

APPENDIX D

DROUGHT CONTINGENCY PLAN

ORDINANCE NO. 123

AN ORDINANCE OF THE CITY OF GREY FOREST, TEXAS,
ADOPTING A DROUGHT CONTINGENCY PLAN;
ESTABLISHING CRITERIA FOR THE INITIATION AND
TERMINATION OF DROUGHT RESPONSE STAGES;
ESTABLISHING RESTRICTIONS ON CERTAIN WATER USES;
ESTABLISHING PENALTIES FOR THE VIOLATION OF AND
PROVISIONS FOR ENFORCEMENT OF THESE RESTRICTIONS;
ESTABLISHING PROCEDURES FOR GRANTING VARIANCES;
AND PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Grey Forest, Texas recognizes that the amount of water available to the City and its water utility customers is limited and subject to depletion during periods of extended drought;

WHEREAS, the City recognizes that natural limitations due to drought conditions and other acts of God cannot guarantee an uninterrupted water supply for all purposes;

WHEREAS, Section 11.1272 of the Texas Water Code and applicable rules of the Texas Natural Resource Conservation Commission require all public water supply systems in Texas to prepare a drought contingency plan; and

WHEREAS, as authorized under law, and in the best interests of the citizens of Grey Forest, Texas, the City Council deems it expedient and necessary to establish certain rules and policies for the orderly and efficient management of limited water supplies during drought and other water supply emergencies;

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF GREY FOREST, TEXAS:

SECTION 1.

That the City of Grey Forest, Texas Drought Contingency Plan attached hereto as Exhibit

AA@ and made part hereof for all purposes be, and the same is hereby, adopted as the official policy of the City.

SECTION 2.

That all ordinances that are in conflict with the provisions of this ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3.

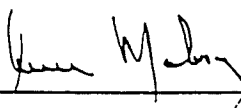
Should any paragraph, sentence, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

SECTION 4.

This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.

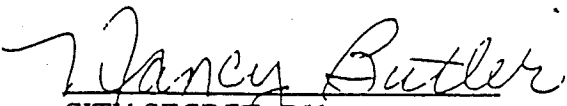
DULY PASSED BY THE CITY OF GREY FOREST, TEXAS, on the 22 day
of August, 2000.

APPROVED:



MAYOR

ATTESTED TO:



CITY SECRETARY

APPROVED AS TO FORM:

CITY ATTORNEY

**DROUGHT CONTINGENCY PLAN
FOR THE
City of Grey Forest
22-August-00**

Section I: Declaration of Policy, Purpose, and Intent

In order to conserve the available water supply and 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 City of Grey Forest hereby adopts the following regulations and restrictions on the delivery and consumption of water.

Water uses regulated or prohibited under this Drought Contingency Plan (the Plan) 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 XI of this Plan.

Section II: Public Involvement

Opportunity for the public to provide input into the preparation of the Plan was provided by the City of Grey Forest by means of city council meetings. Notification was provided by publication in local newspapers, posting of notification of council meeting agenda, and posted on sign at city hall.

Section III: Public Education

The City of Grey Forest and Grey Forest Water System will periodically provide the public with information about the Plan, including information about the conditions under which each stage of the Plan 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 council meeting, mailings, news paper, and posting on sign at city hall.

Section IV: Coordination with Regional Water Planning Groups

The service area of the City of Grey Forest is located within the South Central Texas Region (L) and City of Grey Forest has provided a copy of this Plan to the South Central Texas Region (L)

Section V: Authorization

The City Council is hereby authorized and directed to implement the applicable provisions of this Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The City Council, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

Section VI: Application

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

Section VII: Definitions

For the purposes of this Plan, 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 non-profit 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 the City of Grey Forest.

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.

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 used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-way and medians.

Non-essential water use: water uses that are not essential nor required for the protection of public, health, safety, and welfare, including:

- (a) irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this Plan;
- (b) use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- (c) use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- (d) use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (e) flushing gutters or permitting water to run or accumulate in any gutter or street;
- (f) use of water to fill, refill, or add to any indoor or outdoor swimming pools or jacuzzi-type pools;
- (g) use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- (h) failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
- (i) use of water from hydrants for construction purposes or any other purposes other than fire fighting.

Odd numbered address: street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

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

The City Council shall monitor water supply and/or demand conditions on a monthly basis and shall determine when conditions warrant initiation or termination of each stage of the Plan, that is, when the specified "triggers" are reached.

The triggering criteria described below are based on static water level of well #1.

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, defined in Section VII – Definitions, when the static water level in the City of Grey Forest well(s) is equal to or below 450 feet below the surface.

Requirements for termination

Stage 1 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 30 consecutive days and remains constant or rising.

Stage 2 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 2 of this Plan when the static water level in the City of Grey Forest well(s) is equal to or below 500 feet below the surface.

Requirements for termination

Stage 2 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 30 consecutive days and remains constant or rising. Upon termination of Stage 2, Stage 1 becomes operative.

Stage 3 Triggers -- WATER ALLOCATION

Requirements for initiation

Customers shall be required to comply with the water allocation plan prescribed in Section IX of this Plan and comply with the requirements and restrictions for Stage 3 of this Plan when the static water level in the City of Grey Forest well(s) is equal to or below 520 feet below the surface.

Requirements for termination - Water allocation may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 30 consecutive days and remains constant or rising. Upon termination of Stage 3, Stage 2 becomes operative.

Section IX: Drought Response Stages

The City Council, 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 this Plan, shall determine that a mild, moderate, severe, critical, emergency or water shortage condition exists and shall implement the following notification procedures:

Notification

Notification of the Public:

The City Council and water system shall notify the public by means of direct mail to each customer and signs posted in public places.

