ORDINANCE 20230926B

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

WHEREAS, The City of Burton 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; and

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; and

WHEREAS, Section 11.1272 of the Texas Water Code and applicable rules of the Texas Commission on Environmental Quality require all public water supply systems in Texas to prepare a drought contingency plan; and

WHEREAS, as authorized under law, and in the best interests of the citizens of Burton, Texas, the City Council deems it expedient and necessary to update and re-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 COUNCIL OF THE CITY OF BURTON, TEXAS THAT:

Section 1. That the City of Burton, 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 That all ordinances that are in conflict with the provisions of this ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.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.

DULY PASSED AND APPROVED BY THE CITY OF BURTON, TEXAS,

on the 26TH day of SEPTEMBER, 2023.

APPROVED:

Karen Buck
Mayor

ATTEST:

Angela Harrington
City Secretary

City of Burton

Drought Contingency Plan

Name: City of Burton, Texas

Address: 12200 E. Mulberry Street/PO Box 255

Telephone Number: (979) 289-3402

Water Right No.(s):

Regional Water Planning Group:

Form Completed by: Karen Buck

Title: Mayor

Person responsible for implementation: Mayor Phone: (979) 289-3402

Signature: Karen Buck Date: 9/26/2023

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 Burton 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 X 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 Burton by means of scheduled and provided public notice of a public meeting to accept input on the Plan.

Section III: Public Education

The City of Burton 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 posting resources on the city's website, include information in mailing enclosures, as well as publicly posting information in high-traffic public places in town.

Section IV: Coordination with Regional Water Planning Groups (NEW)
The service area of City of Burton has provided a copy of this Plan to the Texas Commission on Environmental Quality (TCEQ).

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 Burton. 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 the City of Burton.

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 not 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 fire fighting.

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 monthly, weekly if conditions warrant, 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:
The statistical analysis of the vulnerability of the water source under record drought conditions or based on known system capacity limits.

Utilization of alternative water sources and/or alternative delivery mechanisms:

There are no alternative water sources for the City of Burton.

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

*Occurrence of moderate drought over a two (2) month period in the water system.

Requirements for termination
Stage 1 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 3 (three) 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

*Daily usage rate is greater than 75% of the daily pumping rate for two consecutive weeks.

*An extended period of at least 8 weeks of low rainfall and daily use has risen 20 percent above the use for the same period during the previous year.

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 3 (three) consecutive days. Upon termination of Stage 2, Stage 1, or the applicable drought response stage based on the triggering criteria, 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

*Daily usage rate is greater than 85% of the daily pumping rate for one week.

*Continually falling treated water reservoir levels cannot be replenished to meet demand.

*The highest recorded water level drops ten (10) feet or more during a one-week period.

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 3 (three) consecutive days. Upon termination of Stage 3, Stage 2, or the applicable drought response stage based on the triggering criteria, becomes operative.

Stage 4 Triggers – CRITICAL 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 4 of this Plan when

*Daily usage rate is greater than 95% of the daily pumping rate for one week.

*Water consumption of 100 percent (100 %) of the maximum available water supply.

*The declaration of a state of disaster due to drought conditions in the county served by the Water System.

*Reduction of wholesale water supply due to drought conditions.

*Other unforeseen events which could cause imminent health or safety risks to the public.

Requirements for termination
Stage 4 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 3 (three) consecutive days. Upon termination of Stage 4, Stage 3, or the applicable drought response stage based on the triggering criteria, becomes operative.

Stage 5 Triggers – EMERGENCY Water Shortage Conditions

Requirements for initiation
Customers shall be required to comply with the requirements and restrictions for Stage 5 of this Plan when the mayor, or his/her designee, determines that a water supply emergency exists based on:

*Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service OR reduces the minimum residual pressure n the system below 20 PSI for a period of 24 hours or more.

*Natural or man-made contamination of the water supply source(s).

*Other unforeseen events which could cause imminent health or safety risks to the public.

Requirements for termination
Stage 5 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 3 (three) consecutive days. Upon termination of Stage 5, Stage 4, or the applicable drought response stage based on the triggering criteria, becomes operative.

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

a. Notification of the Public:
The mayor_or his/ her designee shall notify the public by means of (one or more may apply):

use of the EverBridge (or other city designated emergency communication system)
direct email and/or text to each customer
publication in a newspaper of general circulation,
direct mail to each customer,
public service announcements,
signs posted in public places
take-home fliers at schools.

b. Additional Notification:
The mayor or his/ her designee shall notify directly, or cause to be notified directly, the following individuals and entities:

Mayor / members of the City Council
Fire Chief(s)
City and/or County Emergency Management Coordinator(s)
County Judge & Commissioner(s)
Texas Division of Emergency Management
TCEQ (required when mandatory restrictions are imposed)
Major water users, ie school district
Critical water users, i.e. hospitals
Park Boards

Note: The plan should specify direct notice only as appropriate to respective drought stages.

Stage 1 Response – MILD Water Shortage Conditions

Target: Achieve a voluntary ten percent (10%) reduction in weekly water use.

Best Management Practices for Supply Management:
The Water System will provide the Utility Clerk with weekly water usage numbers.

The Water System will visually inspect lines, repair leaks, and check water usage daily.

