

ORDINANCE NO. 18-14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BROWNWOOD, TEXAS; REPEALING THE CITY OF BROWNWOOD'S PREVIOUS WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN; AMENDING THE CITY OF BROWNWOOD CODE OF ORDINANCES BY AMENDING CHAPTER 70, ARTICLE IV., SECTION 70-283, TO ESTABLISH A NEW WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN; ESTABLISHING PENALTIES FOR VIOLATING THE RESTRICTIONS AND PROVISIONS FOR ENFORCEMENT OF THESE RESTRICTIONS; ESTABLISHING AUTHORITY TO DISCONNECT WATER SERVICE FOR MULTIPLE VIOLATIONS OF THIS ORDINANCE; PROVIDING CERTAIN CITY EMPLOYEES WITH AUTHORITY TO ISSUE CITATIONS FOR VIOLATIONS OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A CUMULATIVE/REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Brownwood, Texas (the "City"), recognizes that the amount of water available to its water customers is limited; and

WHEREAS, the City recognizes that due to natural limitations, drought conditions, system failures and other acts of God which may occur, the City cannot guarantee an uninterrupted water supply for all purposes at all times; and

WHEREAS, the Water Code and the regulations of the Texas Commission on Environmental Quality (the "Commission") require that the City adopt a water conservation and drought contingency plan; and

WHEREAS, pursuant to Chapter 54 of the Local Government Code, the City is authorized to adopt such ordinances necessary to preserve and conserve its water resources;

WHEREAS, the City Council of the City of Brownwood adopted a Water Conservation and Drought Contingency Plan (the "2013 Plan") by Ordinance No. 13-25 so that it could enforce violations of the 2013 Plan; and

WHEREAS, the City Council desires to repeal the 2013 Plan and adopt a new Plan to provide for additional drought stages, additional requirements imposed by the Texas Commission on Environmental Quality and to provide for additional enforcement measures.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BROWNWOOD, TEXAS THAT:

Section 1. Findings Incorporated.

The findings set forth above are incorporated into the body of this ordinance as if fully set forth herein.

Section 2. Repeal of 2013 Plan.

The 2013 Plan adopted by Ordinance No. 13-25 is hereby repealed in its entirety.

Section 3. Amendment Of Chapter 70, Article IV., Code Of Ordinances.

That Chapter 70, Article IV., Section 70-283 of the Code of Ordinances of the City of Brownwood, Texas is hereby amended in its entirety to adopt a new Water Conservation and Drought Contingency Plan to read as follows:

"Sec. 70-283. Water conservation and drought contingency plan.

- (a) A water conservation and drought contingency plan for the city (the "2018 Plan"), entitled Water Conservation & Drought Contingency Plan 2018 attached hereto as Exhibit A, is hereby adopted and incorporated in this section by reference as if set out herein. The provisions of the 2018 Plan are hereby ordained and enacted, and are expressly made a part of this ordinance. The 2018 Plan is on file in the city secretary's office.
- (b) No person or entity shall knowingly or intentionally allow the use of water from the City for residential, commercial, institutional, industrial, agricultural, governmental, recreational, wholesale, or any other purpose in a manner contrary to any provision of the 2018 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 City Manager or his/her designee, in accordance with provisions of the 2018 Plan.
- (c) Any water customer who violates the 2018 Plan is guilty of and may be charged with a misdemeanor and, upon conviction shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00). Each day that one or more of the provisions in the 2018 Plan is violated shall constitute a separate offense. Proof of a culpable mental state is not required for a conviction of an offense under this ordinance. If a person is convicted of three or more distinct violations of the 2018 Plan, the City Manager or his/her designee shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a re-connection charge, hereby initially established at thirty five dollars (\$35.00) but may be amended by the City's annual fee ordinance, and any other costs incurred by the City of Brownwood in discontinuing service. In addition, suitable assurance must be documented with the City Manager or his/her designee that the same action shall not be repeated while the 2013 Plan is in effect. Compliance with the 2018 Plan may also be sought through injunctive relief in the district court.
- (d) The following employees of the City, police officers and code enforcement officers, may issue a citation to a person he/she reasonably believes to be in violation of the Plan and/or this ordinance. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over eighteen (18) years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in municipal court to enter a plea of guilty or not guilty for the violation of the Plan. If the alleged violator fails to appear in municipal court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant.