Additional Notification:

The City Council shall notify directly, or cause to be notified directly, the following individuals and entities:

- Utility Board
- Fire Chief(s)
- City and/or County Emergency Management Coordinator(s)
- TNRCC (required when mandatory restrictions are imposed)

Stage 1 Response – MILD Water Shortage Conditions

Goal: Achieve a voluntary 10 percent reduction in total water usage

Voluntary Water Use Restrictions:

- (a) Water customers are requested to voluntarily limit the irrigation of landscaped areas to the hours between 6am to 10am and 6pm to 10pm
- (b) All operations of the City of Grey Forest shall adhere to water use restrictions prescribed for Stage 2 of the Plan.
- (c) Water customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes.

Stage 2 Response – SEVERE Water Shortage Conditions

Goal: Achieve a 20 percent reduction in total water use.

Water Use Restrictions. Under threat of penalty for violation, the following water use restrictions shall apply to all persons:

- (a) Water customers are required to limit the irrigation of landscaped areas to the hours between 6am to 10am and 6pm to 10pm
- (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited.
- (c) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or jacuzzi-type pools is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8 p.m. and 12:00 midnight.
- (d) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
- (e) Use of water from hydrants shall be limited to fire fighting, related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under special permit from the Grey Forest Water System.

- (f) All restaurants are prohibited from serving water to patrons except upon request of the patron.
- (g) The following uses of water are defined as non-essential and are prohibited:
 - 1. wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
 - 2. use of water to wash down buildings or structures for purposes other than immediate fire protection;
 - 3. use of water for dust control;
 - 4. flushing gutters or permitting water to run or accumulate in any gutter or street; and
 - 5. failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

Stage 3 Response – CRITICAL Water Shortage Conditions

Goal: Achieve a 30 percent reduction in total water use.

Water Use Restrictions. All requirements of Stage 1 and 2 shall remain in effect during Stage 4 except:

- (a) Water customers are required to limit the irrigation of landscaped areas to the hours between 6am to 10am and 6pm to 10pm hand held watering devices only.
- (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial car wash and commercial service stations and not in the immediate interest of public health, safety, and welfare is prohibited.
- (c) The filling, refilling, or adding of water to swimming pools, wading pools, and jacuzzi-type pools is prohibited.
- (d) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
- (e) No application for new development in the city limits with more than 3 homes will be accepted during this stage.

EMERGENCY Water Shortage Conditions

Supply Management Measures:

The Grey Forest Water System will arrange to purchase water from an alternate source to replenish the supply in the water tanks at the well site.

Water Use Restrictions. All requirements of Stage 1, 2, and 3 shall remain in effect during water shortage conditions expect that:

- (a) Irrigation of landscaped areas is absolutely prohibited.
- (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.

Section X – WATER Rationing

In the event that water shortage conditions threaten public health, safety, and welfare, the City Council is hereby authorized to allocate water according to the following water allocation plan:

Single-Family Residential Customers

The allocation to residential water customers residing in a single-family dwelling shall be 4000 gallons per month.

"Household" means the residential premises served by the customer's meter.

Residential water customers shall pay the following surcharges:

- \$15.00 for the first 1,000 gallons over allocation.
- \$20.00 for the second 1,000 gallons over allocation.
- \$25.00 for the third 1,000 gallons over allocation.
- \$30.00 for each additional 1,000 gallons over allocation.

Surcharges shall be cumulative.

Section X: Enforcement

- (a) No person shall knowingly or intentionally allow the use of water from the Grey Forest Water System for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this Plan, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by City Council, in accordance with provisions of this Plan.

- (b) Any person who violates this Plan is guilty of a misdemeanor and, upon conviction shall be punished by a fine of not less than two hundred dollars (\$200.00) and not more than two thousand dollars (\$2000.00). Each day that one or more of the provisions in this Plan is violated shall constitute a separate offense. If a person is convicted of three or more distinct violations of this Plan, the City Council shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a re-connection charge, hereby established at \$100.00, and any other costs incurred by the Grey Forest Water System in discontinuing service. In addition, suitable assurance must be given to the City Council that the same action shall not be repeated while the Plan is in effect. Compliance with this plan may also be sought through injunctive relief in the district court.
- (c) Any person, including a person classified as a water customer of the Grey Forest Water System, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parents' control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this Plan and that the parent could not have reasonably known of the violation.
- (d) Any employee of the Grey Forest Water System, and police officer, may issue a citation to a person he/she reasonably believes to be in violation of this Ordinance. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, the offense charged, and shall direct him/her to appear in the municipal court on the date shown on the citation for which the date shall not be less than 3 days nor more than 5 days from the date the citation was issued. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over 14 years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in municipal court to enter a plea of guilty or not guilty for the violation of this Plan. If the alleged violator fails to appear in municipal court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant. These cases shall be expedited and given preferential setting in municipal court before all other cases.

Section XI: Variances.

The City Council, may, in writing, grant temporary variance for existing water uses otherwise prohibited under this Plan 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:

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

Persons requesting an exemption from the provisions of this Ordinance shall file a petition for variance with the Grey Forest city council within 5 days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the City Council, and shall include the following:

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

Variances granted by the Grey Forest City Council shall be subject to the following conditions, unless waived or modified by the City Council:

- (a) Variances granted shall include a timetable for compliance.
- (b) Variances granted shall expire when the Plan 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 this Plan occurring prior to the issuance of the variance.

Section XII: Severability

It is hereby declared to be the intention of the Grey Forest City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Plan shall be declared unconstitutional shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Plan, since the same would not have been enacted by the Grey Forest City Council without the incorporation into this Plan of any such unconstitutional phrase, clause, sentence, paragraph, or section.