

**ORDINANCE NO. 303**

**AN ORDINANCE OF THE CITY OF ARCHER CITY, TEXAS, AMENDING THE CITY'S CODE OF ORDINANCES, CHAPTER 13 UTILITIES, ARTICLE 13.06 DROUGHT CONTINGENCY PLAN TO INCLUDE PROVISIONS FOR THE REVISED DROUGHT CONTINGENCY PLAN; ESTABLISHING THE SEVERABILITY OF THIS ORDINANCE AND PROVIDING FOR ANY CONFLICTING PROVISIONS; ESTABLISHING A PENALTY; ESTABLISHING AN EFFECTIVE DATE FOR THIS ORDINANCE; AND REPEALING ORDINANCE 296 OF THE CITY OF ARCHER CITY CODE OF ORDINANCES.**

**WHEREAS**, it is required by the Texas Commission on Environmental Quality to have on record an approved Drought Contingency Plan with various activities at increasing Stages of drought; and,

**WHEREAS**, at its July 18, 2013 meeting, the City Council passed Ordinance No. 296, providing for a Drought Contingency Plan; and,

**WHEREAS**, the City Council now desires to repeal Ordinance 296; and,

**WHEREAS**, the City Council now desires to provide for a revised Drought Contingency Plan as written below.

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

SECTION 1. Chapter 13, Utilities, of the Archer City Code of Ordinances is hereby amended at Article 13.06, so that such section shall hereafter read as follows:

“Article 13.06.001 Water shortage; authority of department.

(a) It shall be unlawful for any person, firm, corporation or other entity, at any time of the year, to:

(1) Run outside spray type irrigation on any day of the week between 11:00 a.m. and 6:00 p.m. Landscape watering is permitted any time with a handheld hose, soaker hose, bucket, watering can, bubbler or drip irrigation system. A spray type irrigation system may be used any time for the purposes of cooling golf course putting surfaces when warranted by weather conditions and only with run cycles of less than five minutes.

(2) Wash any motor vehicle at any location other than a commercial carwash or automotive shop unless the hose is equipped with a positive shutoff nozzle. Such nozzle shall stop the flow of water through the hose when released by the operator.

(3) Install new irrigation systems unless they are designed by a licensed professional recognized by the state to design such systems, and these systems shall be designed so as to be water conserving. Each new system shall utilize zonal irrigation, drip irrigation, subsurface irrigation and other water conserving features as appropriate. When application for the irrigation permit is made by other than a licensed irrigation specialist or landscape architect, or the irrigation system is designed by a licensed professional recognized by the state to design such systems plans shall be made available to the city building officials.

(4) Provide drinking water to customers of restaurants, bars, or clubs unless the customer requests such water.

(b) Stage 1 - drought watch. When the levels of Lake Arrowhead and Kickapoo reach a capacity of 60-percent (or the demand exceeds design treatment capacity for three days, or the demand equals 105-percent of design treatment capacity), or the water supply system is unable to deliver water due to mechanical failure or damage of major water system components which will require more than 72 hours to repair when dry weather conditions exist and continued dry weather are expected over the course of the repair period a drought watch will be initiated. The following actions shall occur under the direction of the city manager:

(1) The city council and other city departments will be notified of the impending problem and the proposed immediate and future actions.

(2) The city shall initiate an education program through all available media to:

(A) Alert the public to the depletion of the reservoirs; current rate of withdrawals and the effect of such withdrawals; current treatment rates; current meteorological conditions; and the long-range weather forecast from the National Weather Service.

(B) Alert the public to the drought management program, the various stages and measures, and the possibility of implementation.

(C) Keep a constant flow of information to the public to condition them for more stringent measures.

(3) The city manager will coordinate with other departments on the structure of a program to implement voluntary and nonvoluntary water restrictions.

(4) The city manager will conduct training necessary to implement the water restriction program.