- (e) A City of Brownwood code enforcement officer, police officer, or other official designated by the City Manager or his/her designee, may issue a written Notice of Violation to a person or entity he/she reasonably believes to be in violation of this Plan. For subsequent violations following written notice:
- (1) The City may issue a citation (Class C misdemeanor);
 - (2) The City 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 City may charge the customer for the actual cost of installing and removing the flow restricting device, not to exceed fifty dollars (\$50.00), such amount may be amended by the City's annual fee ordinance;
 - (3) The City may discontinue service at the meter pursuant to paragraph (c) for a period of seven (7) days, or until the end of the calendar month, whichever is LESS. The normal reconnect fee of the utility will apply for restoration of service.
- (f) Any person 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 the 2018 Plan and that the parent could not have reasonably known of the violation.

Section 4. Severability Clause.

If any word, section, article, phrase, paragraph, sentence, clause or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect, for any reason, the validity of the remaining portions of this ordinance and the remaining portions shall remain in full force and effect.

Section 5. Cumulative/Repealer Clause.

This ordinance shall be cumulative of all provisions of State or Federal law and other ordinances of the City of Brownwood, Texas, including the 2018 Plan attached hereto as Exhibit A, whether codified or uncoded, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed to the extent of such conflict.

Section 6. Savings Clause.

All rights and remedies of the City of Brownwood, Texas, are expressly saved as to any and all violations of the provisions of this ordinance or any other ordinance 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.

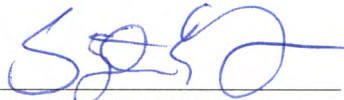
Section 7. Effective Date.

This ordinance shall become effective immediately upon its passage and publication as required by law.

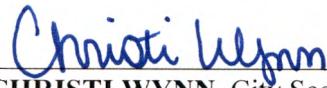
PASSED AND APPROVED on First Reading this 26th day of June, 2018.

PASSED AND APPROVED on Second Reading this 10th day of July, 2018.

PASSED AND APPROVED on Third/Final Reading this 10th day of July, 2018.


STEPHEN E. HAYNES, Mayor

ATTEST:


CHRISTI WYNN, City Secretary



APPROVED AS TO FORM:


WILLIAM P. CHESSER, City Attorney



City of Brownwood

WATER CONSERVATION & DROUGHT CONTINGENCY PLAN 2018

P.O. Box 1389
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Brownwood, TX 76804
(325) 646-5775

Prepared by:

LaCosta
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WATER CONSERVATION PLAN

Utility Profile

Utility Information

CCN#: 10436

PWS#: 0250002

RWPG: Region F Planning Group

COUNTY: Brown

SERVICE AREA: 12.54 square miles, 159 miles of pipe

WATER SOURCE: Lake Brownwood

STORAGE CAPACITY: 5.0 MG (City), 3.0 MG (Brown Co WID #1)

WASTEWATER CAPACITY: 4.54 MGD

REUSE VOLUME: 16,000,000 gallons

Population and Customer Data

YEAR	POPULATION	TOTAL GPCD	RESIDENTIAL GPCD
2017	19,153	147	80
2016	19,288	141	78
2015	19,350	143	79
2014	19,350	147	81
2013	20,400	142	74

SECTOR	CONNECTIONS	2017 GALLONS SOLD
RESIDENTIAL		
SINGLE-FAMILY	6,077	480,340,168
MULTI-FAMILY	186	80,183,356
INDUSTRIAL	13	156,483,844
COMMERCIAL	1,060	239,334,568
INSTITUTIONAL	89	57,966,260
AGRICULTURAL	0	0
TOTAL	7,425	1,014,308,196

Water Conservation Goals

Due to drought conditions in recent years and subsequent implementation of water-use restrictions, per capita usage in the City has fluctuated significantly. The City's actual usage has been significantly below previously identified goals due to increased public awareness and ongoing water-use restrictions. The City of Brownwood's specific and quantified 5 and 10-year water conservation goals are as follows:

	5-Year Goal (2023)	10-Year Goal (2028)
TOTAL GPCD	143	139
RESIDENTIAL GPCD	77	75
WATER LOSS	< 10%	< 10%

Metering Devices

The City of Brownwood meters 100% of water use in residential, industrial, commercial, and institutional accounts. Meters are tested upon customer request. Per the City's meter testing, repair, and replacement program:

1. Master meters are tested and calibrated annually to within an accuracy of plus or minus 5%
2. Meters larger than 2" are tested and calibrated as necessary
3. Meters 1" or smaller are tested and calibrated or replaced in accordance with AWWA standards after 1 million gallons or every 15 years
4. Meters that have abnormally high or low water usage are replaced

The City has a pending project to upgrade to an automated meter reading system.

