

**ORDINANCE NO. 1280-14**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF RICHLAND HILLS, TEXAS, BY AMENDING DIVISION 4, "WATER CONSERVATION AND EMERGENCY WATER DEMAND MANAGEMENT PLAN" OF ARTICLE V, "WATER" OF CHAPTER 86, "UTILITIES"; ADOPTING AN UPDATED WATER CONSERVATION PLAN AND A DROUGHT CONTINGENCY AND EMERGENCY WATER MANAGEMENT PLAN; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING FOR PUBLICAITON IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Richland Hills, Texas (the ACity@) is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the City is a wholesale water service customer of the City of Fort Worth; and

**WHEREAS**, as a wholesale customer of the City of Fort Worth, the City is required to institute the same rationing and water use restrictions on City customers as does the City of Fort Worth for so long as any part of the total water supply is furnished by the City of Fort Worth; and

**WHEREAS**, as a wholesale customer of the City of Fort Worth, the City is required to adopt updated water conservation and drought contingency and emergency water plans; and

**WHEREAS**, the City has drafted a "Drought Contingency and Emergency Water Management Plan" and a "Water Conservation Plan" which comply with Chapter 288, Title 30 of the Texas Administrative Code.

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

**SECTION 1.**

That the Water Conservation Plan attached as Exhibit "A" and the Drought Contingency and Emergency Water Management Plan attached as Exhibit "B" are hereby adopted and incorporated herein for all purposes. The Water Conservation Plan and the Drought Contingency and Emergency Water Management Plan hereby adopted shall replace any previous such plans adopted by the City.

## SECTION 2.

That Division 4 of Article V of Chapter 86, "Utilities" is hereby repealed in its entirety and is replaced with a new Division 4 to read as follows:

### **"Division 4. Water Conservation and Drought Contingency and Emergency Water Management Plans**

#### **Sec. 86-266. General**

The water conservation and drought contingency and emergency water management plans outline the city's water conservation and emergency water demand management efforts. These efforts consist of two plans: (1) a water conservation plan; and (2) a drought contingency and emergency water management plan. The objective of these plans is to reduce the quantity required for each water using activity, insofar as is practical, through the implementation of efficient water practices. The plans also provide procedures for voluntary and mandatory actions to be put in place upon the city's water supply system during a drought or water emergency. The City will revise these plans as needed to meet objectives requested by the Texas Commission on Environmental Quality, regional water planning groups, the City of Fort Worth and to meet the goals stated in these plans. The plans established in this Division shall be administered by the Director of Neighborhood Services of the City or his/her duly appointed representative ("director").

#### **Sec. 86-267. Water Conservation Plan**

The City has adopted a Water Conservation Plan which is on file and available for inspection at the City Secretary's office. The Water Conservation Plan may be amended from time to time by adopting an ordinance amending the plan.

#### **Sec. 86-268. Drought Contingency and Emergency Water Management Plan**

(a) The City has adopted a Drought Contingency and Emergency Water Management Plan which is on file and available for inspection at the City Secretary's office. The Drought Contingency and Emergency Water Management Plan may be amended from time to time by adopting an ordinance amending the Plan.

(b) Purpose and scope. The purpose of this section is to establish the city's policy in the event of shortages or delivery limitations in the city's water supply and to establish water restrictions to be enforced in case of drought or emergency conditions. This section applies to:

- (1) All persons and premises within the city using water from the water system;
- (2) All retail customers who live in unincorporated areas within the city's extraterritorial jurisdiction and are served by the water system; and

(3) All wholesale service customers outside the city to the extent provided in subsection (h).

(c) Authority. The director is authorized to implement measures prescribed when required by this section and by the drought contingency and emergency water management plan approved by the city council. The director is authorized to enforce the measures implemented and to promulgate regulations, not in conflict with this section, the plan or state and federal laws, in aid of enforcement.

(d) Initiation of plan stages. The director may order that the appropriate stage of the drought contingency and emergency water management plan be initiated upon determination that drought conditions or a water emergency exists. To be effective, the order must be:

- (1) Made by public announcement to local media; and
- (2) Published on the city's website.

(e) Duration of stage; change. A stage will remain in effect until the conditions that triggered initiation of the stage have been eliminated. If the stage is initiated because of excessive demands, all initiated actions will remain in effect through September 30 of the year in which they were triggered unless the director determines that conditions exist that will allow termination of the stage before September 30. When conditions change, the director may terminate, upgrade or downgrade the stage. Any such change must be made in the same manner prescribed in subsection (d).

