

## ORDINANCE NO. 2018- 32

**AN ORDINANCE OF THE CODE OF ORDINANCES, CITY OF BOERNE, TEXAS, CHAPTER 22, UTILITIES, AMENDING ARTICLE II. WATER SYSTEM, SEC. 22-41. PROHIBITED USES OF WATER – YEAR ROUND RESTRICTIONS; SEC. 22-53. EMERGENCY ACTION BY CITY MANAGER; SEC. 22-55. CRITERIA FOR INITIATION AND TERMINATION OF DROUGHT RESPONSE STAGES (EXCEPT WHEN A CRITICAL WATER SHORTAGE EXISTS; SEC. 22-56. DROUGHT RESPONSE STAGES; (A) STAGE I; AND ESTABLISHING A PENALTY NOT TO EXCEED \$1,000 FOR VIOLATIONS OF THE ORDINANCE**

**WHEREAS**, it becomes necessary from time to time to make certain changes in ordinances of the City of Boerne, Texas;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS:**

That the Code of Ordinances, City of Boerne, Texas, Chapter 22, Section 22-41. Prohibited Uses of Water, Section 22-53. Emergency Action by the City Manager, Section 22-55. Criteria for Initiation and Termination of Drought Response Stages (Except when a Critical Water Shortage Exists), and Section 22-56. Drought Response Stages are hereby amended to read:

### **ARTICLE II. WATER SYSTEM**

#### **DIVISION 1. GENERALLY.**

##### **Sec. 22-41. Prohibited Uses of Water - Year Round Restrictions.**

(a) *Irrigation outside restricted hours.* Landscape watering with hose-end sprinklers or automatic irrigation systems, **including those using reclaimed water**, shall be prohibited between the hours of 11:00 a.m. and 7:00 p.m. on any day of the week, year-round.

(b) *Defenses.* It shall be a defense to prosecution under subsection 22-41(a), Prohibited Uses of Water -Year Round Restrictions– *Irrigation outside restricted hours*, if:

- (1) The person is irrigating a landscaped area by means of:
  - (i) A hand-held hose with a manual or automatic shutoff nozzle; or
  - (ii) A properly functioning drip irrigation system.
- (2) The landscape watering is performed by commercial enterprises in the business of growing or maintaining plants for sale, including plant nurseries; provided, however, that such landscape watering shall be performed solely for the establishment, growth, and maintenance of such plants;
- (3) A landscape watering permit has been issued by the City pursuant to section 22-42 to allow for landscape watering on any newly planted or transplanted landscaping so as to accomplish a reasonable establishment and maintenance of growth;
- (4) Operation of an automatic irrigation system is performed solely for the purpose of conducting maintenance and testing; or
- (5) The source of water is from rainwater catchment and/or condensate.

(c) *Water from hydrants and blow-offs.* It is unlawful for a person to use water from hydrants and blow-offs for any purpose other than firefighting, fire flow testing, flushing of mains, or other actions necessary for the proper operation of the public water supply system, unless provided for under section 22-31, Water for construction generally, Boerne City Code of Ordinances.

## **DIVISION 2. CONSERVATION AND EMERGENCY DROUGHT MANAGEMENT**

### **Sec. 22-53. Emergency action by City Manager.**

The City Manager may cause any of the water usage restrictions prescribed in this Division to be implemented, in such combination and at such time as may be determined, upon presentation of evidence that a critical water shortage exists, or is imminent, including reclaimed water. Relevant data considered in this determination will include:

- Water storage levels at Boerne City Lake and production capacity at the water treatment plant(s)
- Water levels in the City's Trinity Aquifer wells & any withdrawal restrictions placed on the wells by the Cow Creek Groundwater Conservation District
- Water storage levels at Canyon Lake and any water use restrictions placed on the City's permitted withdrawals by GBRA
- The City's ability to meet water consumption and peak production demands from customers considering operational limitations and cost constraints
- Water quality conditions which impact access to a water source
- Other issues which have or could have a quantitative and/or qualitative impact on water supply, or production capacity, and/or storage, including reclaimed water

### **Sec. 22-55. Criteria for Initiation and Termination of Drought Response Stages. (Except When a Critical Water Shortage Exists)**

(a) Upon determination that a critical water shortage exists or is imminent as described in Sec. 22-53, or other pertinent conditions indicate that implementation criteria have been met, the Director of Public Works shall report the condition of the water supply to the Deputy City Manager and City Manager.

(b) The City Manager shall report the water supply conditions to the City Council within 3 days (72 hours) of consultation with the Deputy City Manager and Utilities Director of Public Works.

(c) Upon consultation with the Mayor, Deputy City Manager and Utilities Director of Public Works on water supply conditions, storage and production restraints, the City Manager shall determine the implementation date of Stage I and all consequent water use restrictions. Thereafter, each subsequent stage shall take effect after determination by the City Manager that the new implementation conditions have been reached and with at least 24 hours public notice of the change.