Water Loss

The City maintains an ongoing program of leak detection and repair. A monthly water audit measures water loss by comparing sold vs. purchased water. Any abnormalities are investigated by the Utility Department staff using leak detection equipment. Water lines found to have leaks are replaced as quickly as practical.

During 2017, the following leak detection and water loss activities were performed:

- 150 leaks repaired
- 1 production meter tested
- 2 meters larger than 1 ½" repaired
- 8 meters larger than 1 ½" replaced
- 5 meters smaller than 1 ½" repaired
- 100 meters smaller than 1 ½" replaced

Elevated tanks are monitored by a SCADA system that will alarm utility staff if water flow from the tanks indicate a possible water main break, a tank overflow, or any other abnormalities in the system. Visual inspections are performed routinely by meter readers and utility staff. Customers with abnormally high usage that would indicate excessive usage or a plumbing fixture leak are informed.

Additionally, Brown County WID #1 performs daily pH testing of raw and treated water. The pH is maintained above 7 to prevent corrosion of metal pipes. Any abnormalities are reported to the City by the District.

Public Education

The City of Brownwood conducts a program of ongoing public education that includes an annual summertime distribution of water conservation information. Articles are published in local newspapers to reinforce the distributed materials. Radio public service announcements and interviews are periodically conducted to promote water conservation awareness. Additionally, new customers will receive water conservation information when applying for service.

Public awareness and educational activities conducted by the City include:

- Brochures distributed
- Notes printed on bills
- Press releases
- Radio public service announcements
- Water conservation exhibits
- Public presentations to local organizations

Water Rates

After the Monthly Service Fee, the City of Brownwood has a uniform rate of \$2.38* per CCF (100 cubic feet or 748.052 gallons) for customers inside the City limits and \$3.08* per CCF for customers outside the City limits. This rate is cost based and does not encourage the excessive use of water. The City will consider inclining block rates in the future.

* Or as amended by rate ordinance.

Recycling & Reuse

Approximately 16 million gallons is recycled and reused annually at the City's wastewater treatment plant. Treated wastewater effluent is used for all landscape irrigation, wash down of plant structures, cooling lubrication of pumps, process water for disinfection treatment, gravity filter backwash, belt filter press and injection water for polymer feed system.

Plumbing Codes

The City of Brownwood has adopted the International Plumbing Code. All new construction must comply with the Code by using water saving plumbing fixtures. Additionally, the State of Texas has recently adopted more stringent water saving performance measures for plumbing fixtures, found in the Health & Safety Code Chapter 372. The following maximum flow standards are subsequently listed in the Texas Administrative Code Title 30 Chapter 290 Subchapter G:

- | | |
|-------------------------------------|----------|
| • Faucet or aerator | 2.2 gpm |
| • Shower head | 2.5 gpm |
| • Urinal and associated flush valve | 0.5 gpm |
| • Single and dual flush toilets | 1.28 gpm |
| • Pre-rinse spray valve | 1.6 gpm |

Customers in existing buildings that do not have water saving plumbing fixtures are encouraged through educational materials to retrofit their old plumbing fixtures.

Service taps will not be given to customers that do not meet the City's requirements for service, including compliance with the adopted plumbing code requiring the installation of water conserving plumbing fixtures. The City of Brownwood Development Services Department inspects all new and repaired plumbing within the city limits. Certificates of Occupancy and permanent water service are not granted to facilities that fail to meet all requirements.

Water Conserving Landscaping

The City will continue to make available multiple brochures with information for the public on principles of conservation. Xeriscaping practices are encouraged by the City through a brochure that was sent to all customers. The City's year-round voluntary water schedule allows customers with odd numbered addresses to water on Mondays and Thursdays, and those with even numbered addresses to water on Tuesdays and Fridays. Irrigation of landscapes is prohibited between 9:00AM and 7:00PM when the Drought Contingency Plan is in effect with the hand-held use exception for Stage 5 as noted.