Voluntary Water Use Restrictions for Reducing Demand:

(a) Water customers are requested to ***voluntarily*** limit the irrigation of landscaped areas to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays 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 midnight and 8:00 a.m. and 8:00 p.m. to midnight on designated watering days.

(b) All operations of the City of Burton shall adhere to water use restrictions prescribed for Stage 1 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

Target: Achieve a ten percent (10%) percent reduction in weekly water use.

Best Management Practices for Supply Management:

The Water System will provide the Utility Clerk with weekly water usage numbers.

The Water System will visually inspect lines, repair leaks, and check water usage daily.

The Water System will reduce flushing operations.

Reduction of customers' water usage will be encouraged through notices on bills or other electronic methods.

Water Use Restrictions for Demand Reduction:
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 Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Wednesdays 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 12:00 midnight until 8:00 a.m. and between 8:00 p.m. and 12:00 midnight on designated watering days. However, irrigation of landscaped areas is permitted at anytime if it is by means of a hand-held hose, a faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system.

(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 12:00 midnight and 8:00 a.m. and between 8:00 p.m. and 12:00 midnight. 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 is 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 12:00 midnight and 8:00 a.m. and between 8 p.m. and 12:00 midnight.

(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 recirculation system.

(e) Use of water from hydrants shall be limited to fire-fighting, 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 Burton.

(f) The City of Burton Parks (Laas-Weeren Park and the Friends and Neighbors Ball Park) will adhere to watering guidelines, irrigating landscaped areas only on days assigned by their street address numbering system.

(g) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours 12:00 midnight and 8:00 a.m. and between 8 p.m. and 12:00 midnight. However, if the golf course utilizes a water source other than that provided by the City of Burton, the facility shall not be subject to these regulations.

(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 down 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

Target: Achieve a ten percent (10%) reduction in weekly water use.

Best Management Practices for Supply Management:

The Water System will provide the Utility Clerk with weekly water usage numbers.

The Water System will visually inspect lines, repair leaks, and check water usage daily.

Flushing is prohibited except for dead end mains and only between the hours of 9:00pm and 3:00am.

Emergency interconnects or alternative supply arrangements shall be initiated.

All meters shall be read as often as necessary to ensure compliance with this program for the benefit of all customers.

Water Use Restrictions for Demand Reduction:
All requirements of Stage 2 shall remain in effect during Stage 3 except:

The Water System will provide the Utility Clerk with weekly water usage numbers

(a) Irrigation of landscaped areas is absolutely prohibited.

(b) The watering of golf course tees and city parks is prohibited.

(c) The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued.

Stage 4 Response – CRITICAL Water Shortage Conditions

Target: Achieve a ten percent (10%) reduction in total water usage.

Best Management Practices for Supply Management:

The Water System will provide the Utility Clerk with weekly water usage numbers.

The Water System will visually inspect lines, repair leaks, and check water usage daily.

All meters shall be read as often as necessary to ensure compliance with this program for the benefit of all customers. Meters in violation of the water use restrictions will be reported to the city.

Water Use Restrictions for Reducing Demand:
All requirements of Stage 2 and 3 shall remain in effect during Stage 4 except:

(a) Irrigation of landscaped areas shall be limited to 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 midnight and shall be by means of hand-held hoses, hand-held buckets, or drip irrigation only. The use of hose-end sprinklers or permanently installed automatic sprinkler systems are prohibited at all times.

(b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial car wash and commercial service stations and not in the immediate interest of public health, safety, and welfare is prohibited. Further, such vehicle washing at commercial car washes and commercial service stations shall occur only between the hours of 6:00 a.m. and 10:00 a.m. and between 6:00 p.m. and 10 p.m.

(c) The filling, refilling, or adding of water to swimming pools, wading pools, and Jacuzzi-type pools is prohibited.

(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 recirculation system.

(e) 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 5 Response – EMERGENCY Water Shortage Conditions

Target: Achieve a 20 percent (20 %) reduction in total water usage.

Best Management Practices for Supply Management

The Water System will provide the Utility Clerk with DAILY water usage numbers.

The Water System will visually inspect lines, repair leaks, and check water usage daily.

Water Use Restrictions for Reducing Demand:
All requirements of Stage 2, 3, and 4 shall remain in effect during Stage 5 except:

(a) Irrigation of landscaped areas is absolutely prohibited.

(b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.

Section X: Enforcement

(a) No person shall knowingly or intentionally allow the use of water from the City of Burton 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 the mayor, or his/her designee, in accordance with provisions of this Plan.

(b) Any person, including a person classified as a water customer of the City of Burton, 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.

(c) First Violation – The customer will be notified by written notice of their specific violation.

Subsequent Violations -

After written notice, the Water System may install a flow restricting device in the line to limit the amount of water which will pass through the meter in a 24-hour period. The utility may charge the customer for the actual cost of installing and removing the flow restricting device, not to exceed $50.00.

After written notice, the Water System may discontinue service at the meter for a period of seven (7) days, or until the end of the calendar month, whichever is LESS. The normal reconnect fee of the Water System will apply for restoration of service.

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 Burton 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 date.
(h) Other pertinent information.

Sources: TCEQ Drought Contingency Plan Model (Rev 04/2022)
Ordinance 20200114C - City of Burton Drought Contingency Plan (1/2020)