

**ORDINANCE NO. 2005- 7**

**An ordinance amending Sections 13-76 and 13-78 of the Victoria City Code to update and amend the City's Drought Contingency Plan; providing a penalty not to exceed \$500.00 upon conviction and publication; providing for enforcement; repealing parts of conflicting ordinances; providing for severability; providing for savings and codification; providing for publication; and declaring an effective date.**

The City is required by 30 TAC § 288.20 to update its Drought Contingency Plan every five years, and this drought contingency plan meets the requirements of this section, which are re-stated as follows:

(a) A drought contingency plan for a retail public water supplier, where applicable, shall provide information in response to each of the following.

(1) Minimum requirements. Drought contingency plans shall include the following minimum elements.

(A) Preparation of the plan shall include provisions to actively inform the public and affirmatively provide opportunity for public input. Such acts may include, but are not limited to, having a public meeting at a time and location convenient to the public and providing written notice to the public concerning the proposed plan and meeting.

(B) Provisions shall be made for a program of continuing public education and information regarding the drought contingency plan.

(C) The drought contingency plan must document coordination with the Regional Water Planning Groups for the service area of the retail public water supplier to insure consistency with the appropriate approved regional water plans.

(D) The drought contingency plan shall include a description of the information to be monitored by the water supplier, and specific criteria for the initiation and termination of drought response stages, accompanied by an explanation of the rationale or basis for such triggering criteria.

(E) The drought contingency plan must include drought or emergency response stages providing for the implementation of measures in response to at least the following situations:

(i) reduction in available water supply up to a repeat of the drought of record;

(ii) water production or distribution system limitations;

(iii) supply source contamination; or

(iv) system outage due to the failure or damage of major water system components (e.g., pumps).

(F) The drought contingency plan must include the specific water supply or water demand management measures to be implemented during each stage of the plan including, but not limited to, the following:

(i) curtailment of non-essential water uses; and

(ii) utilization of alternative water sources and/or alternative delivery mechanisms with the prior approval of the executive director as appropriate (e.g., interconnection with another water system, temporary use of a non-municipal water supply, use of reclaimed water for non-potable purposes, etc.).

(G) The drought contingency plan must include the procedures to be followed for the initiation or termination of each drought response stage, including procedures for notification of the public.

(H) The drought contingency plan must include procedures for granting variances to the plan.

(I) The drought contingency plan must include procedures for the enforcement of any mandatory water use restrictions, including specification of penalties (e.g., fines, water rate surcharges, discontinuation of service) for violations of such restrictions.

(2) Privately-owned water utilities. Privately-owned water utilities shall prepare a drought contingency plan in accordance with this section and shall incorporate such plan into their tariff.

(3) Wholesale water customers. Any water supplier that receives all or a portion of its water supply from another water supplier shall consult with that supplier and shall include in the drought contingency plan appropriate provisions for responding to reductions in that water supply.

(b) A wholesale or retail water supplier shall notify the executive director within five business days of the implementation of any mandatory provisions of the drought contingency plan.

(c) The retail public water supplier shall review and update, as appropriate, the drought contingency plan, at least every five years, based on new or updated information, such as the adoption or revision of the regional water plan.

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

Sections 13-76 and 13-78 of the Victoria City Code are amended to read as follows:

**Sec. 13-76. Triggering Criteria for Initiation and Termination of Drought Response Stages**

The City Manager, or his/her designee, shall monitor water supply and/or demand conditions and shall determine when conditions warrant initiation or termination of each stage of the Plan. Public notification of the initiation or termination of drought response stages shall be by means of direct mail to each customer, publication in local newspaper, radio and television media, or other means the City Manager deems appropriate.

The triggering criteria described in the City's Drought Contingency Plan were established to enable the City to withstand a repeat of the drought of record and are based on the City's water supplies being, in the following order of importance:

- (1) the City's permit(s) to withdraw approximately 20,000 acre feet of water from the Guadalupe River,
- (2) the level of water in the City's water storage reservoirs (capacity is approximately 10,000 acre feet of water), represented herein by the storage capacity of Off-Channel Reservoir #8, which contains the City's raw water pump station, has a full elevation of 52 feet above mean sea level (msl), and an empty elevation of 32 feet above msl, and
- (3) the City's groundwater wells.

The initial stage of the City's water reduction requirements is initiated when the City can no longer withdraw water from the Guadalupe River, Stages 2 and 3 are triggered as the City's reservoir levels decline, and Stage 4 is triggered when the City is in critical danger of losing access to surface water, and is therefore forced to rely largely or solely on groundwater.

At any time, the City shall be permitted to utilize water sources other than (1) the City's permitted river withdrawal rights, (2) the City's reservoirs, or (3) groundwater wells approved for municipal water supplies, with the prior approval of such alternative water sources and/or alternative delivery mechanisms (e.g., interconnection with another water system, temporary use of a non-municipal water supply, or use of reclaimed water for non-potable purposes, etc.) by the Executive Director of the Texas Commission on Environmental Quality.

**(a) Stage 1 - Mild Water Shortage Conditions:**

Requirements for initiation - Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain nonessential water use when the City of Victoria can no longer withdraw water from the Guadalupe River.

Requirements for termination - Stage 1 of the Plan may be rescinded when all the conditions listed as triggering events have ceased to exist for a period of 14 consecutive days.

**(b) Stage 2 - Moderate Water Shortage Conditions:**

Requirements for initiation - Customers shall be required to comply with the requirements and restrictions on certain nonessential water uses provided in this Plan when the level in off-channel reservoir number 8 is at an elevation 42 feet above mean sea level (Approximately 50% of maximum draw-down).