Water Waste

Water waste is prohibited at all times. Water waste is defined as:

1. Failure to repair a controllable leak, including:
 - Irrigation systems
 - Plumbing fixtures
 - Pipes
2. Operating a permanently installed irrigation system with:
 - A broken or missing head
 - A head that is out of adjustment where the arc of the spray head is over a street, parking area, or other impervious surface
3. During irrigation:
 - Allowing water to run off a property such that there is a trail of water running in a street, parking area, or other impervious surface for a distance of 50 feet or greater
 - Allowing water to pond to a depth greater than $\frac{1}{4}$ of an inch in a street, parking area, or other impervious surface.

Each instance of a violation is a separate offense and a Class C misdemeanor punishable by fines.

Discretionary/Non-Essential Uses

- Wash down of any sidewalks, driveways, parking lots, or other hard-surfaced areas (Commercial accounts may wash parking lots as needed for health and safety purposes in Stages 1-3. During Stage 4, only spot washing is allowed as necessary)
- Use of water to wash down buildings or structures for purposes other than immediate fire protection
- Use of water for dust control
- Residential use of water for washing vehicles
- Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

Best Management Practices

The City will consider implementing the following BMPs during the next reporting cycle:

- School Education
- Public Information
- Annual Water Audit
- Prohibition of Water Waste
- Drought Rate Increases

Wholesale Contracts

The City of Brownwood will include a requirement in every wholesale water supply contract entered into or renewed after official adoption of the plan and including any contract extension, that each successive wholesale customer develop and implement a water conservation plan or water conservation measures using the applicable elements in this chapter. If the customer intends to resell the water, the contract between the initial supplier and customer must provide that the contract for the resale of the water must have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures in accordance with the provisions 30 TAC Chapter 288.

DROUGHT CONTINGENCY PLAN

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 Brownwood hereby adopts the following regulations and restrictions on the delivery and consumption of water by City Ordinance.

Water uses regulated or prohibited under this Drought Contingency Plan are considered to be non-essential or discretionary and continuation of such uses during times of water shortage or other emergency water supply conditions are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in the Enforcement of Drought Contingency Plan section of this Plan.

Public Involvement

Opportunity for the public to provide input into the preparation and subsequent revisions of this Plan was provided by the City of Brownwood by means of:

1. City Council meetings scheduled for the 2nd and 4th Tuesdays of the month at 9:00AM
2. City website and social media sites
3. Phone
4. Personal correspondence

Public Education

The City of Brownwood will periodically provide the public with information about this Drought Contingency 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. Water conservation tips and information will also be provided.

This information will be provided by means of:

1. Posting a Notice of Drought Conditions at City Hall
2. General circulation to newspapers
3. Notifying local radio stations
4. Direct mailing upon request
5. Handouts to customers, schools, civic groups, and clubs upon request
6. Facility tours
7. City website and social media sites

A copy of this Plan will be available at the City Hall during business hours.

Authorization

The City Manager 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 City Manager 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.

Application

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

Drought and Emergency Triggers

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

DROUGHT TRIGGERS

Stage 1: Mild Drought

- Brown County WID #1 declares Stage 1 Drought conditions
- High demand on the system
- Drought Monitor indicates drought conditions

Stage 2: Moderate Drought

- Brown County WID #1 declares Stage 2 Drought conditions
- Inability to maintain 70% storage capacity over-night due to high demand
- Demand exceeds 85% capacity for 3 consecutive days
- Demand exceeds 90% capacity for 1 day

Stage 3: Severe Drought

- Brown County WID #1 declares Stage 3 Drought conditions
- Inability to maintain 50% storage capacity over-night due to high demand
- Demand exceeds 90% capacity for 3 consecutive days
- Demand exceeds 95% capacity for 1 day

Stage 4: Exceptional Drought

- Brown County WID #1 declares Stage 4 Drought conditions
- Inability to maintain 35% storage capacity over-night due to high demand
- Demand exceeds 95% capacity for 3 consecutive days
- Demand exceeds 100% capacity for 1 day
- Major limitations of water system components

Stage 5: Advanced Exceptional Drought

- Same triggers as Stage 4 with addition of one or more of the following secondary triggers.
- Lake levels less than one year supply.
- Or inability to achieve target goals for Stage 4 conservation goals.

Stage 6: Emergency Condition

- Brown County WID #1 declares Stage 5 Emergency condition
- Water production or distribution system limitations
- Supply source contamination
- System outage due to the failure or damage of major water system components

Response Stages

The City Manager 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 this Plan, shall determine that a mild drought, moderate drought, severe drought, exceptional drought, or emergency condition exists. The City shall notify the public by the means of notification described in the Public Education section of this plan.

