, safety, and welfare.
  - (2) Visually inspect lines on a regular basis and repair leaks.
  - (3) Suspend hydrant testing.
  - (4) Suspend the following city operations:
    - (A) Vehicle washing.



- (B) Street cleaning.
  - (C) Landscape irrigation in city parks except by hand-held hose. The city may continue irrigation by way of automatic systems or hose-end sprinklers for up to 21 days only when necessary to salvage new installations.
- (5) Increase efforts to inform the public on water conservation strategies including:
- (A) Conduct a monthly review of customer use records;
  - (B) Contact customers with unusually high usage to help identify potential leaks and provide customers with water saving tips and practices to better manage water use and reduce monthly costs.
- (d) Customer actions. Under threat of penalty for violation, the following phase 2 response measures shall apply to all retail water customers:
- (1) Residential, commercial, multifamily, and homeowners association water customers who choose to use water for landscape irrigation may only do so in accordance with a once-weekly watering schedule on designated days, shown below, and designated times, shown in section **13.09.010(c)(5)**, or as otherwise determined and established by the city manager or designee:

<b>All Categories – Phase 2</b> <b>(Residential/Commercial/HOA/Multi-Family)</b> <b>Automatic Irrigation Systems, Hose-End Sprinklers, Soaker Hoses, and Drip Irrigation</b>		
<b>Last Digit of Meter Address</b>	<b>Allowed Watering Day</b>	<b>Allowed Watering Hours</b>
2, 4	Monday	Midnight to 7 a.m. 7 p.m. to Midnight
1, 5	Tuesday	
6	Wednesday	
0	Thursday	
9	Friday	
8	Saturday	
3, 7	Sunday	

- (2) Landscape irrigation limits do not apply if the irrigation is performed:
  - (A) By means of a hand-held hose.
  - (B) At a commercial plant nursery.
  - (C) During the testing of new irrigation system installation or existing irrigation system repair.
- (3) Other nonessential water uses are prohibited except under the following circumstances:
  - (A) Use of water from hydrants or flush valves for construction purposes.
  - (B) The addition of water to a pool or splash pad where necessary to maintain the water purification system in service or to maintain structural integrity of the pool.
  - (C) The washing of vehicles or boats at a commercial car wash facility. If washing of vehicles or boats occurs at a residence or as part of a charity or fundraising event held on a commercial property, it must occur on the property's designated watering day as defined in subsection (d) of this section. Such activity, when allowed, shall be done with a hand-held bucket or hand-held hose equipped with a positive shutoff nozzle.
- (e) Wholesale. The city will keep wholesale treated water customers informed about demand and current and projected supply conditions. The city will initiate discussions with wholesale treated water customers about potential curtailment and implementation of mandatory measures to reduce all nonessential water uses.
- (f) Termination. Phase 2 may be rescinded when one or more of the following occurs:
  - (1) The water treatment plant capacity conditions listed above as a triggering event have ceased to exist for five (5) consecutive days;
  - (2) Combined storage of Lakes Travis and Buchanan is greater than 900,000 acre-feet, in consistent with the LCRA DCP, for 1 month with an increasing trend.;
  - (3) The city manager or city manager's designee determines that the applicable provisions are no longer necessary to protect public health, safety, and welfare; or
  - (4) Upon termination of phase 2, the city publicly announces to its customers the end of phase 2 and return to phase 1 conditions.

**§ 13.09.012 Conservation phase 3 - water emergency.**

- (a) Triggers. Customers shall adhere to phase 3 conditions when one or more of the following occurs:
  - (1) Total daily water demand equals or exceeds 95% of the total operation system

- treatment capacity for three (3) consecutive days;
- (2) Total daily water demand equals or exceeds 95% of firm capacity of pump stations for three (3) consecutive days;
  - (3) The combined storage of Lakes Travis and Buchanan reaches 750,000 acre-feet, consistent with the LCRA DCP;
  - (4) The city manager or city manager's designee determines that phase 3 response measures are necessary to protect public health, safety, and welfare.
- (b) Demand reduction target. Phase 3 response measures are designed to achieve a 50% reduction in water use.
- (c) City actions. To manage supply, the city will, in addition to phase 2 response measures:
- (1) Explore emergency water supply options, which may include arranging for the emergency purchase of water from utilities for which there exists proper agreements for such purchase;
  - (2) Increase efforts to inform the public on water conservation strategies;
  - (3) Increase the detection and repair of water leaks in the distribution system;
  - (4) Read water meters as necessary to ensure compliance with this program for the benefit of all the customers;
  - (5) Cease or direct shutoff of all landscape irrigation at City-owned facilities, rights-of-way, public park areas, and public landscape areas.
- (d) Customer actions. Under threat of penalty for violation, phase 2 response measures, along with the following measures which may supersede, shall apply to all retail water customers:
- (1) Landscape irrigation is prohibited except by means of a hand-held hose.
  - (2) Industrial water uses are prohibited except for some limited uses as deemed necessary by the city manager or city manager's designee to protect public health, safety, and welfare.
- (e) Wholesale. The city will contact its wholesale treated water customers to initiate mandatory measures to control water demand and to ensure capacity for emergency response requirements. Mandatory measures will include the curtailment of nonessential water uses in accordance with the wholesale water customer's own drought contingency plan.
- (f) Terminations. Phase 3 may be rescinded when one or more of the following occurs:

