

## ORDINANCE NO. 2018-09

**A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EAGLE PASS (“CITY”) APPROVING THE CITY’S 2018 DROUGHT CONTINGENCY PLAN; AMENDING SECTION 21-51, ARTICLE II, CHAPTER 21 (PLUMBING) OF THE CITY OF EAGLE PASS CODE OF ORDINANCES BY REPLACING THE CURRENTLY REFERENCED DROUGHT CONTINGENCY PLAN (ON FILE IN THE OFFICE OF THE CITY SECRETARY) WITH THE 2018 DROUGHT CONTINGENCY PLAN APPROVED BY AND ATTACHED TO THIS ORDINANCE; AUTHORIZING AND DIRECTING THAT THE CITY MANAGER OR HIS DESIGNEE FILE THE 2018 DROUGHT CONTINGENCY PLAN WITH THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AS REQUIRED BY LAW; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE**

**WHEREAS**, The City of Eagle Pass, is Texas municipal corporation operating as a home rule municipality (“City”) in accordance with the provisions of Chapter 26 of the Texas Local Government Code and the Eagle Pass City Charter; and

**WHEREAS**, the City created and established a separate waterworks system pursuant to Article X, Section 10-4(d) of the Eagle Pass City Charter for the use of the public to furnish water and wastewater service and to make and collect such charges and fees for such waterworks as may be fixed by the City Council of the City (“City Council”); and

**WHEREAS**, the City’s waterworks system known as the City of Eagle Pass Water Works System (a) is owned by and is an agency of the City; and (b) manages and operates (i) a water supply, treatment, storage, transmission and distribution system; and (ii) a wastewater collection, transportation, treatment and disposal system; and

**WHEREAS**, pursuant to Title 30, Part 1, Rules 288.30 and 295.9 of the Texas Administrative Code, entities that appropriate or use state (*i.e.*, surface) water for municipal use and/or amend existing water rights to change the place of use are required to submit a drought contingency plan to the Texas Commission on Environmental Quality (“TCEQ”); and

**WHEREAS**, pursuant to Section 11.1272 of the Texas Water Code and Title 30, Part 1, Rules 288.20 and 288.30 of the Texas Administrative Code Section, a retail public water supplier with 3,300 or more water connections has to develop drought contingency plans consistent with the appropriate approved regional water plan to be implemented during periods of water shortages and drought, and resubmit updates to the TCEQ every five (5) years thereafter to coincide with the regional water planning group; and

**WHEREAS**, the drought contingency plan must include specific, quantified targets for water use reductions to be achieved during periods of water shortages and drought; and

**WHEREAS**, Section 13.002(19) of the Texas Water Code, defines a "Retail Public Utility" as "any ... municipality, political subdivision ... operating, maintaining, or controlling in this state facilities for providing potable water service or sewer service, or both, for compensation;" and

**WHEREAS**, the City of Eagle Pass Water Works System ("EPWWS") is a Retail Public Utility, has 17,116 water connections and obtains its water supply through surface water and water rights; and

**WHEREAS**, the City through its EPWWS prepared its first drought contingency plan and filed it with TCEQ prior to the required deadline of May 1, 2005, and has since updated the plan every five (5) years in compliance with the law; and

**WHEREAS**, the City through its EPWWS has once again updated its drought contingency plan which is due on May 1, 2019; and

**WHEREAS**, the EPWWS Board of Trustees approved the updated drought contingency plan attached hereto as Exhibit "A" and incorporated herein for all purposes ("2018 Drought Contingency Plan"); and

**WHEREAS**, the EPWWS Board of Trustees further recommended to and requested that the City Council approve the 2018 Drought Contingency Plan; and

**WHEREAS**, the City Council finds and determines that approving the 2018 Drought Contingency Plan is necessary, required by law, is worthwhile and beneficial for the citizens of the City, and is in the best interest of and will promote the public health, safety, morals and general welfare of the community;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EAGLE PASS:**

**SECTION 1.** That the 2018 Drought Contingency Plan is hereby adopted and approved.

**SECTION 2.** That Section 21-51 of the City of Eagle Pass Code of Ordinances is hereby amended to replace the currently referenced drought contingency plan (on file in the office of the City Secretary) with the 2018 Drought Contingency Plan approved by and attached to this Ordinance.