During times of high demand or distribution limitations, the City Manager or his/her designee may implement the appropriate Drought Response Stage.

City of Brownwood Watering Schedule

Drought Stage	Compliance	Odd Addresses	Even Addresses
1: Mild	Voluntary	Monday, Thursday Midnight to 9am & 7 pm to Midnight	Tuesday, Friday Midnight to 9am & 7 pm to Midnight
2: Moderate	Mandatory	Monday, Thursday Midnight to 9am & 7 pm to Midnight	Tuesday, Friday Midnight to 9am & 7 pm to Midnight
3: Severe	Mandatory	Monday Midnight to 9am & 7 pm to Midnight	Tuesday Midnight to 9am & 7 pm to Midnight
4: Exceptional	Mandatory	Monday 7PM-midnight	Tuesday 7PM-Midnight
5: Advanced	Mandatory	Monday 6PM-8PM*	Tuesday 6PM-8PM*

* Hand held hose, watering can, or bucket only

The City of Brownwood watering schedule applies to all residential, commercial, industrial, and institutional accounts including athletic fields. Due to game scheduling conflicts, athletic field managers may modify the approved watering days by submitting a request in writing to the City Manager or designee.

During times when this Drought Contingency Plan is in effect, it is a violation of this Plan for any person, firm, corporation, or entity to irrigate landscapes between 9:00AM and 7:00PM except with watering cans and as noted above in Stage 5.

As appropriate, the City Manager or his/her designee shall notify directly, or cause to be notified directly, the following individuals and entities:

- City Fire Chief
- City Emergency Management Coordinator
- County Emergency Management Coordinator
- Municipal Court Judge
- County Judge
- DPS, Division of Emergency Management, (512) 424-2208
- TCEQ, Water Supply Division, (512) 239-4697

Stage 1 Response: Mild Drought

Target: Achieve a 5 percent reduction in total water use.

Water-Use Restrictions

1. Customers are requested to voluntarily follow the City of Brownwood's 2-day/week watering schedule
2. Water customers are requested to practice water conservation and to minimize or discontinue water use for non-essential or discretionary purposes
3. Customers may water potted plants and landscapes at any time with a watering can or handheld hose with automatic shutoff nozzle
4. Require wholesale customers to achieve a 5 percent reduction in water purchased from the City

Utility Actions

1. Formal public notification by City officials of Mild Drought conditions
2. Initiate increased public information efforts
3. Notify major commercial and industrial water users
4. Increase leak detection and repair efforts
5. Daily evaluations of water usage data from the SCADA system and/or Brown County WID #1 operations
6. If coming from Stage 2, 3, or 4 Response, notify TCEQ Water Supply Division of no mandatory restrictions
7. The City may consider the implementation of temporary water rate increases or water use surcharge(s)

Stage 2 Response: Moderate Drought

Target: Achieve a 15 percent reduction in total water use.

Water-Use Restrictions

1. Customers are required to follow to the City of Brownwood's 2-day/week watering schedule
2. Water customers are requested to continue to practice water conservation and to minimize or discontinue water use for non-essential or discretionary purposes
3. Customers may water potted plants and landscapes at any time with a watering can or handheld hose with automatic shutoff nozzle
4. Initiate a 50% reduction in irrigation of City parks and institutional landscapes
5. Commercial use of water reduced by 10% of normal use
6. Require wholesale customers to achieve a 10 percent reduction in water purchased from the City

Utility Actions

1. Formal public notification by City officials of Moderate Drought conditions
2. Increase utility oversight of water waste
3. Notify TCEQ Water Supply Division of current mandatory drought stage
4. The City may consider the implementation of temporary water rate increases or water use surcharge(s)

Stage 3 Response: Severe Drought

Target: Achieve a 30 percent reduction in total water use.

Water-Use Restrictions

1. Customers are required to comply with the City of Brownwood's 1-day/week watering schedule
2. Filling of swimming pools, ornamental fountains, and artificial water features on watering days only
3. Customers may water potted plants and landscapes at any time with a watering can or handheld hose with automatic shutoff nozzle

4. Water for City parks and institutional landscapes is limited to drip irrigation or a handheld hose on designated days for trees, shrubs, and planters
5. Non-essential commercial water use reduced by 20%
6. Require wholesale customers to achieve a 30 percent reduction in water purchased from the City

Utility Actions

1. Formal public notification by City officials of Severe Drought conditions
2. Implement utility enforcement of watering schedule and water waste
3. Notify TCEQ Water Supply Division of current mandatory drought stage
4. The City may consider the implementation of temporary water rate increases or water use surcharge(s)

Stage 4 Response: Exceptional Drought

Target: Achieve a 50 percent reduction in total water use.