- (1) The water treatment plant capacity condition listed above as a triggering event has ceased to exist for five (5) consecutive days;
- (2) Combined storage of Lakes Travis and Buchanan is greater than 750,000 acre-feet, consistent with the LCRA DCP, for 1 month with an increasing trend;
- (3) The city manager or city manager's designee determines that phase 3 response measures are no longer necessary to protect public health, safety, and welfare; or
- (4) Upon termination of phase 3, the city publicly announces to its customers the end of phase 3 and return to phase 2 conditions.

**§ 13.09.013 Conservation phase 4 – critical water conditions and/or water system failure.**

- (a) Triggers. Customers shall adhere to the phase 4 response measures when one or a combination of the following occurs:
  - (1) Major water line breaks or pump system failures that cause substantial loss of ability to provide water service;
  - (2) Natural or man-made contamination of the water supply source;
  - (3) Combined storage of Lakes Travis and Buchanan reaches 600,000 acre-feet, consistent with the LCRA DCP, and/or the LCRA Board declares a prolonged drought worse than the Drought of Record or other water supply emergency and orders the mandatory curtailment of firm water supplies.
  - (4) Water demand approaches a reduced delivery capacity for all or part of the system, creating a situation in which water system demand exceeds water system capacity, for an extended length of time, as determined by the city manager or his/her designee;
  - (5) The city manager or city manager's designee determines that phase 4 response measures are necessary to protect public health, safety, and welfare.
- (b) Demand reduction target. Phase 4 response measures are designed to limit the daily water demand to no more than 50% capacity.
- (c) City actions. To manage supply, the city will, in addition to phase 3 response measures:
  - (1) Assess the severity of the problem and identify the actions needed and time required to resolve the problem.
  - (2) Issue applicable public notifications and messaging as to the water system or source failure.
  - (3) Severely restrict or prohibit, as appropriate, all water system uses in the affected service

area.

- (4) Read meters as often as needed to ensure program compliance for the benefit of all customers.
  - (5) Cease allowance or approval of applications for new, additional, expanded, or larger water service connections, meters, service lines, pipeline extensions, mains, or water service facilities unless a project is deemed necessary to maintain regulatory compliance or for public health, safety, and welfare or necessary to resolve the water system failure.
  - (6) Direct shutoff of existing and cease issuance of new bulk water meters.
  - (7) Cease issuance of permits for new, additional, or expanded irrigation systems.
  - (8) Cease approval of permit applications for new, additional, or expanded swimming pools.
  - (9) Initiate emergency interconnects or alternative supply arrangements.
  - (10) Implement any additional measures deemed necessary by the city manager or city manager's designee to ensure water system demand reductions necessary to protect public health, safety, and welfare.
- (d) Customer actions. Under threat of penalty for violation, phase 3 response measures, along with the following measures which may supersede, shall apply to all retail water customers:
- (1) Use of water is restricted as deemed necessary to meet the emergency as implemented by the city manager or designee, or the City Council.
- (e) Wholesale. The city will direct its wholesale treated water customers to initiate mandatory measures to control water demand and to ensure capacity for emergency response requirements. The city manager or city manager's designee may cease water supply to the wholesale water customer.
- (f) Termination. Phase 4 may be rescinded when one or more of the following occurs:
- (1) The water system failure conditions listed above as a triggering event has ceased to exist for five (5) consecutive days.
  - (2) Combined storage of Lakes Travis and Buchanan is greater than 600,000 acre-feet, consistent with the LCRA DCP, for 1 month with an increasing trend and/or the LCRA announces that mandatory Stage 4 water restrictions for firm water customers are no longer required in accordance with the LCRA DCP.
  - (3) The city manager or city manager's designee determines that phase 4 response

measures are no longer necessary to protect public health, safety, and welfare.

- (4) Upon termination of phase 4, the city publicly announces to its customers the end of phase 4 and return to phase 3 conditions.