**SECTION 3.** That the City Manager or his designee are hereby authorized and directed to file the 2018 Drought Contingency Plan with the TCEQ within the time required by law (*i.e.*, within 90 days of adoption of the Plan and this Ordinance) and further to transmit a copy of the 2018 Drought Contingency Plan to the Region M Planning Group.

**SECTION 4.** It is officially found, determined and declared that the meeting at which this Ordinance is adopted was open to the public, and that public notice of the time, place, and subject matter of the public business to be conducted at such meeting, including this Ordinance,

was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.


**SECTION 5.** If any part, section, paragraph, sentence, phrase, or word of this Ordinance is for any reason held to be unconstitutional, illegal, inoperative, invalid or ineffective, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, inoperative, invalid or ineffective, the remainder of this Ordinance shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, inoperative, invalid or ineffective.

**SECTION 6.** This Ordinance becomes effective immediately upon its passage after a third and final reading.

**READ, PASSED, AND APPROVED ON FIRST READING, this 20<sup>th</sup> Day of March, A.D., 2018.**


  
\_\_\_\_\_  
Ramsey English Cantu  
Mayor

ATTEST:

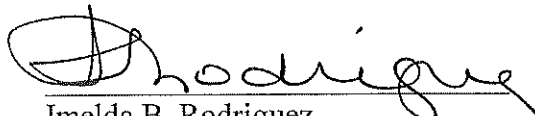
  
\_\_\_\_\_  
Imelda B. Rodriguez  
City Secretary

AYES: English-Cantu, Ramon, Davis, Villalpando, Sifuentes  
NAYS: None  
ABSTAINED: None  
ABSENT: None

**READ, PASSED, AND APPROVED ON SECOND READING, on this 3<sup>rd</sup> Day of April, A.D., 2018.**

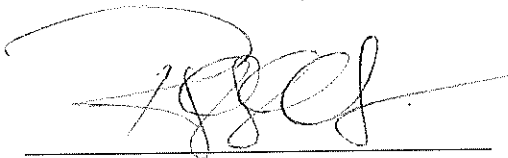
  
\_\_\_\_\_  
Ramsey English Cantu  
Mayor

ATTEST:

  
\_\_\_\_\_  
Imelda B. Rodriguez  
City Secretary

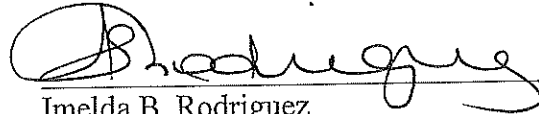
AYES: English-Cantu, Ramon, Davis, Villalpando, Sifuentes  
 NAYS: None  
 ABSTAINED: None  
 ABSENT: None

**READ, PASSED, AND APPROVED ON THIRD AND FINAL READING, this 10<sup>th</sup> Day of April, A.D., 2018.**



Ramsey English Cantu  
Mayor

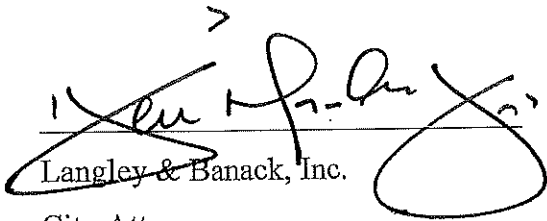
ATTEST:



Imelda B. Rodriguez  
City Secretary

AYES: English-Cantu, Davis, Villalpando, Sifuentes  
 NAYS: None  
 ABSTAINED: None  
 ABSENT: Ramon

**APPROVED AS TO FORM AND LEGALITY:**



Langley & Banack, Inc.  
City Attorney

# Drought Contingency Plan

EAGLE PASS WATER WORKS SYSTEM  
2107 VETERANS BLVD  
EAGLE PASS, TX 78852  
PWS# 1620001      CN# 602520165

February 22, 2018

## Section I: Introduction

This document is the Drought Contingency Plan (DCP) for the City of Eagle Pass Water Works System (EPWWS). The DCP was created by EPWWS to cut back demand when supplies are low and to ensure there's enough water to make it through a drought. The DCP clearly explains the triggers initiated by a drought and the steps to be taken during each stage of a drought.