Water-Use Restrictions

1. Customers are required to comply with the City of Brownwood's reduced hours 1-day/week watering schedule with outdoor watering limited from 7:00 pm to midnight only.
2. Non-essential commercial use of water reduced by 50% to 100%
3. Require wholesale customers to achieve a 50 percent reduction in water purchased from the City

Utility Actions

1. Formal public notification by City officials of Exceptional Drought conditions
2. Increase utility enforcement of watering schedule and water waste
3. Notify TCEQ Water Supply Division of current mandatory drought stage
4. The City may consider the implementation of temporary water rate increases or water use surcharge(s)

Stage 5 Response: Advanced Exceptional Drought

Target: Achieve a 50 percent or greater reduction in total water use.

Water-Use Restrictions

1. All outdoor, non-essential, or discretionary uses of water is prohibited except with hand held hose, water can, or bucket between 6:00PM and 8:00PM on designated watering day
2. Non-essential commercial use of water reduced by 75% to 100%
3. Require wholesale customers to maintain a 50 percent reduction in water purchased from the City

Utility Actions

1. Formal public notification by City officials of Advanced Exceptional Drought conditions
2. Increase utility enforcement of watering schedule and water waste
3. Notify TCEQ Water Supply Division of current mandatory drought stage
4. The City may consider the implementation of temporary water rate increases or water use surcharge(s)

Stage: 6 Emergency Condition**Emergency water shortage**

In the event of an identified water shortage declaration from Brown County WID #1, the City will distribute water to wholesale customers according to Texas Water Code, §11.039* and initiate water allocation to municipal water customers.

Supply source contamination

In the event of a contamination event, appropriate emergency procedures will be implemented and appropriate emergency response officials will be notified immediately.

In the event of a backflow incident, loss of pressure, or an Acute Maximum Contaminant Level coliform violation, a Boiled Water Notice will be implemented as prescribed in 30 TAC Chapter 290.

System outage due to the failure or damage of major water system components

In the event of a catastrophic failure due to natural or man-made events, appropriate emergency procedures will be implemented and appropriate emergency response officials will be notified as appropriate.

Alternative Sources

There are limited groundwater resources in Brown County. Lake Brownwood is the sole source of water for the City. In the event of an emergency loss of water supply, the city will consider alternative ways to acquire and provide water for the health and public safety of the City's residents.

*** Texas Water Code, Sec. 11.039.**

DISTRIBUTION OF WATER DURING SHORTAGE.

(a) If a shortage of water in a water supply not covered by a water conservation plan prepared in compliance with Texas Natural Resource Conservation Commission or Texas Water Development Board rules results from drought, accident, or other cause, the water to be distributed shall be divided among all customers pro rata, according to the amount each may be entitled to, so that preference is given to no one and everyone suffers alike.

(b) If a shortage of water in a water supply covered by a water conservation plan prepared in compliance with Texas Natural Resource Conservation Commission or Texas Water Development Board rules results from drought, accident, or other cause, the person, association of persons, or corporation owning or controlling the water shall divide the water to be distributed among all customers pro rata, according to:

(1) The amount of water to which each customer may be entitled;

or

(2) The amount of water to which each customer may be entitled, less the amount of water the customer would have saved if the customer had operated its water system in compliance with the water conservation plan.

(c) Nothing in Subsection (a) or (b) precludes the person, association of persons, or corporation owning or controlling the water from supplying water to a person who has a prior vested right to the water under the laws of this state.

Variances

The City Manager 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:

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.

Persons requesting an exemption from the provisions of this Ordinance shall file a petition for variance with the City of Brownwood within 5 days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by City Manager or his/her 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 petitioner complies with this Ordinance.
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 the compliance date.
8. Other pertinent information.

