

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FRIENDSWOOD, TEXAS, REPEALING CHAPTER 86 "UTILITIES," ARTICLE II "WATER," DIVISION 1 "GENERALLY" OF THE FRIENDSWOOD CITY CODE; AMENDING CHAPTER 86 "UTILITIES," ARTICLE II "WATER" OF THE FRIENDSWOOD CITY CODE BY ADDING A NEW DIVISION TO BE NUMBERED AND ENTITLED DIVISION 1 "GENERALLY" TO CONFORM TO THE UPDATED DROUGHT CONTINGENCY AND WATER EMERGENCY MANAGEMENT PLANS AND TO PROMOTE THE RESPONSIBLE USE OF WATER; PROVIDING A MAXIMUM PENALTY OF TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00); REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY, PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Friendswood recognizes that the amount of water available to its water customers is limited; and

WHEREAS, the City of Friendswood recognizes that due to natural limitations, drought conditions, system failures and other acts of God which may occur, it 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 require that the City of Friendswood adopt a water conservation plan; and

WHEREAS, the City of Friendswood has adopted an amended drought contingency and water emergency management plan; and

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

WHEREAS, the City is committed to implementing the requirements and procedures set forth in the plan adopted herein; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRIENDSWOOD, STATE OF TEXAS:

Section 1. The facts and matters set forth in the preamble of this ordinance are hereby found to be true and correct.

Section 2. That Chapter 86 "Utilities," Article II "Water," Division 1 "Generally" of the Friendswood City Code is hereby repealed in its entirety.

Section 3. That Chapter 86 "Utilities," Article II "Water" of the Friendswood City Code is hereby amended by adding a new Division 1 "Generally," which division shall read as follows:

CHAPTER 86. UTILITIES

ARTICLE II. WATER

DIVISION 1. GENERALLY

Sec. 86-30. Definitions.

The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

Aesthetic or scenic purposes means the use of water for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.

Conservation means those practices, techniques, and technologies that reduce the consumption of water, reduce the loss and/or waste of water, improve the efficiency of the use of water, and increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

Customer means any person using water supplied by the city.

Domestic water use means water use for personal needs or for household or sanitary purposes such as drinking, cooking, bathing, heating, cooling, sanitation, or for cleaning a residence, business, industry, or institution.

Drought contingency plan means the strategy or combination of strategies adopted by the city for temporary supply and demand management responses to temporary and potentially recurring water supply shortages and other water supply emergencies.

Foundation watering means an application of water to the soils directly abutting (within 2 feet) the foundation of a building or structure.

Landscape irrigation means 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 means 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 division;

- (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) use of water for 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 firefighting.

Plan means the drought contingency plan and the water emergency management plan as defined in this subsection.

Pollution means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or that impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Public water supplier means an individual or entity that supplies water to the public for human consumption.

Regional water planning group means a group established by the TWDB to prepare a regional water plan under Texas Water Code, § 16. 053.

Reuse means the authorized use for one or more beneficial purposes of use of water that remains unconsumed after the water is used for the original purpose of use and before that water is either disposed of or discharged or otherwise allowed to flow into a watercourse, lake, or other body of state-owned water.

TCEQ means the Texas Commission on Environmental Quality or successor entity.

TWDB means the Texas *water development board* or successor entity.

Water emergency management plan means the strategy or combination of strategies adopted by the city for reducing the volume of water withdrawn from a water supply source, for reducing the loss or waste of water, for maintaining or improving the efficiency in the use of water, for increasing the recycling and reuse of water, and for preventing the pollution of water.

86-31. Criteria for initiation and termination of drought response stages.

(a) *Authority.* 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 drought response stage.

(b) *Stages.* The initiation of termination of the drought response stages and the duties of the customers during each such stage are as follows:

(1) *Stage 1 – Mild water shortage conditions.*

a. *Requirements for initiation.* Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 1 of the plan as provided in section 86-33 when one or a combination of the following criteria occurs:

Condition 1: When total daily water demand equals or exceeds sixty percent (60%) of the current available system operating capacity for three (3) consecutive days.