There is also information in the DCP which explains the steps to be taken in a water emergency, such as when supplies are cut off or contaminated. The DCP has been prepared in accordance with Texas Administrative Code Title 30 Chapter 288 Subchapter B Rule §288.20 for Municipal Uses by Public Water Suppliers.

## Section II: Declaration of Policy, Purpose, and Intent

In order to conserve the water supply, 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 EPWWS hereby adopts the following regulations and restrictions on the delivery and consumption of water through adoption of the DCP by City of Eagle Pass – Code of Ordinance.

Water uses regulated or prohibited under the DCP 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 X of the DCP.

## Section III: Public Education

The EPWWS will periodically provide the public with information about the DCP, including information about the conditions under which each stage of the DCP 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 the local newspaper, social media, and EPWWS website.

## **Section IV: Coordination with Regional Water Planning Groups**

The service area of the EPWWS is located within the Rio Grande Regional Water Planning Group (Region M), and a copy of the DCP has been provided to the Region M Group. EPWWS shall review and update, as appropriate, the DCP at least every five years based on new or updated information, such as the adoption or revision of the regional water plan.

## **Section V: Authorization**

The City of Eagle Pass Water Works System Board of Directors, through the General Manager, or his/her designee, is hereby authorized and directed to implement the applicable provisions of the DCP upon determination that such implementation is necessary to protect public health, safety, and welfare. The General Manager, or his/her designee, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in the DCP.

## **Section VI: Application**

The provisions of the DCP shall apply to all persons, customers, and property utilizing water provided by the EPWWS. The terms "person" and "customer" as used in the DCP include individuals, corporations, partnerships, associations and all other legal entities.

## **Section VII: Definitions**

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

- *Aesthetic 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 nonprofit establishments and governmental entities such as retail establishments, hotels and motels, restaurants 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 EPWWS.
- *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 addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.
- *Odd Number Address*: Street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9 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 Irrigation Use: Water use for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and right-of-way and medians.
- Rated plant capacity: Total capacity of operating treatment plant (15MGD)
- Non-essential Water Use: Water use that is not essential or required for the protection of public, health, safety, and welfare, including:
  - Irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under the DCP;
  - Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
  - Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard surfaced areas;
  - Use of water to wash down buildings or structures for purposes other than immediate fire protection;
  - Flushing gutters or permitting water to run or accumulate in any gutter or street;
  - Use of water to fill, refill, or add to any indoor or outdoor swimming pools or jacuzzi-type pools;
  - Use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
  - Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
  - Use of water from hydrants for construction purposes or any other purposes other than firefighting.

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

The General 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 stage of the DCP, that is, when the specified "triggers" are reached. The triggering criteria described below are based on known system capacity limits.

- **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 when:

- Daily water demand exceeds 85% (12,750,000 gallons per day) of the rated plant capacity for three consecutive days.

OR

- Distribution pressure remains below 45 psi for more than six (6) consecutive days.

Requirements for Termination:

The EPWWS Board of Directors will determine when drought or emergency conditions

have downgraded or expired based on the criteria identified in the DCP. At their direction, the EPWWS General Manager will downgrade to the appropriate action level or cancel all existing plan actions.

- **Stage 2 Triggers -- MODERATE 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 2 of the DCP when:

- Daily water demand exceeds 90% (13,500,000 gallons per day) of the rated plant capacity for three consecutive days.

OR

- Distribution pressure remains below 43 psi for more than six (6) consecutive days.

Requirements for Termination:

The EPWWS Board of Directors will determine when drought or emergency conditions have downgraded or expired based on the criteria identified in the DCP. At their direction, the EPWWS General Manager will downgrade to the appropriate action level or cancel all existing plan actions.

- **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 the DCP when:

- Daily water demand exceeds 95% (14,250,000 gallons per day) of the rated plant capacity for three consecutive days.

OR

- Distribution pressure remains below 40 psi for more than six (6) consecutive days.

OR

- Contamination of the supply source

OR

- System outage due to the failure or damage of major water system components (e.g. raw water pumps, scada system)



Requirements for Termination:

The EPWWS Board of Directors will determine when drought or emergency conditions have downgraded or expired based on the criteria identified in the DCP. At their direction, the EPWWS General Manager will downgrade to the appropriate action level or cancel all existing plan actions.

**Section IX: Drought Response Stages**

The General Manager, or his/her 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 DCP, shall determine that a mild, moderate, or severe water shortage condition exists and shall implement the following notification procedures:

Notification of the Public:

The General Manager or his/her designee shall notify the public for every change in drought stage status by any or all of the following:

- EPWWS Website (www.epwaterworks.org)
- Local Newspaper
- Social Media
- Local Radio Station
- Letters

Additional Notification:

The General Manager, or his/her designee, shall notify directly, or cause to be notified directly, the following individuals and entities:

- Major water users (KTTT, EPISD, Housing Authority, etc.)
- TCEQ (Only for Moderate or Severe Conditions) – Note: TCEQ MUST be informed within five (5) business days of mandatory water use restrictions being imposed.

**Stage 1 Response -- MILD Water Shortage Conditions**

Target:

Achieve a voluntary 5% reduction in daily water demand with the water use restrictions below:

- Customers are requested to voluntarily limit irrigation such that customers with even numbered addresses water on odd numbered days of the month and customers with odd numbered addresses water on even numbered days of the month.
- In all cases watering is requested to occur only between the hours of 6-10 AM and 8-10 PM.
- Major commercial water users are requested to voluntarily reduce water use.
- During winter months, water users are requested to insulate pipes rather than running water to prevent freezing.

- Continue normal practice of utilizing reclaimed water for irrigation of golf course, as available.

Best Management Practices for Supply Management:

EPWWS will enact voluntary measures to reduce daily water demand.

**Stage 2 Response -- MODERATE Water Shortage Conditions**

Target:

Achieve a 10% reduction in daily water demand with the water use restrictions below:

- All restrictions from preceding stage will continue.
- Car washing, window washing, and pavement washing is prohibited except when a bucket is used.
- The following uses of public water are prohibited when not essential for public health or safety:
  - Street washing
  - Water hydrant flushing
  
  - Filling swimming pools
  - Athletic fields watering

Best Management Practices for Supply Management:

EPWWS will discontinue the flushing of water mains wherever possible, and use more repair crews if necessary to allow for a quicker response time for water line leak repair.

**Stage 3 Response -- SEVERE Water Shortage Conditions:**

Target:

Achieve a 15% reduction in daily water demand with the water use restrictions below:

- All restrictions from preceding stage will continue.
- ALL outdoor water use is BANNED
- Limits will be set on water use for both commercial and residential users.

Best Management Practices for Supply Management:

All actions from preceding stages

EPWWS personnel will begin monitoring customers are in compliance with Stage 2 restrictions during the course of their daily rounds.

**Section X: Enforcement**

- All customers will be notified of penalties for exceeding water use limits or violation of the DCP.

- Any person who shall violate any of these provisions shall be deemed guilty of a misdemeanor and shall upon conviction be punished by a fine not exceeding five hundred dollars (\$500.00).
- Any person whose name is on file with EPWWS as the customer on the water account for the property where the violation occurs or originates shall be presumed to be the violator.

## **Section XI: Variances**

The General Manager, or his/her designee, may, in writing, grant temporary variance for existing water uses otherwise prohibited under the DCP, 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:

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

Persons requesting an exemption from the provisions listed shall file a petition for variance with the EPWWS within five (5) days after the DCP or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the General Manager, or his/her designee, and shall include the following:

- Name and address of the petitioner(s).
- Purpose of water use.
- Specific provision(s) of the DCP from which the petitioner is requesting relief.
- Detailed statement as to how the specific provision of the DCP adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with the DCP.
- Description of the relief requested.
- Period of time for which the variance is sought.
- Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of the DCP and the compliance date.
- Other pertinent information.

Variances granted by the EPWW shall be subject to the following conditions, unless waived or modified by the General Manager or his/her designee:

- Variances granted shall include a timetable for compliance
- Variances granted shall expire when the DCP 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 the DCP occurring prior to the issuance of the variance.