Enforcement

1. No person or entity shall knowingly or intentionally allow the use of water from the City of Brownwood for residential, commercial, institutional, industrial, agricultural, governmental, recreational, wholesale, 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 City Manager or his/her designee, in accordance with provisions of this Plan;
2. A City of Brownwood code enforcement officer, police officer, or other official designated by the City Manager or his/her designee, may issue a written Notice of Violation to a person or entity he/she reasonably believes to be in violation of this Plan. For subsequent violations following written notice:
 - a. The utility may issue a citation (Class C misdemeanor);
 - b. The utility 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 fifty dollars (\$50.00);
 - c. The utility 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 utility will apply for restoration of service;
3. Any water customer who violates this Plan is guilty of and may be charged with a misdemeanor and, upon conviction shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00) or as amended in ordinance. Each day that one or more of the provisions in this Plan is violated shall constitute a separate offense. If a person is convicted of three or more distinct violations of this Plan, the City Manager or his/her designee shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a re-connection charge, hereby established at thirty five dollars (\$35.00), and any other

costs incurred by the City of Brownwood in discontinuing service. In addition, suitable assurance must be documented with the City Manager or his/her designee that the same action shall not be repeated while the Plan is in effect. Compliance with this plan may also be sought through injunctive relief in the district court;

4. Any water customer of the City of Brownwood, 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.

COORDINATION WITH REGION F PLANNING GROUP

The service area of the City of Brownwood is located within the Region F Water Planning Group and the City will provide a copy of this Plan to the Region F Planning Group at:

Colorado River Municipal Water District
P.O. Box 869
400 E. 24th Street
Big Spring, TX 79720

ORDINANCE NO. 18 -

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BROWNWOOD, TEXAS; REPEALING THE CITY OF BROWNWOOD'S PREVIOUS WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN; AMENDING THE CITY OF BROWNWOOD CODE OF ORDINANCES BY AMENDING CHAPTER 70, ARTICLE IV., SECTION 70-283, TO ESTABLISH A NEW WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN; ESTABLISHING PENALTIES FOR VIOLATING THE RESTRICTIONS AND PROVISIONS FOR ENFORCEMENT OF THESE RESTRICTIONS; ESTABLISHING AUTHORITY TO DISCONNECT WATER SERVICE FOR MULTIPLE VIOLATIONS OF THIS ORDINANCE; PROVIDING CERTAIN CITY EMPLOYEES WITH AUTHORITY TO ISSUE CITATIONS FOR VIOLATIONS OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A CUMULATIVE/REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Brownwood, Texas (the "City"), recognizes that the amount of water available to its water customers is limited; and

WHEREAS, the City recognizes that due to natural limitations, drought conditions, system failures and other acts of God which may occur, the City cannot guarantee an uninterrupted water supply for all purposes at all times; and

WHEREAS, the Water Code and the regulations of the Texas Commission on Environmental Quality (the "Commission") require that the City adopt a water conservation and drought contingency plan; and

WHEREAS, pursuant to Chapter 54 of the Local Government Code, the City is authorized to adopt such ordinances necessary to preserve and conserve its water resources;

WHEREAS, the City Council of the City of Brownwood adopted a Water Conservation and Drought Contingency Plan (the "2013 Plan") by Ordinance No. 13-25 so that it could enforce violations of the 2013 Plan; and

WHEREAS, the City Council desires to repeal the 2013 Plan and adopt a new Plan to provide for additional drought stages, additional requirements imposed by the Texas Commission on Environmental Quality and to provide for additional enforcement measures.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BROWNWOOD, TEXAS THAT:

Section 1. Findings Incorporated.

The findings set forth above are incorporated into the body of this ordinance as if fully set forth herein.

Section 2. Repeal of 2013 Plan.

The 2013 Plan adopted by Ordinance No. 13-25 is hereby repealed in its entirety.

Section 3. Amendment Of Chapter 70, Article IV., Code Of Ordinances.

That Chapter 70, Article IV., Section 70-283 of the Code of Ordinances of the City of Brownwood, Texas is hereby amended in its entirety to adopt a new Water Conservation and Drought Contingency Plan to read as follows:

"Sec. 70-283. Water conservation and drought contingency plan.