Condition 2: When total daily water demand equals or exceeds sixty-five percent (65%) of the current available system operating capacity on a single day.

Condition 3: When the city manager determines that the initiation of Stage 1 is appropriate based on weather conditions, distribution and water supply system deficiencies, and/or unforeseen circumstances.

Condition 4: When the City of Houston initiates Stage 1.

b. *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 seven (7) consecutive days.

(2) *Stage 2 – Moderate water shortage conditions.*

a. *Requirements for initiation.* Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for

Stage 2 of the plan as provided in Section 86-32 hereinbelow when one or a combination of the following criteria occurs:

Condition 1: When total daily water demand equals or exceeds seventy percent (70%) of the current available system operating capacity for three (3) consecutive days.

Condition 2: When total daily water demand equals or exceeds seventy-five percent (75%) of the current available system operating capacity for three (3) consecutive days.

Condition 3: When the city manager determines that the initiation of Stage 2 is appropriate based on weather conditions, distribution and water supply system deficiencies, and/or unforeseen circumstances.

Condition 4: When the City of Houston initiates Stage 2.

- b. *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 seven (7) consecutive days. Upon termination of Stage 2, Stage 1 or the applicable drought response stage based on the triggering criteria shall become operative.

(3) *Stage 3 – Severe water shortage conditions.*

- a. *Requirements for initiation.* Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 3 of the plan as provided in section 86-33 hereinbelow when one or a combination of the following criteria occurs:

Condition 1: When total daily water demand equals or exceeds eighty percent (80%) of the current available system operating capacity for three (3) consecutive days.

Condition 2: When total daily water demand equals or exceeds eighty-five percent (85%) of the current available system operating capacity for three (3) consecutive days.

Condition 3: When the city manager determines that the initiation of Stage 3 is appropriate based on weather conditions, distribution and water supply system deficiencies, and/or unforeseen circumstances.

Condition 4: When the City of Houston initiates Stage 3.

- b. *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 seven (7) consecutive days. Upon termination of Stage 3, Stage 2 or the applicable drought response stage based on the triggering criteria shall become operative.

(4) *Stage 4– Critical water shortage conditions.*

- a. *Requirements for initiation.* Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 4 of the plan as provided in section 86-33 when one or a combination of the following criteria occurs:

Condition 1: When major water line breaks or pump or system failures occur and cause unprecedented loss of capacity to provide water service.

Condition 2: When natural or manmade contamination of the water supply source(s) occurs.

Condition 3: When the city manager determines that the initiation of Stage 4 is appropriate based on weather conditions, distribution, and water supply system deficiencies, and/or unforeseen circumstances.

Condition 4: When the City of Houston initiates Stage 4.

- b. *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 three (3) consecutive days. Upon termination of Stage 4, Stage 3 or the applicable drought response stage based on the triggering criteria shall become operative.

(5) *Stage 5– Emergency water shortage conditions.*

- a. *Requirements for initiation.* Customers shall be required to comply with the requirements and restrictions for Stage 5 of the plan as provided in section 86-33 hereinbelow when the city manager determines that a water supply emergency exists based on:

Condition 1: When a major water line breaks or pump or system failures occur and cause unprecedented loss of capability to provide water service.

Condition 2: Natural or man-made contamination of the water supply source(s) occurs.

Condition 3: When the city manager determines that the initiation of Stage 5 is appropriate based on weather conditions, distribution, and water supply system deficiencies, and/or unforeseen circumstances.

Condition 4: When the City of Houston initiates Stage 5.

- b. *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 three (3) consecutive days.

86-32. Notification.