Requirements for termination - Stage 2 of this Plan may be rescinded when the level in off-channel reservoir number 8 is at an elevation 47 feet above mean sea level for a period of 14 consecutive days (Approximately 25% of maximum draw down). Upon termination of Stage 2, Stage 1 becomes operative.

**(c) Stage 3 - Severe Water Shortage Conditions:**

Requirements for initiation - Customers shall be required to comply with the requirements and restrictions on certain nonessential water uses for stage 3 of this Plan when the level in off-channel reservoir number 8 is at an elevation 37 feet above mean sea level (Approximately 75 % of maximum draw down).

Requirements for termination - Stage 3 of the Plan may be rescinded when the level in off-channel reservoir number 8 is at an elevation 42 feet above mean sea level for a period of 14 consecutive days (Approximately 50% of

maximum draw down). Upon termination of Stage 3, Stage 2 becomes operative.

(d) Stage 4 - Critical Water Shortage Conditions:

Requirements for initiation - Customers shall be required to comply with the requirements and restrictions on certain nonessential water uses for Stage 4 of this Plan when the level in the off-channel reservoir #8 is at an elevation 34 feet above mean sea level (Approximately 90% of maximum draw down).

Requirements for termination - Stage 4 of the Plan may be rescinded when the level in off-channel reservoir number 8 is at an elevation 37 feet above mean sea level for a period of 14 consecutive days (Approximately 75% of maximum draw down). Upon termination of Stage 4, Stage 3 becomes operative.

(e) Stage 5 - 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 City Manager, 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 capacity to provide water service,
- (2) natural or manmade contamination of the water supply source ~~occurs~~, or
- (3) pumping capacity ~~is~~ exceeded by customer demands.

Requirements for termination - Stage 5 of this Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 3 consecutive days.

(f) Water Rationing:

Requirements for initiation - Customers shall be required to comply with the water allocation plan prescribed in this Plan and comply with the requirements and restrictions for Stage 5 of this Plan when the pumping capacity of the backup ground water system is unable to provide the necessary volume to keep up with customer demand.

Requirements for termination - water rationing may be rescinded when all the conditions listed as triggering events have ceased to exist for a period of 3 consecutive days.

**Sec. 13-78. Enforcement.**

(a) During Stages 1 through 5 and during water rationing, no person shall knowingly or intentionally allow the use of water obtained from the City of Victoria for a purpose in a manner contrary to any provision of this Plan, or in an amount in excess of that authorized by the City Manager pursuant to this section.

(b) The Director of Utilities, after at least 10 days notice and an opportunity for hearing upon the written request of any customer responsible for a water account, may terminate the water service of any person who violates any provision of this section. Upon termination pursuant to this subsection, the customer's water service may only be reconnected after payment of a fee of \$200.

(c) In addition to other penalties provided herein, failure to comply with the requirements of this division shall subject a Customer to criminal penalties in an amount not to exceed \$500 per violation. Each violation that continues for or occurs upon more than one day shall constitute a separate violation for each day of violation.

(d) The City plans to distribute educational materials annually at a time that corresponds with peak summer demand periods. The City further plans to provide new customers with drought contingency information and participate in other public education programs and campaigns, such as the "Water Awareness Day" that is hosted annually by the Golden Crescent District of the Texas Water Utilities Association. In addition, a copy of the City's Drought Contingency Plan will be sent to the Regional Water Planning Groups for the service area encompassing the City of Victoria to ensure consistency with the approved regional water plans. It shall not be a defense to prosecution pursuant to this section that the City provided or failed to provide any information or document to any entity or group.

2.

Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined any sum not to exceed \$500.00 as provided in Section 1-8 of the City Code. The City Secretary shall publish the caption or a descriptive title of this ordinance one time within 10 days after final passage of the ordinance in a newspaper of general circulation in the City of Victoria in accordance with Article II, §10 of the City Charter.

3.

In addition to any other remedy provided by law, the City and its officers shall have the right to enjoin any violation of this ordinance by injunction issued by a court of competent jurisdiction.

4.

All parts of ordinances in conflict with this ordinance are repealed to the extent of such conflict.

5.

If any provision of this Ordinance, or the application thereof to any person or circumstances, shall be held invalid or unconstitutional by a Court of competent jurisdiction, such invalidity shall not affect the other provisions, or application thereof, of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

6.

It is the intention of the City Council that this Ordinance shall become a part of the Code of the City of Victoria, Texas, and it may be renumbered and codified therein accordingly. The Code of the City of Victoria, Texas, as amended, shall remain in full force and effect, save and except as amended by this Ordinance.

7.

The provisions of this ordinance shall become effective immediately upon final passage and approval by the City Council of the City of Victoria, Texas.

PASSED FIRST READING, this the 5TH day of APRIL, 2005.

AYES: 6  
NAYS: 0  
ABSTENTIONS: 0

PASSED SECOND READING, this the 19TH day of APRIL, 2005.

AYES: 5  
NAYS: 0  
ABSTENTIONS: 0

PASSED THIRD READING, this the 19TH day of APRIL, 2005.

AYES: 5  
NAYS: 0  
ABSTENTIONS: 0

APPROVED AND ADOPTED, this the 19 day of APRIL, 2005.



ATTEST:

*Scarlet Swoboda*  
SCARLET SWOBODA, City Secretary

Distribution: Legal Department  
Department of Utilities  
The Victoria Advocate

*Will Armstrong*  
WILL ARMSTRONG, Mayor of the  
City of Victoria, Texas  
*David Atmar Smith*  
APPROVED AS TO LEGAL FORM:  
DAVID ATMAR SMITH, City Attorney

Copies Sent: APRIL 22, 2005