

ORDINANCE NO. 0-2011-15

AN ORDINANCE AMENDING THE TYLER CITY CODE CHAPTER 19, "UTILITIES", BY ADOPTING A CITY OF TYLER WATER CONSERVATION AND EMERGENCY DEMAND MANAGEMENT PLAN; PROVIDING A PENALTY OF NOT LESS THAN \$10 PER DAY NOR MORE THAN \$200 PER DAY FOR EACH DAY OF NON-COMPLIANCE AND/OR DISCONNECTION OF WATER SERVICES TO SUCH USERS BY THE CITY; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

WHEREAS, the City Council has determined there is an urgent need in the best public interest of the City of Tyler to adopt the amended Water Conservation Plan and Emergency Demand Management Plan, and the City Council further determines that such a public need is of an emergency nature and the legal requirement of two required separate readings of the subject ordinance be dispensed with and waived;

WHEREAS, on July 27, 2005, the City Council considered this Ordinance and voted to recommend approval;

WHEREAS, the Texas Commission on Environmental Quality requires updates of the Water Conservation/Emergency Management Plan every five years;

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

PART 1: That the City Council hereby approves and adopts the amended City's Water Conservation Plan, the Water Conservation/Emergency Demand Management Plan by amending Chapter 19, "Utilities" of the City Code by adding a new Article X, entitled "Water Conservation/ Emergency Demand Management Plan as follows:

ARTICLE X. Water Conservation/Emergency Demand Management Plan

Section 19-300. Adoption of Plan.

City commits to implement the program according to the procedures set forth in the adopted plan. The City shall report to the Texas Commission on Environmental Quality Water annually on the implementation and effectiveness of the plan in accordance with the outline set forth in the plan. (Ord. 0-2011-15, 2/23/11)

Section 19-301. Implementation.

In regards to implementation and enforcement of the Conservation/Emergency Demand Management Plan, the City Manager is designated as the official responsible for implementation and enforcement, and the following guidelines are adopted:

a. Mild Drought occurs when:

1. Average daily water consumption reaches 85% of production capacity. Production capacity is defined as on line capacity in case of failure or shut down of one or both water treatment facilities.

- MGD.
2. Average daily water consumption will be reduced by 5% or 971,071
 3. Average daily water consumption of 85% has existed for a period of three days.
 4. Weather conditions are to be considered in drought classification determination. Predicted long, hot, or dry periods are to be considered in impact analysis.

b. Moderate Drought conditions are reached when:

1. Average daily water consumption reaches 90% of rated production capacity for three-day period. Production capacity is defined as on line capacity in case of failure or shut down of a water source.

- MGD.
2. Average daily water consumption will be reduced by 10% or 1,942,142
 3. Weather conditions indicate mild drought will exist five (5) days or more.
 4. One ground storage tank is taken out of service during mild drought.
 5. Storage capacity (water level) is not being maintained during period of 100% rated production period.
 6. Existence of any preceding conditions listed above for a duration of 36 hours.

c. Severe Drought Classification is reached when:

1. Average daily water consumption reaches 100% of production capacity for a 24-hour period. Production capacity is defined as on line capacity in case of failure or shut down of one or both water treatment facilities.

- MGD.
2. Average daily water consumption will be reduced by 25% or 4,855,355
 3. Average daily water consumption will not enable storage levels to be maintained.
 4. System demand exceeds available high service pump capacity.
 5. Any two conditions listed in Moderate Drought Classification occur for a 24 hour period.
 6. Water system is contaminated either accidentally or intentionally. Severe condition is reached immediately upon detection.
 7. Water system fails – from acts of God (tornadoes, hurricanes) or man. Severe condition is reached immediately upon detection.

d. In the event severe classification conditions persist (Item c. above) for an extended period of time, the City may ration water usage and/or terminate service to selected users of the system in accordance with the following sequence:

1. Recreational Users
2. Residential Users
3. Commercial Users
4. Industrial Users
5. School Users
6. Public Health and Safety Facilities (Ord. 0-2011-15, 2/23/11)

Section 19-302. Penalties.

Users of City water except for the City, that do not comply with Section III of this Ordinance shall be subject to a penalty and a fine of not less than \$10.00 per day nor more than \$200.00 per day for each day of noncompliance and/or disconnection or discontinuance of water services to such users by the City. (Ord. 0-2011-15, 2/23/11)

Section 19-303. Introduction.

a. The 69th Texas Legislature passed House Bill (HB) 2 and House Joint Resolution (HJR) 6 in 1986. This Act requires that a Water Conservation Plan and Emergency Demand Management Plan be adopted by political subdivisions. House Bill 2 was approved by Texas Voters November 6, 1995, becoming an amendment to the Texas Constitution. In 2002 the State of Texas adopted the State Water Plan which recognizes the need for water conservation in order to meet future needs of Texas. In 2003, the 78th Texas Legislature established the Water Conservation Implementation Task Force via passage of Senate Bill (SB) 1094. In SB 1094 the task force was directed to review, evaluate and recommend several water based conservation programs including the development of a best management practices guide for use by Regional Water Planning Groups and political subdivisions responsible for water delivery service. These actions enabled the Texas Commission on Environmental Quality (TCEQ) and the Texas Water Development Board (TWDB) to develop Best Management Practices (BMP's) guidelines, Task 1 Section 3 of SB 1094, for water providers of the state to consider while updating Water Conservation and Emergency Demand Management Plans. The TWDB and the TCEQ were to make efforts to implement HB 2660 which directed the two agencies to identify quantified target goals for water conservation for water suppliers and other entities. In 2007 House Bill 4 amended the Texas Water Code by requiring the Texas Commission on Environmental Quality (TCEQ) to require retail public utilities that provide potable water to 3300 or more connections to submit a Water Conservation Plan to the Texas Water Development Board. The Plan must include specific targets and goals developed by the utility using Best Management Practices or other strategies to reduce water waste, loss, and consumption. These reduction goals are to be based on municipal use in gallons per capita per day.