When the city manager determines that a mild, moderate, severe, critical, emergency or water shortage condition exists based upon the criteria specified in Section 86-31, the city manager shall implement the following notification procedures:

- (a) *Notification to the public.* The public shall be notified by one or more of the following means:
- (1) Publication in a newspaper of general circulation,
 - (2) Direct mail to each customer,
 - (3) Public service announcements,
 - (4) Signs posted in public places,
 - (5) Auto-calling, and
 - (6) City website.
- (b) *Additional notification.* Additionally, the following persons shall be notified directly:
- (1) Mayor and members of the city council;
 - (2) Fire chief(s);
 - (3) City and/or county emergency management coordinator(s);

- (4) County judge & commissioner(s);
- (5) State disaster district/department of public safety;
- (6) TCEQ (required when mandatory restrictions are imposed);
- (7) Major water users;
- (8) Critical water users, i.e. hospitals; and
- (9) Parks & public facilities managers.

Sec. 86-33. Required water use restrictions.

- (a) *Stage 1 response – Mild water shortage conditions.* The following voluntary water use restrictions shall apply to all persons when a Stage 1 response for mild water shortage conditions has been activated by the city:
 - (1) Customers are requested to voluntarily limit the landscape irrigation to Sundays and Thursdays for customers with an even-numbered address and Saturdays and Wednesdays for water customers with an odd-numbered address. Landscape irrigation may only occur between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. to 12:00 midnight on designated watering days.
 - (2) All operations of the city shall adhere to water use restrictions prescribed for Stage 1 of the plan.
 - (3) Customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes.
- (b) *Stage 2 response – Moderate water shortage conditions.* The following water use restrictions shall apply to all persons when a Stage 2 response for moderate water shortage conditions has been activated by the city:
 - (1) Landscape irrigation with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with an even-numbered address and Saturdays and Wednesdays for customers with an odd-numbered address. Landscape irrigation is further limited to the hours of 12:00 midnight until 10:00 a.m. and between 8:00 p.m. and 12:00 midnight on designated watering days. However, landscape irrigation is permitted at any time 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.

- (2) 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 10:00 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 public health, safety, and welfare are contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.
- (3) 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 10:00 a.m. and between 8:00 p.m. and 12:00 midnight.
- (4) 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.
- (5) Use of water from hydrants shall be limited to firefighting-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.
- (6) 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 10:00 a.m. and between 8:00 p.m. and 12:00 midnight. However, if the golf course utilizes a water source other than that provided by the city, the facility shall not be subject to these regulations.
- (7) All restaurants are prohibited from serving water to patrons except upon request of the patron.
- (8) The following uses of water are defined as non-essential and are prohibited:
 - a. wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
 - b. use of water to wash down buildings or structures for purposes other than immediate fire protection;
 - c. use of water for dust control;
 - d. flushing gutters or permitting water to run or accumulate in any gutter or street; and

- e. failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).
- (c) *Stage 3 response – Severe water shortage conditions.* All water use restrictions of Stage 2 as well as the following water use restrictions shall apply to all persons when a Stage 3 response for severe water shortage conditions has been activated by the city:
 - (1) Landscape irrigation shall be limited to designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight and shall be by means of hand-held hoses, hand-held buckets, drip irrigation, or permanently installed automatic sprinkler system only;
 - (2) The use of hose-end sprinklers is prohibited at all times;
 - (3) The watering of golf course greens, tees and fairways is prohibited unless the golf course utilizes a water source other than that provided by the city;
 - (4) The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued; and
 - (5) Foundation watering (within 2 feet) and watering of trees may occur for two hours one day per week with a hand-held hose or within a dedicated zone using a drip irrigation system and/or soaker hose, provided no runoff occurs.
- (d) *Stage 4 response – Critical water shortage conditions.* All water use restrictions of Stages 2 and 3 as well as the following water use restrictions shall apply to all persons when a Stage 4 response for critical water shortage conditions has been activated by the city:
 - (1) Landscape irrigation 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 12:00 midnight and shall be by means of hand-held hoses, hand-held buckets, or drip irrigation only;
 - (2) The use of hose-end sprinklers or permanently installed automatic sprinkler systems are prohibited at all times;
 - (3) 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;
 - (4) 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.;