- (a) A water conservation and drought contingency plan for the city (the "2018 Plan"), entitled Water Conservation & Drought Contingency Plan 2018 attached hereto as Exhibit A, is hereby adopted and incorporated in this section by reference as if set out herein. The provisions of the 2018 Plan are hereby ordained and enacted, and are expressly made a part of this ordinance. The 2018 Plan is on file in the city secretary's office.
- (b) No person or entity shall knowingly or intentionally allow the use of water from the City for residential, commercial, institutional, industrial, agricultural, governmental, recreational, wholesale, or any other purpose in a manner contrary to any provision of the 2018 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 City Manager or his/her designee, in accordance with provisions of the 2018 Plan.
- (c) Any water customer who violates the 2018 Plan is guilty of and may be charged with a misdemeanor and, upon conviction shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00). Each day that one or more of the provisions in the 2018 Plan is violated shall constitute a separate offense. Proof of a culpable mental state is not required for a conviction of an offense under this ordinance. If a person is convicted of three or more distinct violations of the 2018 Plan, the City Manager or his/her designee shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a reconnection charge, hereby initially established at thirty five dollars (\$35.00) but may be amended by the City's annual fee ordinance, and any other costs incurred by the City of Brownwood in discontinuing service. In addition, suitable assurance must be documented with the City Manager or his/her designee that the same action shall not be repeated while the 2013 Plan is in effect. Compliance with the 2018 Plan may also be sought through injunctive relief in the district court.
- (d) The following employees of the City, police officers and code enforcement officers may issue a citation to a person he/she reasonably believes to be in violation of the Plan and/or this ordinance. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over eighteen (18) years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in municipal court to enter a

plea of guilty or not guilty for the violation of the Plan. If the alleged violator fails to appear in municipal court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant.

- (e) A City of Brownwood code enforcement officer, police officer, or other official designated by the City Manager or his/her designee, may issue a written Notice of Violation to a person or entity he/she reasonably believes to be in violation of this Plan. For subsequent violations following written notice:

(1) The City may issue a citation (Class C misdemeanor);

(2) The City 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 City may charge the customer for the actual cost of installing and removing the flow restricting device, not to exceed fifty dollars (\$50.00), such amount may be amended by the City's annual fee ordinance;

(3) The City may discontinue service at the meter pursuant to paragraph (c) for a period of seven (7) days, or until the end of the calendar month, whichever is LESS. The normal reconnect fee of the utility will apply for restoration of service.

- (f) Any person 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 the 2018 Plan and that the parent could not have reasonably known of the violation.

Section 4. Severability Clause.

If any word, section, article, phrase, paragraph, sentence, clause or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect, for any reason, the validity of the remaining portions of this ordinance and the remaining portions shall remain in full force and effect.

Section 5. Cumulative/Repealer Clause.

This ordinance shall be cumulative of all provisions of State or Federal law and other ordinances of the City of Brownwood, Texas, including the 2018 Plan attached hereto as Exhibit A, whether codified or uncoded, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed to the extent of such conflict.

Section 6. Savings Clause.

All rights and remedies of the City of Brownwood, Texas, are expressly saved as to any and all violations of the provisions of this ordinance or any other ordinance 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 7. Effective Date.

This ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED on First Reading this ____ day of ____, 2018.

PASSED AND APPROVED on Second Reading this ____ day of ____, 2018.

PASSED AND APPROVED on Third/Final Reading this ____ day of ____, 2018.

STEPHEN E. HAYNES, Mayor

ATTEST:

CHRISTI WYNN, City Secretary

APPROVED AS TO FORM:

WILLIAM P. CHESSER, City Attorney

Exhibit A

Brown County Water Improvement District #1 Triggers

Proposed Drought Contingency Plan Trigger Levels

Drought Stage	Lk Brownwood Elev. (feet)	Dist. Below Cons. Pool (feet)	Lk Brownwood Vol. (ac-ft)	Lk Brownwood % Full (%)	Req'd Reduction in Water Use (%)	*One Year Supply Req'd (ac-ft)	Supply Remaining w/ Reduction (years)
	1,425.0	0.0	131,429.0	100.0%	None	25,800.0	5.1
Stage 1 (Mild)	1,420.0	5.0	100,858.0	76.7%	5.0%	25,135.0	4.0
Stage 2 (Moderate)	1,417.0	8.0	84,814.0	64.5%	15.0%	23,805.0	3.6
Stage 3 (Severe)	1,414.0	11.0	70,674.0	53.8%	30.0%	21,810.0	3.2
Proposed Stage 4 (Exceptional)	1,411.0	14.0	57,975.0	44.1%	50.0%	19,150.0	3.0
Proposed Stage 5 (Emergency)	1,408.0	17.0	46,586.0	35.4%	TBD at Initiation by District	TBD at Initiation by District	> 1.0

*Based on 2011 Water Use (13,300 AFY) + Record Evaporation rate in 2011
(12,500 AFY) = 25,800 AFY