*(Ordinance 21-020-00 adopted 3/18/21)*

**§ 13.09.014 Enforcement; penalty; termination of water service.**

- (a) Compliance. No person or entity shall recklessly, knowingly, or intentionally allow the use of water from the city for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to any provision of this article, or in an amount in excess of that permitted by the drought response phase in effect at the time pursuant to action taken by the city manager, or his/her designee, in accordance with provisions of this plan.
- (b) Administrative violation procedures.
- (1) Penalties. Except as otherwise stated herein, each violation of this plan within a 12-month period may be enforced as an administrative violation pursuant to the following:

Violation	Residential Customer	Commercial Customer
First offense	Courtesy warning	Courtesy warning
Second offense	\$50.00	\$200.00
Third offense	\$100.00	\$400.00
Fourth and subsequent offense(s)	\$200.00, and non-emergency disconnection	\$1,000.00, and non-emergency disconnection

- (2) Penalties during conservation phase 4. Each violation of this plan that occurs within a 12-month period during conservation phase 4 may be enforced as an administrative violation pursuant to the following:

Violation	Residential Customer	Commercial Customer
First offense	Courtesy warning	Courtesy warning
Second and subsequent offense(s)	\$1,000.00, and emergency disconnection*	\$1,000.00, and emergency disconnection*

*\* Water service may be disconnected under the emergency disconnection procedures set forth in subsection (d)(1) below for a second violation of this article that occurs during*

Violation	Residential Customer	Commercial Customer
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*conservation phase 4.*

- (3) Notice of first offense. If the city manager, or city manager's designee reasonably believes that a person or entity has violated this plan, then a notice of first offense shall be in writing and include the name and address of the alleged offender, a location and description of the alleged offense and a description of the administrative fees for subsequent violations. This notice will be mailed or hand delivered to the alleged offender's utility billing address.
- (4) Notice of second and/or subsequent offense. If the city manager or city manager's designee reasonably believes that a person or entity has violated this plan again subsequent to and within a 12-month period immediately following the date of the preceding offense, then a notice of second offense will be mailed containing the same information as described in the preceding subsection and a description of the administrative fee for the offense. This notice will be mailed to the alleged offender's utility billing address.
- (5) Appeal of administrative offense.
  - (A) An alleged offender may appeal an administrative offense as set forth in this article. They request of an appeal shall not suspend or delay an alleged offender's obligation to pay current outstanding utility or administrative fees. Upon successful appeal of an offense, the city will refund administrative fees paid by the alleged offender.
  - (B) The alleged offender may request a hearing regarding the administrative offense and fee with the municipal court judge, who is hereby designated as the hearing officer pursuant to V.T.C.A., Local Government Code § 54.044, by submitting a written request to the address shown on the citation or notice of violation within 15 days of the date of the notice of the offense. The hearing shall be held in accordance with V.T.C.A., Local Government Code § 54.044.
- (6) Notices. All notices regarding alleged administrative offenses, including, without limitation, notices of offenses, appeal hearing and final review hearing decisions, shall be in writing and forwarded to the alleged offender via first class mail and/or certified mail, return receipt requested, to the alleged offender's current utility billing address. All notices delivered in this manner shall be deemed as received by the alleged offender within five (5) days of the mailing's postmark.
- (c) Enforcement as criminal violation. Alternatively, and at the city manager's discretion, any violation of this article may be enforced as a criminal violation in accordance with subsection (1) below.

- (1) Criminal penalty. Any person who violates a provision of this article, or fails to comply therewith or with any of the mandatory requirements thereof shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars (\$2,000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.
- (d) Termination of water service; reconnection charge. The city manager or city manager's designee shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur in accordance with this section. Services discontinued under such circumstances shall be restored only upon payment of the reinstatement fee set forth in the city's fee schedule, and any other costs incurred by the city in discontinuing service. In addition, suitable assurance must be given to the city that the same action shall not be repeated while the plan is in effect. Compliance with this article may also be sought through injunctive relief in the district court.
- (1) Emergency termination. If an officer charged with enforcement of this article determines that a violation of this article constitutes an immediate threat to the public health, safety and welfare, and the owner, occupant, or person in control of the property (the "responsible party") is absent or fails to immediately remedy the violation, the officer may terminate water services to such property. The city manager or designee shall hold a hearing within 72 hours after termination of service to determine whether the responsible party violated this article, unless a later hearing date is requested by the responsible party or the responsible party is unable to be located, in which case the hearing shall be held as soon as possible. Promptly after terminating service, the officer charged with enforcement of this article shall give the responsible party written notice of the termination and hearing, by personal delivery or posting notice of the hearing on or near the front door of each building on the property, or at the Property Manager's door if available. If it is determined at the hearing that the responsible party did not violate this article, the responsible party's utilities shall be immediately reconnected without charge to the responsible party.
  - (2) Non-emergency termination. An officer charged with enforcement of this article who determines that a violation of this article is present may seek termination of water service to the property at which the violation is present after notice and hearing as provided in this subsection. The officer charged with enforcement of this article shall give written notice of the violation of this article to the responsible party and the requirement that the violation be remedied within ten (10) days or water service will be disconnected, such notice to be given by mail or by personal delivery. If the responsible party fails to remedy the violation within the time specified in the notice, the officer charged with enforcement of this article may terminate water service. The responsible party may request a hearing by the city manager regarding termination of service. Written notice of the time and date of the hearing shall be given to the responsible party at least ten days before the hearing date. Notice required by this