- (5) The filling, refilling, or adding of water to swimming pools, wading pools, and Jacuzzi-type pools is prohibited;
 - (6) 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; and
 - (7) 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.
- (e) *Stage 5 response – Emergency water shortage conditions.* All water use restrictions of Stages 2, 3 and 4 as well as the following water use restrictions shall apply to all persons when a Stage 5 response for emergency water shortage conditions has been activated by the city:
- (1) Irrigation of landscaped areas is absolutely prohibited, except soaker hoses, hand-held hoses or a dedicated zone using a drip irrigation system may be used to water trees up to two hours per week or foundations as necessary, provided no runoff occurs.
 - (2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.

Sec. 86-34. Variances.

- (a) *Authority to grant temporary variance.* The city manager may, in writing, grant a temporary variance for existing water uses otherwise prohibited under the 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 the 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.
- (b) *Variance petition.* Persons requesting an exemption from the provisions of the plan shall file a petition for variance with the city within five (5) days after the plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the city manager and shall include the following:
 - (1) Name and address of the petitioner(s);

- (2) Purpose of water use;
- (3) Specific provision(s) of this division or 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 division;
- (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 the plan and the compliance date; and
- (8) Other pertinent information.

Sec. 86-35. Enforcement.

- (a) *Violation.* No person shall 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 division, 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 in accordance with provisions of this division and the plan.
- (b) *Criminal penalties.* Any person who violates any provision of this division shall, upon conviction, be punished as provided in section 1-14 of this code.
- (c) *Civil remedies*
 - (1) If a person is convicted of three (3) or more distinct violations of this division, the city manager, after due notice and process to the customer, may 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 established in Appendix D of this code. In addition, suitable assurance must be given to the city manager that the same action shall not be repeated while a water use restriction is in effect.
 - (2) Compliance with this division and/or the plan may also be sought through injunctive relief in the district court.
- (d) *Presumption.* 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 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 plan and that the parent could not have reasonably known of the violation.

- (e) *Process.* Any police officer or employee designated by the city manager may issue a citation or notice of violation, as applicable, to a person he/she reasonably believes to be in violation of this division. The citation or notice of violation shall contain the name and address of the alleged violator, if known, the offense charged, and shall direct him/her to appear in the municipal court on the date shown on the citation for which the date shall not be less than three (3) days nor more than five (5) days from the date the citation was issued. 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 sixteen (16) 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 this division. 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. These cases shall be expedited and given preferential setting in municipal court before all other cases.

Section 9. A violation of this ordinance is subject to the penalty provisions contained in Section 1-14 of the Friendswood City Code and as otherwise provided by law. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence fail to comply with any provision of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00). Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense.

Section 10. That all ordinances or parts of ordinances in conflict or inconsistent with this ordinance, including, but not limited to, Ordinance No. 2006-07, are hereby expressly repealed.

Section 11. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Friendswood, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same, notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 12. The City Secretary shall give notice of the enactment of this ordinance by promptly publishing the caption of this ordinance after final passage in the official newspaper of the City.

Section 13. This ordinance shall take effect five (5) days from and after its passage on second reading by the City Council of the City of Friendswood, Texas, and its publication in the official newspaper of the City.

INTRODUCED, READ, AND PASSED on first reading by the affirmative vote of the City Council of the City of Friendswood this 1st day of April, 2024.

MIKE FOREMAN, Mayor

ATTEST:

LETICIA BRYSCH, City Secretary

APPROVED AS TO FORM:

KAREN L. HORNER, City Attorney

INTRODUCED, READ, AND PASSED by the affirmative vote of the City Council of the City of Friendswood on second and final reading this 6th day of May, 2024.

MIKE FOREMAN, Mayor

ATTEST:

LETICIA BRYSCH, City Secretary

APPROVED AS TO FORM:

KAREN L. HORNER, City Attorney

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