

ORDINANCE NO. 2011-05

AN ORDINANCE ADOPTING/RE-ADOPTING A DROUGHT CONTINGENCY PLAN (THE "PLAN") WITH STAGED CONDITIONS SET OUT IN THE PLAN; MAKING IT A CRIMINAL OFFENSE TO FAIL TO COMPLY WITH MEASURES IMPLEMENTED UNDER THE PLAN AND PROVIDING A PENALTY UPON CONVICTION IN AN AMOUNT NOT TO EXCEED \$500 PER DAY; MAKING A PRIMA FACIA PRESUMPTION THAT THE PERSON IN WHOM A WATER CONNECTION IS REGISTERED IS A PERSON WHO PERMITS OR CAUSES THE ILLEGAL USE OF WATER TO OCCUR; AND PROVIDING FOR SEVERABILITY

WHEREAS, an adequate supply of water is necessary for public health, safety and welfare; and

WHEREAS, the City of Riesel recognizes that aquifer levels are affected by drought and by water consumption. Drought being beyond control, reductions in water consumption are required to insure maintenance of an adequate supply of water; and

WHEREAS, the City Council of the City of Riesel believes that passage of this Ordinance is necessary to insure compliance with its Drought Contingency Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIESEL, TEXAS, that:

1. The Drought Contingency Plan attached as Exhibit "A" to this Ordinance is hereby adopted or re-adopted. Said Drought Contingency Plan (hereinafter "Plan") is incorporated in this Ordinance for all purposes.

2. The Plan contains various Drought Response Stages that are initiated by triggers set forth in the Plan. The Plan contains different requirements for different Drought Response Stages. These range from requesting customers to voluntarily observe restrictions on non-essential water uses to prohibiting non-essential water uses. The requirements and restrictions of each stage are set forth in Section IX of the Drought Contingency Plan.

3. The Mayor is hereby designated as the person authorized to declare that a trigger level has been reached, that the respective stage is in effect, and that that stage's response is ordered to be implemented (implementing order). All citizens must comply with the implementing order. Public notice of the order to implement the restrictions on water usage shall be made by signs posted at various public places and by publication a minimum of one time in a newspaper of general circulation within the City of Riesel. The order will also be placed in water bill mailings. Public notice is presumed once the publication and postings have occurred. Termination of a declared stage shall occur as set out in the Drought Management Plan. THE CITY COUNCIL RETAINS AND RESERVES TO ITSELF THE RIGHT TO DECLARE A STAGE AND ITS RESTRICTIONS TO BE IN EFFECT EVEN IF THE APPLICABLE

TRIGGER UNDER THE PLAN IS NOT MET WHERE SUCH IS, IN THE DISCRETION OF THE CITY COUNCIL, A PRECAUTION THAT SHOULD BE TAKEN TO PREVENT POSSIBLE DISRUPTION OF SERVICES, TO PREPARE FOR SHORTAGES BASED ON ESTIMATES, OR TO OTHERWISE PROTECT THE WATER SUPPLY, WATER DISTRIBUTION SYSTEM, AND/OR PUBLIC HEALTH AND SAFETY. VIOLATION OF AN IMPLEMENTING ORDER OF THE CITY COUNCIL IS SUBJECT TO THE SAME ENFORCEMENT PENALTIES AS VIOLATION OF AN IMPLEMENTING ORDER OF THE MAYOR.

4. It shall be unlawful for anyone within the corporate limits of the City of Riesel, Texas, and/or a water customer of the City to intentionally, knowingly, recklessly, or negligently use water or allow or cause the use of water in violation of any of the provisions of the Drought Contingency Plan as implemented by an implementing order of the Mayor or the City Council. For purposes of this Ordinance, it shall be presumed that anyone in whose name a water meter connection is registered with the City is responsible for the use of water through such meter.

5. Violation of this Ordinance is an offense (misdemeanor) punishable by a fine not to exceed \$500. Each day a violation occurs shall be a separate offense. The City's Police force is hereby expressly authorized to issue citations for such offenses.

6. This Ordinance or the caption to this Ordinance, shall, after passage, be published a minimum of one time in a newspaper of general circulation within the City of Riesel.

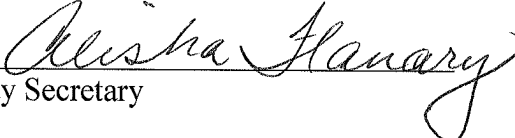
7. If, for any reason, any one or more sections, sentences, clauses, or part of this Ordinance are held legally invalid, such holding shall not effect, impair, or invalidate the remaining sections, sentences, clauses or parts of this Ordinance.

PASSED AND APPROVED on this 17th day of August, 2011.



Dave Ross, Mayor

Attest:



City Secretary

EXHIBIT A

Drought Contingency Plan City of Riesel

**DROUGHT CONTINGENCY PLAN
FOR THE
CITY OF RIESEL
OCTOBER 1, 2006**

Section I: Declaration of Policy, Purpose, and Intent

In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the City of Riesel hereby adopts the following regulations and restrictions on the delivery and consumption of water.