subsection shall be in writing and delivered to the responsible party by in-person service, or by mail to the responsible party at his/her post office address.

- (3) Determination at hearing; appeals. If the city manager determines at a hearing held under subsection (1) or (2) above that the responsible party did not violate this article, the responsible party's utilities shall be immediately reconnected without charge to the responsible party. If it is determined that the responsible party violated this article, as appropriate, water service shall not be reconnected until the responsible party remedies the violation of this article and pays all required reconnection fees. The city manager's decision may be appealed to the city council in writing within ten days of the city manager's decision.

(e) Responsibility for violation.

- (1) For purposes of this article, the person or customer in whose name the utility billing office last billed or who is receiving the economic benefit of the water supply is presumed to have knowingly made, caused, used or permitted the use of water received from the city for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to any provision of this article and proof that the violation occurred on the person's or customer's property shall constitute a rebuttable presumption that the person or customer committed the violation.
- (2) Any person, including a person classified as a water customer of the city, 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 or custodian 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 parent's or custodian's 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 article and that the parent could not have reasonably known of the violation.
- (3) A person commits an offense if the person performs an act prohibited by this article or fails to perform an act required by this article. Each instance of a violation of this article is a separate offense.
- (5) If a person is convicted for three or more violations of this article within a 12-month period, water service may be disconnected or restricted.
- (6) During phases 3 or 4, the city reserves the right to perform an emergency disconnection for violations of nonessential water uses, regardless of previous

violations.

- (7) The city's authority to seek injunctive or other civil relief available under the law is not limited by this article.

**§ 13.09.015 Variances.**

- (a) The city manager or city manager's designee may grant variances:
  - (1) From specific applications of the outdoor water schedule, providing that the variances do not increase the time allowed for watering but rather alter the schedule for watering; and
  - (2) Allowing the use of alternative water sources (i.e., groundwater, reclaimed wastewater) that do not increase demand on potable water sources for outdoor use. Variance requests may be submitted to staff and need not meet the requirements of subsection (b) below.
- (b) The city manager or city manager's designee may, in writing, grant a 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:
  - (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.
- (c) Persons requesting a variance from the provisions of this article shall file a petition for variance with the city within five (5) working days after the plan or a particular drought response phase has been invoked. All petitions for variances shall be reviewed by the city manager or city manager's 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 the petitioner complies with the plan;

- (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 compliance date; and
  - (8) Other pertinent information.
- (d) Variances granted by the city shall be subject to the following conditions, unless waived or modified by the city manager or city manager's designee:
- (1) Variances granted shall include a timetable for compliance.
  - (2) Variances granted shall expire when the specific provision of the plan from which the petitioner requested relief is no longer in effect or prior to expiration if, the petitioner has failed to meet specified requirements.
- (e) No variance shall be retroactive or otherwise justify any violation of this plan occurring prior to the issuance of the variance.

**Section 3. Conflicting Ordinances.** Article 13.09, Leander Code of Ordinances is amended as provided herein. All ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the City, the terms and provisions of this ordinance shall govern.

**Section 4. Savings Clause.** All rights and remedies of the City of Leander are expressly saved as to any and all violations of the provisions of any ordinances affecting water conservation and drought contingency regulations within the City which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**Section 5. Effective Date.** This ordinance shall take effect immediately from and after its passage and publication in accordance with the applicable provisions of the Tex. Loc. Gov't. Code and the City Charter.

**Section 6. Severability.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the

same would have been enacted by the City Council without the incorporation of this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

**Section 7.     Open Meetings.** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

**PASSED AND APPROVED** on the **16th** day of **May, 2024**.

**THE CITY OF LEANDER, TEXAS**

**ATTEST:**

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Christine DeLisle, Mayor

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Dara Crabtree, City Secretary