(f) Violation of section. A person commits an offense if he knowingly makes, causes or permits a use of water contrary to the measures implemented by the director as prescribed in the plan. For purposes of this subsection, it is presumed that a person has knowingly made, caused or permitted a use of water contrary to the measures implemented if the mandatory measures have been formally ordered consistent with the terms of subsection (d) and:

- (1) The manner of use has been prohibited by the drought contingency and emergency water management plan;
- (2) The amount of water used exceeds that allowed by the drought and emergency water management plan; or
- (3) The manner or amount used violates the terms and conditions of a compliance agreement made pursuant to a variance granted by the director.

(g) Penalties/enforcement of violations. Any person who is convicted of violating, disobeying, omitting, neglecting or refusing to comply with a measure implemented in accordance with this section and the drought contingency and emergency water management plan will be given a written warning that he has violated a mandatory water use restriction as a first offense. Any person who is convicted of violating, disobeying, omitting, neglecting or refusing to comply with a measure implemented in accordance with this section and the drought

contingency and emergency water management plan may be fined not more than \$2,000.00 for each subsequent offense. In addition, the following penalties shall apply:

(1) A person who is convicted of violating, disobeying, omitting, neglecting or refusing to comply with a measure implemented in accordance with this section and stage 1 of the plan as a second offense, shall be fined not less than \$100.00.

(2) A person who is convicted of violating, disobeying, omitting, neglecting or refusing to comply with a measure implemented in accordance with this section and stage 2 of the plan as a second offense, shall be fined not less than \$250.00.

(3) A person who is convicted of violating, disobeying, omitting, neglecting or refusing to comply with a measure implemented in accordance with this section and stage 3 of the plan as a second offense, shall be fined not less than \$500.00.

(4) If a person is convicted of violating, disobeying, omitting, neglecting or refusing to comply with a measure implemented in accordance with this section and the plan as a third offense, the director may either:

a. Install a flow restrictor in the water line to the premises where the violations occurred to limit the amount of water that may pass through the meter in a 24-hour period or a lock-out device to a backflow assembly; or

b. Discontinue water service to the premises where the violation occurred.

(h) Wholesale service to customers outside the city. The director shall advise customers receiving wholesale water service from the city of actions taken under the drought contingency and emergency water plan. The director may restrict service to customers outside the city as permitted under the contract and state law.

(i) Authority under other laws. Nothing in this section shall be construed to limit the authority of the mayor, the city council or the city manager to seek emergency relief under the provisions of any state or federal disaster relief act.

(j) Variances. During the times the emergency order is operative, the director may grant variances only under the following circumstances and conditions:

(1) The applicant signs a compliance agreement on a form provided by the director, and approved by the city attorney, agreeing to use the water only in the amount and manner permitted by the variance;

(2) Granting of the variance would not cause an immediate significant reduction in the city's water supply;

(3) Failure to approve the variance would result in an extreme hardship or need relating to the health, safety or welfare of the applicant; and

(4) Granting the variance would not adversely affect the premises at which the violation occurred.

(k) Revocation of Variances. The director may revoke a variance when he or she determines that:

- (1) The conditions of subsection (j) are not being met or are no longer applicable;
- (2) The terms of the compliance agreement are being violated; or
- (3) Revocation is advisable to protect the health, safety or welfare of other persons.

(l) Appeal. Denial or revocation of a variance by the director may be appealed to the city manager by filing a written notice of appeal with the city manager within ten days after issuance of the director's decision. The city manager's decision shall be final.

**Sec. 86-269.-86-300.—Reserved”**

### **SECTION 3. CUMULATIVE PROVISIONS**

This Ordinance shall be cumulative of all provisions of the Code of Ordinances of the City of Richland Hills and other applicable City ordinances, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the applicability of the conflicting provisions of such ordinances are hereby repealed.

### **SECTION 4. SEVERABILITY CLAUSE**

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

### **SECTION 5. PENALTY CLAUSE**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

**SECTION 6.  
SAVINGS CLAUSE**

All rights and remedies of the City of Richland Hills are expressly saved as to any and all violations of the provisions of any ordinances governing irrigation and water usage that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**SECTION 7.  
PUBLICATION**

The City Secretary of the City of Richland Hills is hereby directed to publish at least twice in the official newspaper of the City of Richland Hills, the caption and the penalty clause of this ordinance in accordance with Section 52.013(b) of the Local Government Code.

**SECTION 8.  
EFFECTIVE DATE**

This Ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED 5<sup>TH</sup> DAY OF AUGUST, 2014.

  
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THE HONORABLE BILL AGAN, MAYOR

ATTEST:

  
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CATHY BOURC, CITY SECRETARY

EFFECTIVE DATE: August 10, 2014

APPROVED AS TO FORM AND LEGALITY:

  
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BESTY ELAM, CITY ATTORNEY