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

Section II: Public Involvement

Opportunity for the public to provide input into the preparation of the Plan was provided by the City of Riesel by means of providing a public notice of a public meeting to accept input of the Plan.

Section III: Public Education

The City of Riesel will periodically provide the public with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by means of a Press Release.

Section IV: Coordination with Regional Water Planning Groups

The water service area of the City of Riesel is located within the Brazos Region and the City of Riesel has provided a copy of the Plan to the Brazos River Authority, P.O. Box 755, Waco, Tx, 76714.

Section V: Authorization

The City Council of the City of Riesel, or their designee, is hereby authorized and directed to implement the applicable provisions of the Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The City Council of the City of Riesel, or their designee, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

Section VI: Application

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

Section VII: Definitions

For the purpose of the Plan, the following definitions shall apply:

Aesthrtic water use: water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.

Commercial and institutional water use: water use which is integral to the operations of commercial and non-profit establishments and governmental entities such as establishments, hotels and motels, restaurants, and office buildings.

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

Customer: any person, company, or organization using water supplied by the City of Riesel.

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

Even number address: street address, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, 8, and locations without addresses.

Industrial water use: the use of water in processes designed to convert materials of lower value into forms having greater usability and value.

Landscape water use: water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-ways and medians.

Non-essential water use: water uses that are not essential not required for the protection of public, health, safety, and welfare, including:

- (a) irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this Plan;
- (b) use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle;
- (c) use of water to wash down sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- (d) use of water to wash down buildings or structures for purposes other than immediate fire

- protection;
- (e) flushing gutters or permitting water to run or accumulate in any gutter or street;
 - (f) use of water to fill, refill, or add to any outdoor or indoor swimming pools or jacuzzi0type pools;
 - (g) use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
 - (h) failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
 - (i) use of water from hydrants for construction purposes or any other purposes other than fire fighting.

Odd numbered address: street address, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, 9, and locations without addresses.

Section VIII: Criteria for Initiation and Termination of Drought Response Stages

The City Council of the City of Riesel, 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. Customer notification of the initiation or termination of drought response stages will be made by mail or telephone. The news media will also be informed.

The triggering criteria described below are based on analysis of the system emphasizing the importance of water supply to each customer.

(A) Stage 1 Triggers - Mild Water Shortage Conditions

Requirements for initiation

Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain water uses, defined in Section VII - Definitions, when, pursuant to requirements specified in the R-M-S Water Supply Corporation wholesale water purchase contract with R-M-S Water Supply Corporation and/or when total daily water demand equals or exceeds 80% of the total production (or refill) capacity for 3 consecutive days.

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 7 consecutive days. The City Council of the City of Riesel, or his/her designee will notify its customers and the media of the termination of Stage 1 of the Plan.

(B) Stage 2 Triggers - Moderate Water Shortage Conditions

Requirements for initiation

Customers shall be requested to comply with the requirements and restrictions on certain non-essential water uses provided in Section IX of this Plan when total daily water demand equals or exceeds 90% of the total production (or refill) capacity for 3 consecutive days.

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 7 consecutive days. Upon termination of Stage 2, Stage 1 becomes operative. The City Council of the City of Riesel, or his/her designee will notify its customers and the media of the termination of Stage 2 in the same manner as the notification of initiation of Stage 1 of the Plan.

(C) Stage 3 Triggers - Severe Water Shortage Conditions

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 3 of this Plan when daily water demand equals or exceeds 100% of the total production (or refill) capacity for 3 consecutive days.

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 7 consecutive days. Upon termination of Stage 3, Stage 2 becomes operative. The City Council of the City of Riesel, or his/her designee will notify its customers and the media of the termination of Stage 3 in the same manner as the notification of initiation of Stage 2 of the Plan.

(D) Stage 4 Triggers - Emergency Water Shortage Conditions

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions for Stage 4 of this Plan when the City Council of the City of Riesel, or his/her designee determines that a severe water supply emergency exists when based on:

- (1) Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; or
- (2) Natural or man-made contamination of the water supply source(s).

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 7 consecutive days. The City Council of the City of Riesel, or his/her designee will notify its customers and the media of the termination of Stage 4 of the Plan.

Section IX: Drought Response Stages

The City Council of the City of Riesel, or his/her designee shall monitor water supply and/or demand condition on a daily basis and, in accordance with the triggering criteria set forth in Section VIII of this Plan, shall determine that mild, moderate, severe, emergency or water shortage conditions exist and shall implement the following notification procedures:

(A) Notification

Notification of the Public:

The City Council of the City of Riesel, or his/her designee shall notify the public by means of:

- (1) publication in a newspaper of general circulation
- (2) signs posted in public places

(B) Stage 1 Response - Mild Water Shortage Conditions

Goal: Achieve a voluntary 20% reduction in total consumption.

Supply Management Measures:

No flushing of water lines

Voluntary Water Use Restrictions:

Water customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes.

(C) Stage 2 Response - Moderate Water Shortage Conditions

Goal: Achieve a 25% reduction in total consumption.

