

ORDINANCE NO 2018-006

AN ORDINANCE FOR THE CITY OF KARNES CITY, TEXAS; PROVIDING A DROUGHT CONTINGENCY PLAN FOR THE CITY OF KARNES CITY; PROVIDING FOR REPEALER; PROVIDING A SEVERABILITY CLAUSE; PROVIDING PENALTIES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, heretofore previously, the City of Karnes City, Texas adopted a Drought Contingency Plan in 2016 for the City of Karnes City, Texas;

WHEREAS, the Drought Contingency Plan has been revised and the City Council of the City of Karnes City, Texas hereby finds and determines that the Drought Contingency Plan, has been prepared in accordance with all applicable laws, rules, regulations, and standards and guidelines by appropriate authorities;

WHEREAS, the Drought Contingency Plan has been prepared and is adequate to provide effective means for water conservation and drought management within the City of Karnes City, Texas;

NOW, THEREFORE, BE IT ORDAINED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF KARNES CITY, TEXAS THAT:

DROUGHT CONTINGENCY PLAN CITY OF KARNES CITY IS AS FOLLOWS:

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 Karnes City (the City) 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 conditions are deemed to constitute a waste of water which subjects the offender(s) to enforcement measures as defined in Section XI of the Plan.

Section II. Public involvement.

Opportunity for the public to provide input in the preparation of the Plan was provided by the City by the following means:

1. Providing written notice of the proposed plan and the opportunity to comment on the plan by newspaper, posted notice, and notice on the City's website, if available;
2. Making the draft plan available on the City's website;
3. Providing a draft plan to anyone requesting a copy; and
4. Holding a public meeting.

Section III. Public Education.

The City 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 notification on utility bills, newsletters, or press releases.

Section IV. Coordination with Regional Water Planning Groups.

The service area of the City is located within the South Central Texas Region. The City has provided a copy of the Plan to the South Central Regional Water Planning Group.

Section V. Authorization.

The City Council (the Council) 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 Council or their designee shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in the Plan.

Section VI. Application.

The provisions of the Plan shall apply to all persons, customers, and property using water provided by the City. 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:

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

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

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

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

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

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

Non-essential water use: the use of water that is not essential, nor required for the protection of public health, safety, and welfare including:

- (1) Irrigation of a landscape area, except as otherwise provided under the Plan;
- (2) Washing of any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle;
- (3) Washing of any sidewalk, walkway, driveway, parking lot, tennis court or hard-surfaced area;
- (4) Washing of any building or structure for purposes other than immediate fire protection;
- (5) Flushing of any gutter or allowing water to run or accumulate in any gutter or street;
- (6) Filling, refilling, or adding to the water in any indoor or outdoor swimming pools or Jacuzzi-type pools;
- (7) Operation of a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- (8) allowing water to run and/or accumulate due to failing to repair a controllable leak(s) within a reasonable period after having been given proper notice directing the repair of such leak(s); and
- (9) use of water from hydrants for construction purposes or any purposes other than firefighting.

Section VIII. Triggering Criteria for Initiation and Termination of Drought Response Stages.

The Council or their 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. Public notification of the initiation or termination of drought response stages shall be by means of publication in a newspaper of general circulation, radio, direct mail to each customer, or signs posted in public places. The triggering criteria described below are based on the level of water supplies and the capability of the system to deliver required quantities of water:

A. Stage 1 – Mild Water Shortage Condition.

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:

- (1) Water consumption has reached 80% of the daily maximum supply for three (3) consecutive days.
- (2) Water Supply is reduced to a level that is only 20% greater than the average consumption for the previous month.
- (3) There is an extended period [at least eight (8) weeks] of low rainfall and daily use has risen 20% above the use for the same period during the previous year.
- (4) Stage 2 of the Plan has been terminated.

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.

B. Stage 2–Moderate Water Shortage Condition.

Requirements for initiation- Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses defined in Section VII – Definitions, when:

- (1) Water consumption has reached 90% of the amount available for three (3) consecutive days.
- (2) The water level in any of the water storage tanks cannot be replenished for three (3) consecutive days.
- (3) Stage 3 of the Plan has been terminated.

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 becomes operative.

C. Stage 3–Severe and Emergency Water Shortage Condition.

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 when:

- (1) Failure of a major component of the system or an event which reduces the minimum residual pressure in the system below 20 psi for a period of 24 hours or longer.
- (2) Water consumption of 95% or more of the maximum available for three (3) consecutive days.
- (3) Water consumption of 100% of the maximum available and the water storage levels in the system drop during one (1) 24-hour period.
- (4) Other unforeseen events which could cause imminent health or safety risks to the public.

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 becomes operative.

Section IX. Drought Response Stages.

The Council or their designee shall monitor water supply and/or demand conditions on a daily basis and in accordance with the triggering criteria set forth in Section VIII of the Plan, shall determine that a mild, moderate, severe, or emergency condition exists and shall implement the following actions upon publication of notice in a newspaper of general circulation.

A. Stage 1-Mild Water Shortage Condition.

Goal: Achieve a voluntary 10% reduction in daily water demand.

Supply Management Measures:

1. Reduced or discontinued flushing of water mains.
2. Reduced or discontinued irrigation of public landscaped areas.
3. Activation of an alternative water supply source(s).
4. Activation of an emergency interconnect with other water purveyor.

Voluntary Water Use Restrictions:

1. Water customers are requested to voluntarily limit the irrigation of landscape areas.
2. All operations of the City shall adhere to the water use restrictions prescribed in Stage 2 of the Plan.
3. Water customers are requested to practice water conservation and to minimize or discontinue use for non-essential purposes.

B. Stage 2–Moderate Water Shortage Condition.

Goal: Achieve a 15% reduction in daily water demand.

Supply Management Measures:

1. Reduced or discontinued flushing of water mains.
2. Discontinued irrigation of public landscaped areas.
3. Activation of an alternative water supply source(s).
4. Activation of an emergency interconnect with other water purveyor.

Water Use Restrictions: Under threat of enforcement action for violation the following water use restrictions shall apply to all persons:

1. Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be terminated. However, irrigation of landscaped areas is permitted at any time if it is by means of a hand-held hose, a faucet-filled bucket, 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 between the hours of 12:00 midnight and 10:00am and between 8:00pm 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 rinses. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public 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 between the hours of 12:00 midnight and 10:00 am and between 8:00 pm and 12:00 midnight.
4. Operation of any ornamental foundation or pond for aesthetic or scenic purpose is prohibited.

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. All restaurants are prohibited from serving water to its patrons except when requested.
7. The following uses of water are defined as non-essential and are prohibited:
 - (a) Washing of any sidewalk, walkway, driveway, parking lot, tennis court or other hard-surface area;
 - (b) Use of water to wash 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 direction the repair of such leak(s).

C. Stage 3–Severe and Emergency Water Shortage Condition.

Goal: Achieve a 20% reduction in daily water demand.

Supply Management Measures:

1. Reduced or discontinued flushing of water mains.
2. Discontinued irrigation of public landscaped areas.
3. Activation of an alternative water supply source(s).
4. Activation of an emergency interconnect with other water purveyor

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

1. Irrigation of all landscaped areas shall be discontinued.
2. Use of water from designated fire hydrants under special permit, such as for construction, shall be discontinued.

Section X. Water Rationing

Residential Customers.

In the event, shortage conditions threaten public health, safety, and welfare the Council or their designee is hereby authorized to ration water according to the following water allocation plan. The allocation to residential water customers residing in a single-family dwelling shall be as follows:

Persons per Household Gallons per Month

1 or 2	6,000
3 or 4	8,000
5 or 6	10,000
7 or 8	12,000
9 or 10	14,000
11 or more	15,000

"Household" means the residential premises served by the customer's meter. "Persons per Household" includes only those persons currently physically residing at the premises and expected to reside there for the entire billing period. It shall be assumed that a particular customer's household is comprised of two (2) persons unless the customer advises the City, in the manner of a form prescribed by the City, of a greater number of persons per household. The City shall make a reasonable effort to make available and/or provide such form to every residential customer. However, it remains the customer's responsibility to provide a completed and signed form to the City claiming more than two (2) at the time of applying for water service. When the number of persons per household increases so as to place the customer in a different allocation category, the customer may notify the City in writing and the change will be implemented in the next practicable billing period. If the number of persons in a household is reduced, the customer shall notify the City in writing within two (2) business days. In prescribing the method for claiming more than two (2) persons per household, the Council shall adopt methods to insure the accuracy of the claim. Any person who knowingly, recklessly, or with criminal negligence falsely reports the number of persons in a household or fails to timely notify the City of a reduction in the number of persons in a household shall be subject to enforcement measures as defined in Section XI of this Plan. Residential water customers shall pay the following surcharges:

- \$ 5.00 for 1,000 gallons over allocation
- \$10.00 for 2,000 gallons over allocation
- \$15.00 for 3,000 gallons over allocation
- \$20.00 for 4,000 gallons over allocation
- \$20.00 for each 1,000 gallons over allocation in excess of 4,000 gallons

Commercial Customers.

A monthly water usage allocation shall be established by the Council or their designee, for each non-residential commercial customer other than an industrial customer who uses water for processing purposes. The non-residential customer's allocation shall be approximately 75% of the customer's usage for corresponding month's billing period for the previous 12 months. If the customer's billing history is shorter than 12 months, the monthly average for the period for which there is a record shall be used for any monthly period for which no history exists. A

customer, whose 75% of monthly usage is less than 5,000 gallons, shall be allocated \$5,000 gallons. The City shall make a reasonable effort to mail the notice of each non-residential customer's allocation to such customer.

If, however, a customer does not receive such notice, it shall be the customer's responsibility to contact the City to determine the allocation. Upon request of the customer or at the initiative of the Council, the allocation may be reduced or increased if, (1) the designated period does not accurately reflect the customer's normal water usage, (2) one (1) non-residential customer agrees to transfer part of their allocation to another non-residential customer, or (3) other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the Council. Non-residential commercial customers shall pay the following surcharges:

- \$ 5.00 for 1,000 gallons over allocation
- \$10.00 for 2,000 gallons over allocation
- \$15.00 for 3,000 gallons over allocation
- \$20.00 for 4,000 gallons over allocation
- \$20.00 for each 1,000 gallons over allocation in excess of 4,000 gallons

Industrial and Agricultural Customers.

A monthly water usage allocation shall be established by the Council of their designee, for each industrial or agricultural customer, which uses water for processing purposes. The industrial or agricultural customer's allocation shall be approximately 90% of the customer's baseline water usage. Ninety (90) days after the initial imposition of the allocation for the industrial or agricultural customers, the industrial or agricultural customer's allocation shall be reduced to 85% of the customer's baseline water usage. The industrial or agricultural customer's baseline water usage will be computed on the average water usage for the 12 month period ending prior to the date of implementation of Stage 2 of the Plan. If the industrial or agricultural water customer's billing history is shorter than 12 months, the average for the period for which there is a record shall be used for any monthly period for which no billing history exists. The Council shall make a reasonable effort to mail the allocation notice to each industrial or agricultural customer. If, however, a customer does not receive such notice, it shall be the customer's responsibility to contact the City to determine the allocation and the allocation shall be fully effective notwithstanding the lack of receipt of written notice. Upon request of the customer or at the initiative of the Council, the allocation may be reduced or increased if, (1) the designated period does not accurately reflect the customer's normal water usage for reasons that can be substantiated, (2) the customer has previously implemented significant permanent water conservation measures such that the ability to further reduce usage is limited, (3) the customer agrees to transfer parts of the allocation to another industrial customer or agricultural customer, or (4) if other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established

hereunder to the Council. Industrial or Agricultural customers shall pay the following surcharges:

- \$ 5.00 for 1,000 gallons over allocation
- \$10.00 for 2,000 gallons over allocation
- \$15.00 for 3,000 gallons over allocation
- \$20.00 for 4,000 gallons over allocation
- \$20.00 for each 1,000 gallons over allocation in excess of 4,000 gallons

Section XI. Enforcement.

1. 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 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 Council, or their designee, in accordance with provisions of the Plan.
2. A violation of the Plan's provisions may result in charges being filed with the City's Municipal Court. A second violation may be cause for the City to install a flow restrictor in the customer's service line. The cost of such installation shall be based on labor and material, but is not to exceed \$250.00. For subsequent violations, the City may terminate service for up the seven (7) days and apply an additional charge for the restoral of service. These provisions apply to all customers of the City.
3. Any person, including a person classified as a water customer of the City, that appears in control of property where a violation occurs or originates shall be presumed to be the responsible party in violation. Proof of the violation occurring 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 the property within the parent's 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 is was used in violation of this Plan and that the parent could not have reasonably know of the violation.

Section XII. Variances.

The Council, or their 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 Plan shall file a petition for variance with the City within five (5) days after the Plan or a particular drought response state has been invoked. All petitions for variance shall be reviewed by the Council, or their 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.

Variances granted by the Council shall be subject to the following conditions, unless waived or modified by the Council or their designee:

1. Variances granted shall include a timetable for compliance.
2. Variances granted shall expire when the Plan is no longer in effect, unless the petitioner has filed to meet specified requirements.

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

Section XIII. Repeal of Conflicting Ordinances.

All Ordinances or parts of Ordinances of the City which are inconsistent or in conflict with any of the provisions of this Ordinance be, and the same are, hereby repealed.

Section XIV. Severability.

Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Section XV. Penalties.

Whenever in this Ordinance an act is prohibited or made or declared to be unlawful or an offense or a misdemeanor, or whenever the doing of an act is required or the failure to do an act is declared unlawful, the violation of any such provision of this Ordinance shall, upon

conviction, be fined in a sum of money not less than One Dollar (\$1.00) nor more than Two Thousand Dollars (\$2,000.00) for each offense or for each day such offense shall continue if it is one classified as a continuing offense. No penalties shall be greater or less than the penalty provided for the same or similar offense under the laws of the State of Texas.

The City may also bring suit for injunction against any person, firm, or corporation that shall violate or threaten to violate any provision of this Ordinance in order to prevent a continued violation of such threatened violation.

Section XVI. Effective Date.

This Ordinance shall be in full force and effect from and after the date of passage and publication as required by law.

PASSED AND ADOPTED THIS 26th DAY OF JUNE, 2018

Leroy T. Skloss,
Mayor

ATTEST:

Veronica Butler,
City Secretary