

ORDINANCE NO. 289

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 229 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 April 21, 2009 meeting, the City Council passed Ordinance No. 229, providing for a Drought Contingency Plan; and,

WHEREAS, the City Council now desires to repeal Ordinance 229; 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. 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 hand held 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 car wash, car dealership, detail shop or automotive shop unless the hose is equipped with a positive shut off 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) When the level of Lake Kickapoo reaches 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 non-voluntary 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) When the level of Lake Kickapoo reaches 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 hand held 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 non-potable 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 car wash, car dealership, detail shop 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 car wash, car dealership, detail shop or automotive shop, is prohibited.
 - d. Conduct fundraising car washes 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 non-essential operational use of water by the City of Archer City staff should be suspended, such as flushing water mains, street sweeping, water jet cleaning of sanitary sewer mains, fire fighter 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 of Archer City. Pro rata curtailment by wholesale customers will be based upon their contractual limits as provided in Texas Water Code § 11.039.

(d) When the level of Lake Kickapoo reaches 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 non-essential 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 & treated) water customers in accordance with Texas Water Code § 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) When mandatory restrictions on non-essential uses does not adequately slow withdrawal of water from the lake and when the level of Lake Kickapoo reaches 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 mandatory restrictions on essential uses of water and take the following actions to include, but not limited to:

- (1) Place a total ban on the outdoor use of water for non-essential uses. This shall include the possible removal of all irrigation meters from residences and businesses.
- (2) All Hydrant Meters for contractor use will be pulled and service suspended until conditions return to a Drought Emergency status.
- (3) Continue the aggressive public relations and education program.
- (4) Implement enforceable restrictions on essential uses as developed during the Drought Emergency.

(f) A waiver of subsection (c)(1) may be granted for the irrigation of new landscaping plants whereby watering would be permitted to maintain adequate growth until the plants are established but not to exceed a 30-day time period. This waiver will not be available when the lake level is at or below 40 percent. Any person wishing such a waiver must make

application to the City Manager and pay a \$50.00 nonrefundable fee. The applicant must agree to pay a water rate that is three times the normal rate for that customer for all consumption over 12 CCF as registered by residential meters and all consumption as registered by water only meters or commercial meters. Persons who desire a waiver for new landscapes shall utilize exclusively water-use-efficient trees, shrubs, ground covers, ornamental plants and turf; and are to utilize water wise horticultural practices, including proper soil preparation and the use of mulch, compost and zonal irrigation systems.

(g) Public and private golf courses may water golf course greens on any day of the week. The watering of tee boxes and fairways is prohibited, except on the day of the week permitted for the area as identified on the water rationing zone map, when the lake level is at or below 50 percent of capacity. Water used for irrigation from private wells, 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 residential accounts when the 50 percent and 40 percent trigger levels are reached. At 50 percent there will be a \$0.25 per thousand gallons surcharge for use over 11 thousand gallons but less than 23 thousand gallons. For consumption over 23 thousand gallons but less than 35 thousand gallons the surcharge will be \$0.50. For consumption over 35 thousand gallons the surcharge will be \$1.00. At the 40 percent trigger level the surcharges will be \$0.50, \$1.00 and \$2.00 respectively. The same surcharges will apply to yard and irrigation meters for consumption over 2 thousand gallons, 15 thousand gallons and 25 thousand gallons respectively. Surcharges will remain in effect until the City Council announces the end to the restrictions. Water utilized by commercial nurseries for plant stock production shall not be subject to the surcharges specified herein.

(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. 229 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 21st day of June, 2012.

Ron Jeffries, Mayor

ATTEST:

Kim Whitsitt, City Secretary