Supply Management Measure:

No flushing of water lines

Water Use Restriction:

Under threat of penalty for violation, the following water use restrictions shall apply to all persons.

- (a) Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6, 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7, 9), and irrigation of landscaped areas is further limited to the hours of 12:00 midnight until 10:00am and between 8:00pm and 12:00am on designated watering days. However, irrigation of landscaped areas is permitted at anytime if it is by means of a hand-held hose, a faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system.

- (b) Use of water to wash any motor vehicle, motorbike, boat, airplane, or other vehicle is prohibited except on designated water days between the hours of 12:00 midnight and 10:00am and between 8:00pm and 12am. Such washing, when allowed, shall be done with a hand-held bucket and/or hand-held hose equipped with a positive shutoff nozzle for quick rises. Vehicle washing may be done at anytime on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if health, safety, and welfare of the public is contingent upon frequent cleansing, such as garbage trucks and vehicles used to transport food and perishables.
- (c) Use of water 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 10:00am and between 8:00pm and 12:00am.
- (d) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
- (e) Use of water from hydrants shall be limited to fire fighting, related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under special permit from the City of Riesel.
- (f) All restaurants are prohibited from serving water to patrons except upon request of the patron.
- (g) The following uses of water are defined as non-essential and are prohibited:
 - 1. washing down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
 - 2. use of water to wash down buildings or structures for purposes other than immediate fire protection;
 - 3. use of water for dust control;
 - 4. Flushing gutters or permitting water to run or accumulate in any gutter or street; and
 - 5. failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

(D) Stage 3 Response - Severe Water Shortage Conditions

Goal: Achieve a 30% reduction in total consumption.

Supply Management Measure:

No flushing of water lines.

Water Use Restriction:

All requirements of Stage 2 shall remain in effect during Stage 3 except:

- (a) Irrigation of landscaped areas shall be limited to designated watering days between the hours of 12:00 midnight and 10:00am and between 8:00pm and 12:00am and shall be by means of hand-held hoses, hand-held buckets, drip irrigation systems, or permanently installed automatic sprinkler systems only. The use of hose-end sprinklers is prohibited at all times.
- (b) The use of water for construction purposes from designated fire hydrants under special permits is to be discontinued.

(E) Stage 4 Response - Emergency Water Shortage Conditions

Goal: Achieve a 50% reduction in total consumption.

Supply Management Measure:

No flushing of water lines.

Water Use Restriction:

All requirements of Stage 2 and 3 shall remain in effect during Stage 4 except:

- (a) Irrigation of landscaped areas is absolutely prohibited at all times.
- (b) Use of water to wash any motor vehicle, motorbike, boat, airplane, or other vehicle is absolutely prohibited at all times.

Section X: Enforcement

- (a) No person shall knowingly or intentionally allow the use of water from the City of Riesel for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this Plan, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by the City Council of the City of Riesel, or his/her designee in accordance with provisions of this Plan.
- (b) Any employee of the City of Riesel or police officer, designated by the City Council of the City of Riesel, may issue a citation to a person he/she reasonably believes to be in violation of this Ordinance. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, the offence charged, and shall direct him/her to appear in the Riesel Municipal Court on the next court date 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 14 years of age who is a member of the violator's immediate family or a resident of the violator's residence. The alleged violator shall appear in the Riesel Municipal Court to enter a plea of guilty or not guilty for the violation of this Plan. If the alleged violator fails to appear in the Riesel 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 the Riesel Municipal Court before all other cases.

Section XI: Variances

The City Council of the City of Riesel, or his/her designee may in writing grant a temporary variance for the existing water uses otherwise prohibited under this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affected the health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:

- (a) Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.
- (b) Alternative methods can be implemented which will achieve the same level of reduction in water use.

Persons requesting an exemption from the provisions of this Ordinance shall file a petition for a variance with the The City Council of the City of Riesel, or his/her designee within 5 days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the City Council of the City of Riesel, or his/her designee and shall include the following:

- (a) Name and address of the petitioner(s).
- (b) Purpose of water uses.
- (c) Specific provisions(s) of the Plan from which the petitioner is requesting relief.
- (d) Detailed statement with supporting data and information as to how the specific provision of the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Ordinance.
- (e) Description of the relief requested.
- (f) Period of time for which the variance is sought.
- (g) Alternative measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.
- (h) Other pertinent information.

Variations granted by the City Council of the City of Riesel, or his/her designee shall be subject to the following conditions, unless waived or modified by the City Council of the City of Riesel, or his/her designee:

- (a) Variations granted shall include a timetable for compliance.
- (b) Variations granted shall expire when the Plan is no longer in effect, unless the petitioner has failed to meet specified requirements.

No variance shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance.

Section XIII: Severability

It is hereby declared to be the intention of the City Council of the City of Riesel, or his/her designee that the sections, paragraphs, sentences, clauses, and phrases of this Plan are severable and, if any phrase, clause, sentence, paragraph, or section of this Plan shall be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Plan, since the same would not have been enacted by the City Council of the City of Riesel, or his/her designee without the incorporation into this Plan of any such unconstitutional phrase, clause, sentence, paragraphs, or section.