(5) The city manager will prepare all administrative processes (forms, affidavits, maps, offices, etc.) for the restriction program.

(c) Stage 2 - drought warning. When the levels of Lake Arrowhead and Kickapoo reach a capacity of 50-percent (or the demand exceeds design treatment capacity for three days, or the demand equals 110-percent of design treatment capacity, after a drought watch has been declared), or the water supply system is unable to deliver water due to mechanical failure or damage of major water system components (which require more than 48 hours to repair) while a drought watch is in progress, a drought warning will be initiated. The following actions shall occur under the direction of the city manager:

(1) It shall be unlawful for any person, firm, corporation or other entity to:

(A) Run outside irrigation systems (including sprinklers, automatic sprinkler systems and unattended hoses) except on the day of the week permitted for the area as identified on the attached water rationing zone map, an official copy of which shall be kept on file in the office of the city secretary; except that landscape watering is permitted any day at any time with a handheld hose, soaker hose, bucket (five gallons or less), watering can, bubbler or drip irrigation system. On days other than the day of the week permitted by the water rationing zone map, testing and troubleshooting of irrigation systems that involve the release of water is permissible any time, including between the hours of 11:00 a.m. to 6:00 p.m., as long as a licensed plumber or irrigator is present on location during testing (and visible to the ticket writer). Testing and troubleshooting of irrigation systems by other than a licensed plumber or irrigator that involves the release of water is otherwise permissible only on the day of week and time of day permitted by the water rationing zone map. Water used for irrigation from private wells, aerobic septic systems, wastewater effluent or other nonpotable water will be exempt from all drought-related restrictions but must comply with all other city, state and federal regulations.

(B) Run any type of outside watering on any day of the week between 11:00 a.m. and 6:00 p.m., except as authorized by subsection (c)(1).

(C) Wash any motor vehicle at any location other than a commercial carwash or automotive shop. The washing of a vehicle for health and safety reasons, sufficient to remove the hazard, is permitted any time (a dirty windshield is not sufficient excuse to wash the entire vehicle). Washing vehicles with a bucket, washing vehicles on the day to water or washing vehicles on the lawn while watering, other than at a commercial carwash, car dealership, detail shop or automotive shop, is prohibited.

(D) Conduct fundraising carwashes during the time the drought warning is in effect.

(E) Wash sidewalks, driveways, or concrete slabs unless an immediate health or safety risk is present.

(2) A drought emergency task force shall be formed for guidance through the remainder of the drought and to interface with the public.

(3) All nonessential operational use of water by the city staff should be suspended, such as flushing water mains, street sweeping, water jet cleaning of sanitary sewer mains, firefighter training, etc.), except where such use of water is critical to the health and safety of the citizens.

(4) Notify all wholesale customers of the situation and ask each to adopt similar reduction goals for their systems in accordance with their individual contracts with the city. Pro-rata curtailment by wholesale customers will be based upon their contractual limits as provided in Texas Water Code, section 11.039.

(d) Stage 3 - drought emergency. When the levels of Lake Arrowhead and Kickapoo reach a capacity of 40-percent (or the demand exceeds design treatment capacity for four weeks, or the demand equals 115-percent of design treatment capacity, after a drought warning has been declared), or the water supply system is unable to deliver water due to mechanical failure or damage of major water system components (which require more than 24 hours to repair) while a drought warning is in progress, a drought emergency will be initiated. The following actions shall occur under the direction of the city manager:

(1) Tighten restrictions on nonessential outdoor uses of water (sprinkling, gardening, washing of cars, filling public/private swimming pools) to fewer days per week.

(2) Monitor all fire hydrant meters that are for contractor use, to determine what conservation can be achieved through this type of water usage.

(3) Specify and impose mandatory reductions on wholesale (raw and treated) water customers in accordance with Texas Water Code, section 11.039.

(4) Begin establishing a program for a drought disaster, which will allow restriction on the essential uses of water and prepare for implementation.

(e) Stage 4 - drought disaster. When mandatory restrictions on nonessential uses does not adequately slow withdrawal of water from the lake and when the levels of Lake Arrowhead and Kickapoo reach a capacity of 30-percent (or the demand exceeds 120-percent of design treatment capacity, after a drought emergency has been declared), or the water supply system is unable to deliver water due to mechanical failure or damage of major water system components (which require more than 12 hours to repair) while a drought emergency is in progress, or the water system is contaminated either accidentally or intentionally, or the water system fails from acts of nature or man, a drought disaster will be initiated. The city manager shall impose further mandatory restrictions on nonessential uses of water. All restrictions from stage 3 remain in effect, except as specifically modified below. In stage 4, the following additional restrictions shall apply, but are not limited to:

(1) Place a total ban on the outdoor use of water for nonessential uses. This restriction includes all forms of irrigation, including, spray, bubbler, drip, hand watering, etc. This shall include the possible removal of all irrigation meters from residences

(2) Continue the aggressive public relations and education program.

(3) Implement enforceable restrictions on essential uses as developed during the drought emergency.

(4) Other/miscellaneous.

(A) The watering of home foundations is restricted to once a week, on the day the property was authorized to spray irrigate in accordance with the water rationing map.

(i) Foundations may only be watered between the hours of 10:00 p.m. and 12:00 midnight.

(ii) Foundations may only be watered with soaker hoses.

(B) It shall be unlawful to wash sidewalks, driveways, concrete slabs, any structure or any part of a structure during stage 4 restrictions.

(f) Stage 5: Drought Catastrophe. When mandatory restrictions on nonessential uses does not adequately slow withdrawal of water from the lake and when the levels of Lake Arrowhead and Kickapoo reach a capacity of 25-percent (or the demand exceeds 120-percent of design treatment capacity, after a drought emergency has been declared), or the water supply system is unable to deliver water due to mechanical failure or damage of major water system components (which require more than 12 hours to repair) while a drought emergency is in progress, or the water system is contaminated either accidentally or intentionally, or the water system fails from acts of nature or man, a drought disaster will be initiated. The city manager shall impose further mandatory restrictions on nonessential uses of water. All restrictions from stage 4 remain in effect, except as specifically modified below. In stage 5, the following additional restrictions shall apply, but are not limited to:

(1) The City Manager shall declare a Stage 5 Drought Catastrophe when the levels of Lakes Arrowhead and Kickapoo reach a combined capacity of 25 percent.

(2) The following actions shall occur under the direction of the City Manager, with the goal of reducing the amount of potable water being provided by the City to less than .16 MGD:

a. Impose further mandatory restrictions on non-essential uses of water and essential uses of water.

b. Continue the aggressive public relations and education program.

(3) In Stage 5 drought, the following restrictions shall apply:

a. Irrigation:

i. Irrigation Prohibited. It shall be unlawful to utilize any type of irrigation using potable water produced by the City of Archer City that is distributed through the City's distribution system on any day at any time. This restriction includes all forms of irrigation, including, spray, bubbler, drip, hand-watering, etc. Testing of irrigation systems only upon approval by City Manager.

ii. Public Golf Courses. It shall be unlawful to irrigate any and all vegetated landscape areas on the golf course including greens, tee boxes, fairways, roughs, trees, shrubs, etc. The Golf Courses will be allowed to utilize the remaining water within their pond system, as they see fit; but, will not be allowed to refill the ponds from the City system, while in a Stage 5 Drought Disaster.

b. Washing Cars when Lakes Arrowhead & Kickapoo are between 20% and 25%:

i. Location of Washing Cars Limited to Reduce Runoff. It shall be unlawful for any person to wash a vehicle at any location other than a commercial car wash or commercial property that is owned by the owner of a Fleet of vehicles.

a. It shall be an affirmative defense to prosecution pursuant to this subsection i. that a person was washing a vehicle for health and safety reasons, only to an extent sufficient to remove the hazard, is permitted any time.

ii. Allowable Times for Washing Vehicles Limited to Reduce Evaporation. It shall be unlawful for any person to use potable water to wash a vehicle at any time on Sunday or Monday.

iii. Nozzles. It shall be unlawful for any car wash to use a nozzle that discharges more than 3.0 gallons per minute.

iv. Bays. It shall be unlawful for a car wash to wash any of its bays with water, except on Fridays.

c. Washing Vehicles when Lakes Arrowhead and Kickapoo are below 20%: It shall be unlawful for any person to use potable water to wash a vehicle at any time when the levels of Lakes Arrowhead and Kickapoo are at a combined capacity of less than 20%.

d. Restaurants / Bars / Clubs / School Cafeterias:

i. It shall be unlawful to provide drinking water to customers of restaurants, bars, or clubs unless the customer requests such water.

ii. It shall be unlawful for a food establishment to thaw food with water. Food must be thawed by another legal method, such as refrigeration or cooking process.

iii. It shall be unlawful for a food establishment to clean kitchen or food handling areas with spray hoses.

e. Pools:

i. It shall be unlawful to operate a water feature on any pool, including, but not limited to, fountains, water falls, descents, arcs, and slides.

ii. It shall be unlawful to fill, refill or add potable water to private or public swimming, or wading pool that is not located entirely within a fully-enclosed, climate-controlled structure from the City water supply.

iii. Indoor pools are exempt from the restrictions of (g)(3)e.

f. Watering Structures:

i. The watering of Home Foundations is restricted to once a week, on the day the property was authorized to irrigate in accordance with the Water Rationing Zone Map.

a. Foundations may only be watered between the hours of 8:00 p.m. and 12:00 a.m. (midnight).

b. Foundations may only be watered with Soaker Hoses.

ii. It shall be unlawful to wash sidewalks, driveways, concrete slabs, any structure or any part of a structure.

(g) Public and private golf courses may utilize spray irrigation on greens at any time for the purposes of cooling golf course putting surfaces when warranted by weather conditions and only with run cycles of less than five minutes. Golf course greens may be spray irrigated any day of the week.

(1) During a stage 2 drought warning (50% capacity), it shall be unlawful for golf courses to spray irrigate tee boxes and fairways, except on the day of the week permitted for the area as identified on the water rationing zone map.

(2) During a stage 3 drought emergency (40% capacity) it shall be unlawful for golf courses to spray irrigate tee boxes, except on the day of the week permitted for

the area as identified on the water rationing zone map. It shall be unlawful for golf courses to spray irrigate fairways.

(3) During a stage 4 drought disaster (30% capacity) it shall be unlawful to irrigate any and all turf areas on the golf course including greens, tee boxes, and fairways.

(4) The golf courses will be allowed to utilize the remaining water within their pond system, as they see fit; but, will not be allowed to refill the ponds from the city system, while in a stage 4 drought disaster.

(5) Water used for irrigation from private wells, private ponds aerobic septic systems or wastewater effluent will be exempt from all drought-related restrictions but must comply with all other city, state and federal regulations.

(h) A water conservation surcharge will be applied to all applicable accounts when the 50-percent, 40-percent, 30-percent and 25-percent trigger levels are reached.

(1) When a stage 2 drought warning is declared (lake level of Arrowhead and Kickapoo is at or below 50%) the surcharges will be:

(A) For residential water meters:

(i) \$0.50 per thousand gallon between 8,000 and 15,000 gallons;

(ii) \$1.00 per thousand gallon between 15,000 and 30,000 gallons; and

(iii) \$2.00 per thousand over 30,000 gallons.

(B) For irrigation water meters:

(i) \$0.50 per thousand gallon between 0 and 8,000 gallons;

(ii) \$1.00 per thousand gallon between 8,000 and 15,000 gallons;

(iii) \$2.00 per thousand gallon between 15,000 and 30,000 gallons; and

(iv) \$4.00 per thousand over 30,000 gallons.

(2) When a stage 3 drought emergency is declared (lake level of Arrowhead and Kickapoo is at or below 40%) the surcharges will be:

(A) For residential water meters:

(i) \$1.00 per thousand gallon between 8,000 and 15,000 gallons;

(ii) \$2.00 per thousand gallon between 15,000 and 30,000 gallons; and



(iii) \$4.00 per thousand over 30,000 gallons.

(B) For irrigation water meters:

(i) \$1.00 per thousand gallon between 0 and 8,000 gallons;

(ii) \$2.00 per thousand gallon between 8,000 and 15,000 gallons;

(iii) \$4.00 per thousand gallon between 15,000 and 30,000 gallons; and

(iv) \$8.00 per thousand over 30,000 gallons.

(3) When a stage 4 drought disaster is declared (lake level of Arrowhead and Kickapoo is at or below 30%) the surcharges will be:

(A) For residential water meters:

(i) \$3.00 per thousand gallon between 8,000 and 15,000 gallons;

(ii) \$6.00 per thousand gallon between 15,000 and 30,000 gallons; and

(iii) \$12.00 per thousand over 30,000 gallons.

(B) For irrigation water meters:

(i) \$3.00 per thousand gallon between 0 and 8,000 gallons;

(ii) \$6.00 per thousand gallon between 8,000 and 15,000 gallons;

(iii) \$12.00 per thousand gallon between 15,000 and 30,000 gallons;

(iv) \$24.00 per thousand over 30,000 gallons.

(4) When a stage 5 drought disaster is declared (lake level of Arrowhead and Kickapoo is at or below 25%) the surcharges will be:

(A) For residential water meters:

(i) \$6.00 per thousand gallon between 8,000 and 15,000 gallons;

(ii) \$12.00 per thousand gallon between 15,000 and 30,000 gallons; and

(ii) \$24.00 per thousand over 30,000 gallons.

(B) For irrigation water meters:

- (i) \$6.00 per thousand gallon between 0 and 8,000 gallons;
- (ii) \$12.00 per thousand gallon between 8,000 and 15,000 gallons;
- (iii) \$24.00 per thousand gallon between 15,000 and 30,000 gallons;
- (iv) \$48.00 per thousand over 30,000 gallons.

(5) Surcharges will remain in effect until the city council announces the end to the restrictions.

(i) The city manager shall declare that each “trigger level” has been reached and that the water use restrictions for each respective stage are in effect. The water restrictions will remain in effect until the lake rises to a level that, when combined with the long-term forecast, assures the city an adequate supply of water. When an adequate supply of water is available, the city council, by majority vote, and after consultation with the city manager, shall announce the end to each respective stage of the restrictions.

(j) Any person, firm, corporation or other entity found in violation of any provision of this section shall be punished by a fine of \$100.00 for the first offense; not more than \$500.00 for each additional offense. Each fine shall be in addition to any applicable court costs. Each day of violation of this section shall constitute a separate offense. Proof of a culpable mental state shall not be required. In the event that this section is flagrantly violated by repeated offenses, the city manager is authorized to order the pulling of the customer’s water meter until all fees and fines are paid.

SECTION 2. Ordinance No. 296 is repealed in its entirety.

SECTION 3. Severability of Ordinance:

If any section, subsection, sentence, phrase, or word of this Ordinance shall be held to be unconstitutional by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

SECTION 4. Conflicting Provisions:

That all ordinances or parts of ordinance in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION 5. Effective Date:

This Ordinance shall become effective ten (10) days after its publication in the *Archer County News*.

SECTION 6. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

**PASSED AND APPROVED this the 24th day of April, 2014.**

Ron Jeffries, Mayor

ATTEST:

Kim Whitsitt, City Secretary