b. Utilization of all State resources is dictated, if affordable development is to occur on a statewide basis. Water, a basic human need, will be a major factor in development. Conservation of water is necessary if we are to meet future needs for our most valuable resource.

c. Passage of House Bill 2 and House Joint Resolution 6, Senate Bill (SB) 1094, House Bill 2660, and in 2007 House Bill 4 by the Texas Legislature and Voters of Texas, reflect

that the need for conservation of water resources has been recognized and is a high priority for State Officials as well as the Environmental Protection Agency and other Federal agencies. All Water Conservation Plans must be updated every five years and are required to send in annual information on the effectiveness of the Best Management Practices adopted. The Regional Water Planning Group, TCEQ, and the Texas Water Development Board should be sent the Conservation Plan Updates as well as the annual reports for Best Management Practice effectiveness.

d. Planning Area - Proposed Project

The planning area consists of the City of Tyler and its extraterritorial jurisdiction which contains approximately 52 square miles. Tyler has a current population of 107,802.

e. Contingency Plan

System improvements will be developed from study and evaluation of existing conditions to establish a specific program for meeting desired goals. BMP's will be implemented to aid in the reduction of per capita water usage to attempt to meet state established targets.

f. Utility Evaluation Data

The following checklist provides a convenient method to insure that the most important items needed for the development of a conservation and an emergency demand plan program are considered.

1. Utility Evaluation Data
 - (a) Population of service area = 107,802 (Number)
 - (b) Area of service area = 52 (Sq. mi.)
 - (c) Number and Type of equivalent 5/8" meter connections in service area = 33,177 (Conn)
 - (d) Net rate of new connection additions per year (new connections less disconnections) = 2,408 (Conn)
 - (e) Water use information:
 - (1) Water production for 2008, Approx. = 7,754,081,390 (gal./yr.)
 - (2) Average water production for last two years Approx. = 8,005,994,180 (gal./yr.)
 - (3) Average monthly water production for last two years = 667,166,182 (gal./mo.)
 - (4) Estimated Monthly Sales = \$1,217,477

2008	TOTAL	
	Metered	Revenue
JANUARY	595,547,000	\$ 1,244,439.90
FEBRUARY	342,791,000	\$ 763,220.39
MARCH	226,880,000	\$ 555,700.64
APRIL	569,255,000	\$ 1,130,239.00
MAY	521,407,000	\$ 1,106,002.28
JUNE	661,381,000	\$ 1,343,783.42
JULY	726,589,000	\$ 1,457,197.31
AUGUST	993,371,000	\$ 1,892,272.30

SEPTEMBER	729,616,000	\$ 1,422,697.42
OCTOBER	625,727,000	\$ 1,395,044.90
NOVEMBER	473,697,000	\$ 1,021,087.58
DECEMBER	622,558,000	\$ 1,278,043.95
TOTAL	7,088,819,000	\$14,609,729.00
AVERAGE	590,734,917	\$ 1,217,477.00

(5) Average monthly water use (Res./Comm./Ind.) = 590,734,917 GPD

(6) Peak Daily Use (Res./Comm./Ind.) = _____ GPD

(7) Gallons Per Capita Per Day Water Use

Year	2005	219.70	GPCD
Year	2006	220.31	GPCD
Year	2007	191.07	GPCD
Year	2008	176.33	GPCD

(8) Peak to average use ratio (average daily summer use divided by annual average daily use) = 2.16

(9) Unaccounted for water (% of water production) = 7% (Year 2008)

(f) Safe annual yield of water supply Lake Tyler/Lake Tyler East – 40,325 ac.-ft./year; Lake Palestine 67,200 ac.-ft./year; Wells 8.0 mgd

(g) Peak daily design capacity of water system 72 mgd

(h) Major high-volume customers: Mother Frances Hospital, Delek Refineries, Walnut Grove W.S.C., University of Texas at Tyler, and Caldwell Zoo

(i) Population and water use projections:

Year	Population Potential	Daily Avg MGD	Daily Max MGD
2008	107,802	21.2	38.9
2015	112,722	18.9	34.7
2025	129,630	19.4	35.5

(j) Percent of water supply connection in system metered:

100% Res. 100% Comm.

(k) Water rate structure/Existing rate structure: “City of Tyler Water Rates”, City Code Section 19-60

(l) Average annual revenues from water rates: (Calendar Year 2008)
Water \$14,609,729.00

(m) Average annual revenue from non-rate derived sources: None