(d) The City Manager may terminate emergency water use restrictions or water stage restrictions, when conditions warrant such termination. Public notice of such termination, giving the effective date and listing the restrictions being terminated, shall be posted electronically, if feasible, and in the usual physical location for posting of public notices.

(e) No person, corporation or other entity including, without limitation, any customer utilizing water provided by the City (including reclaimed water) shall knowingly make, cause, use or permit the use of water received from the City for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to any provision of this Ordinance. There shall be four (4) designated stages which incorporate progressive water use restrictions intended to curb non-essential water use to both lower overall water consumption as well as minimize peak demand for water production.

(f) The City Manager may initiate and terminate emergency water use restrictions on reclaimed water use as a response to limitations on production and/or supply, including implementation of drought response stages shown in Section 22-56.

## Sec. 22.56. Drought Response Stages

All of the following Drought Response Stages are mandatory compliance. Reclaimed water use is subject to the waste of water provisions as listed in 22.6(a) (8, 9, 10)

### (a) Stage I.

- (1) Formal public notification by the City Manager or duly authorized representative of an existing or impending water supply, production, or quality concern.
- (2) Request public to initiate water use curtailments.
- (3) Increase efforts to educate the public by disseminating information on such subjects as water saving tips, water saving devices, irrigation practices, etc.
- (4) Irrigation utilizing individual sprinklers or sprinkler systems of lawns, gardens, landscaped areas, trees, shrubs, and other plants is prohibited except on the two designated outdoor water use days (see section 22-57 Designated outside water use days) and only then during the non-restricted hours of 7:00 p.m. to 11:00 a.m. However, this restriction does not apply to the irrigation of commercial nurseries, commercial sod farms, and similarly situated commercial establishments. Said establishments will be requested to curtail all nonessential water use. Irrigation of lawns, gardens, landscaped areas, trees, shrubs, or other plants is permitted at any time if:
  - a. A hand-held hose is used with a manual or automatic shutoff nozzle;
  - b. A hand-held, faucet-filled bucket of five (5) gallons or less is used; or
  - c. A properly functioning drip irrigation system is used.
- (5) Request general curtailment of indoor water use.
- (6) Washing of automobiles, trucks, trailers, recreational vehicles, boats, airplanes and other mobile equipment must be done with a hand-held bucket and hand-held hoses must be equipped with a manual or automatic shutoff nozzle.
- (7) Identify and eliminate defective plumbing in a home, business establishment or any location where water is used on the premises to avoid wasting of any water by such defective plumbing.
- (8) Allowing defective plumbing in a home, business establishment or any location where water is used on the premises is prohibited. Wasting of any water by reason of defective plumbing as hereinabove mentioned is prohibited and shall include the existence of out-of-repair water closets, underground leaks, defective faucets and taps. Allowing water to flow constantly through a tap, hydrant, valve or otherwise by any user of water connected to the City system, shall be considered wasting of water and is prohibited.
- (9) The following uses of water are defined as "waste of water" and are prohibited:
  - a. Allowing water to run off into a gutter, ditch, or drain;
  - b. Failing to repair a controllable leak;
  - c. Applying water to impermeable surfaces; or
  - d. Operating an irrigation system with damaged irrigation sprinkler heads
- (10) Any use of water for the purposes or in a manner prohibited in this section shall be deemed to be a waste of water; and any person in whose name a water meter connection is registered in the utilities department (including reclaimed water meters), which water

connection serves premises upon which a violation occurs, shall constitute in evidence a prima facie presumption that the person in whose name such water connection is registered was the person who permitted or caused the act of waste charged to occur on the premises.

(11) The City Manager or his duly authorized representative shall consider permit requests of water users for special consideration to be given due to their respective particular circumstances and shall review and decide such requests. The City Manager is hereby authorized, in special cases, to grant a permit from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, and so that the spirit of this Ordinance shall be observed and substantial justice done. Should a permit for special exception be granted, it shall be in effect from the time of granting; provided, that the permit is prominently posted on the premises. Should the City Manager receive written protest after granting of any such permit which indicates the conditions of the permit are not being met, the City Manager or his duly authorized representative may reconsider the permit. After the conclusion of reconsideration, the City Manager shall take such action by way of revocation of such permit, or refusal to revoke the same, or modification of such permit as the City Manager may deem proper under the circumstances.

(12) The City Manager shall update members of the City Council on a regular basis of any water supply, production, quality or system issues.

PASSED AND APPROVED ON FIRST READING on this the \_\_\_\_ day of August, 2018.

PASSED AND APPROVED on this the \_\_\_\_ day of September, 2018.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney