ORDINANCE NO. 2022-23

AN ORDINANCE AMENDING THE CITY OF BOERNE, TEXAS, CODE OF ORDINANCES, CHAPTER 22, UTILITIES, AMENDING ARTICLE II. WATER SYSTEM, SEC. 22-31. WATER FOR CONSTRUCTION GENERALLY; SEC. 22-40. YEAR-ROUND WATER CONSERVATION MEASURES; SEC. 22-51. GENERALLY; SEC. 22-55. CRITERIA FOR INITIATION AND TERMINATION OF DROUGHT RESPONSE STAGES (EXCEPT WHEN A CRITICAL WATER SHORTAGE EXISTS); SEC. 22-56. DROUGHT RESPONSES STAGES; SEC. 22-57. DESIGNATED OUTSIDE WATER USE DAYS; AND PROVIDING FOR A PENALTY NOT TO EXCEED $1,000 FOR VIOLATIONS OF THE ORDINANCE

WHEREAS, it becomes necessary from time to time to make certain changes in ordinances of the City of Boerne, Texas;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS:

That the Code of Ordinances, City of Boerne, Texas, Chapter 22, Utilities, Section 22-31. Water for construction generally; Section 22-40. Year-round water conservation measures; Section 22-51. Generally; Section 22-55. Criteria for initiation and termination of drought response stages (except when a critical water shortage exists); Section 22-56. Drought responses stages; and Section 22-57. Designated outside water use days are hereby amended to read as follows:

ARTICLE II. WATER SYSTEM

DIVISION 1. GENERALLY.

Sec. 22-31. Water for construction generally.
(a) Authorization to use. Any individual, company, corporation or entity who wishes to obtain bulk water from the city’s fire hydrants, reclaimed water from the city distribution system, or recycled water from the Esser Road recycled water fill station must first obtain written authorization from the city manager or his designated representative.

(b) Limitations on use. Water obtained from the city's fire hydrants shall be for non-potable uses or where it is deemed impractical to make a permanent installation and shall be used within the corporate city limits of the city. Water obtained from the city's Esser Road recycled water fill station shall be for non-potable construction uses only, either inside or outside the corporate city limits of the city. Water obtained from the city’s reclaimed water system shall be used for landscape irrigation or construction only.

(c) Deposit. A deposit shall be required as shown in the city fees ordinance. This deposit will be refunded when the individual, company, corporation or entity has paid the final bill in full. Additionally, the individual, company, corporation or entity shall reimburse the city the total cost for any repairs and/or replacements due to damage to a fire hydrant, meter or the fill station facility.

(d) Bulk water fee. A fee as shown in the city fee ordinance shall be charged.

(e) Reclaimed water fee. A fee as shown in the city’s rate schedule shall be charged.

(f) Recycled water fee. A fee as shown in the city fee ordinance shall be charged.
(g) **Location of hydrants.** All water will be withdrawn only from the fire hydrant or fire hydrants designated by the city manager or his duly authorized representative.

(h) **Measurement.** All bulk water obtained from fire hydrants or the city’s reclaimed water system shall be metered by a fire hydrant meter issued by the city. A rental fee shall be charged daily for the use of the meter as shown in the city fees ordinance. All non-approved fire hydrant meters, which are found to be in use in the city water system will be confiscated and enforcement action taken against the responsible party. All recycled water for construction shall be metered by the city’s metering facilities incorporated into the recycled water fill station.

(i) **Variance.** Exception to this provision is in case of urgent necessity in the interest of public health, welfare, or safety, and then only with permission from the city manager or his duly authorized representative.

(j) **Potable water supply protection.** It is the responsibility of any individual, company, corporation, or entity in the use of a fire hydrant to abide by the conditions of this section and the city cross connection control and backflow prevention ordinance.

(k) **Penalty.** Any individual, company, corporation or entity not complying with all the terms and provisions of this section shall be guilty of a misdemeanor and shall be fined not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000.00).

**Sec. 22-40. Year-round water conservation measures.**

The city will utilize the following strategies to encourage, promote and require citizens to conserve and use water wisely at all times.

(a) **Education and information.** The city will promote water conservation by informing water users of methods to save water inside residences and other buildings. Information will be disseminated by:

   (1) Distributing a fact sheet to all new water customers explaining those provisions of this chapter relating to water conservation; and

   (2) Publishing conservation education articles or posts during peak seasonal demand periods; and

   (3) Publishing educational information and fact sheets on the city’s website.

(b) **Plumbing code.** The city has adopted and shall enforce the requirements of a plumbing code and those provisions of other applicable codes relating to the installation of water conserving plumbing devices to ensure the use of such devices in new construction.

(c) **Metering.** Water from the city water system shall be sold and delivered through its mains only to persons at whose premises water meters are installed in conformance with city regulations.

**Sec. 22-43. Penalty.**

(a) Any person, corporation, association, customer or user of water of the water system of the city violating for the first time a provision of section 22-41. Prohibited uses of water, or section 22-42. Permit for newly planted lawns and landscaping, may receive a written warning.

(b) Any person, corporation or association violating a provision of section 22-41. Prohibited uses of water, or section 22-42. Permit for newly planted lawns and landscaping, for a second time shall be issued a citation and upon conviction shall be fined not to exceed one thousand
dollars ($1,000.00) for each day or fraction of a day during which this section has been violated. Each violation shall be deemed a separate offense and punishable as such.

DIVISION 2. CONSERVATION AND EMERGENCY DROUGHT MANAGEMENT

Sec. 22-51. Generally.
(a) Declaration of policy, purpose and intent. In order to conserve and maintain the quality of 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 Boerne (the City) hereby adopts the following regulations and restrictions on the delivery and consumption of water.

Water uses regulated or prohibited (under this Conservation and Emergency Drought Management Ordinance) are considered to be nonessential 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 this article.

For most effective watering apply no more than one (1) inch of water per week, preferably at one (1) time per week. Shorter run times can produce non-drought resistant root systems.

Drip systems are very water efficient and should be used to the greatest extent possible on new or renovated irrigation systems.

Landscape watering is prohibited when temperatures fall below thirty-two (32) degrees (F), as this is damaging to plants and may create hazardous walking or driving conditions.

(b) Public involvement. Opportunity for the public to provide input into the preparation of the ordinance was provided by the City of Boerne by means of public input opportunities during city council meetings.

(c) Public education. The City of Boerne will periodically provide the public with information about the ordinance, including information about the conditions under which each stage of the ordinance 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 City of Boerne website, press releases, utility bill notifications, social media, and/or other methods noted herein.

(d) Coordination with regional water planning groups. The service area of the City of Boerne is located within the South Central Texas Regional Water Planning Group (Region L). The City of Boerne will provide a copy of [the ordinance from which this division is derived] to the Region L Water Planning Group to ensure consistency with the appropriate approved regional water plans.

Sec. 22-52. Water sources.
The primary water sources for the City of Boerne are Boerne City Lake, city-owned Trinity Aquifer wells, and Canyon Reservoir through the Guadalupe Blanco River Authority (GBRA) as part of the Western Canyon Regional Water Supply Project. In addition, the city provides for use of type II recycled water at a fill station adjacent to the wastewater treatment plant on Esser Road, as well as type I reclaimed water from the wastewater treatment and recycling center on Old San Antonio Road, (which can be utilized for irrigation purposes only in certain developments).
Sec. 22-55. Criteria for Initiation and Termination of Drought Response Stages. (Except When a Critical Water Shortage Exists)

(a) Upon determination that a critical water shortage exists or is imminent as described in Sec. 22-53, or other pertinent conditions indicate that implementation criteria have been met, the Utilities Director shall report the condition of the water supply to the City Manager.

(b) The City Manager shall report the water supply conditions to the City Council within 3 days (72 hours) of consultation with the Utilities Director.

(c) Upon consultation with the Mayor and Utilities Director on water supply conditions, storage and production restraints, the City Manager shall determine the implementation date of Stage I and all consequent water use restrictions. Thereafter, each subsequent stage shall take effect after determination by the City Manager that the new implementation conditions have been reached and with at least 24 hours public notice of the change.

(d) The City Manager may terminate emergency water use restrictions or water stage restrictions, when conditions warrant such termination. Public notice of such termination, giving the effective date and listing the restrictions being terminated, shall be posted electronically, if feasible, and in the usual physical location for posting of public notices.

(e) No person, corporation or other entity including, without limitation, any customer utilizing water provided by the City (including reclaimed water) shall knowingly make, cause, use or permit the use of water received from the City for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to any provision of this Ordinance. There shall be four (4) designated stages which incorporate progressive water use restrictions intended to curb non-essential water use to both lower overall water consumption as well as minimize peak demand for water production.

(f) The City Manager may initiate and terminate emergency water use restrictions on reclaimed water use as a response to limitations on production and/or supply, including implementation of drought response stages shown in Section 22-56.

Sec. 22.56. Drought Response Stages

All of the following Drought Response Stages are mandatory compliance.

(a) **Stage I.**

(1) Formal public notification by the City Manager or duly authorized representative of an existing or impending water supply, production, or quality concern.

(2) Request public to initiate water use curtailments.

(3) Increase efforts to educate the public by disseminating information on such subjects as water saving tips, water saving devices, irrigation practices, etc.

(4) Irrigation utilizing individual sprinklers or sprinkler systems of lawns, gardens, landscaped areas, trees, shrubs, and other plants is prohibited except on one designated outdoor water use days (see section 22-57 Designated outside water use days) and only
then during the non-restricted hours of 12:00 midnight to 11:00 a.m. and 7:00 p.m. to 12:00 midnight. However, this restriction does not apply to the irrigation of commercial nurseries, commercial sod farms, and similarly situated commercial establishments. Said establishments will be requested to curtail all nonessential water use. Irrigation of lawns, gardens, landscaped areas, trees, shrubs, or other plants is permitted at any time if:
   a. A hand-held hose is used with a manual or automatic shutoff nozzle;
   b. A hand-held, faucet-filled bucket of five (5) gallons or less is used; or
   c. A properly functioning drip irrigation system is used.

(5) Request general curtailment of indoor water use.

(6) Washing of automobiles, trucks, trailers, recreational vehicles, boats, airplanes and other mobile equipment must be done with a hand-held bucket and hand-held hoses must be equipped with a manual or automatic shutoff nozzle.

(7) Identify and eliminate defective plumbing in a home, business establishment or any location where water is used on the premises to avoid wasting of any water by such defective plumbing.

(8) Allowing defective plumbing in a home, business establishment or any location where water is used on the premises is prohibited. Wasting of any water by reason of defective plumbing as hereinabove mentioned is prohibited and shall include the existence of out-of-repair water closets, underground leaks, defective faucets and taps. Allowing water to flow constantly through a tap, hydrant, valve or otherwise by any user of water connected to the City system, shall be considered wasting of water and is prohibited.

(9) The following uses of water are defined as "waste of water" and are prohibited:
   a. Allowing water to run off into a gutter, ditch, or drain;
   b. Failing to repair a controllable leak;
   c. Applying water to impermeable surfaces; or
   d. Operating an irrigation system with damaged sprinkler heads

(10) Any use of water for the purposes or in a manner prohibited in this section shall be deemed to be a waste of water; and any person in whose name a water meter connection is registered in the utilities department (including reclaimed water meters), which water connection serves premises upon which a violation occurs, shall constitute in evidence a prima facie presumption that the person in whose name such water connection is registered was the person who permitted or caused the act of waste charged to occur on the premises.

(11) The City Manager or his duly authorized representative shall consider permit requests of water users for special consideration to be given due to their respective particular circumstances and shall review and decide such requests. The City Manager is hereby authorized, in special cases, to grant a permit from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, and so that the spirit of this Ordinance shall be observed and substantial justice done. Should a permit for special exception be granted, it shall be in effect from the time of granting; provided, that the permit is prominently posted on the premises. Should the City Manager receive written protest after granting of any such permit which indicates the conditions of the permit are not being met, the City Manager or his duly authorized representative may
reconsider the permit. After the conclusion of reconsideration, the City Manager shall take such action by way of revocation of such permit, or refusal to revoke the same, or modification of such permit as the City Manager may deem proper under the circumstances.

(12) The City Manager shall update members of the City Council on a regular basis of any water supply, production, quality or system issues.

(b) **Stage II.**

(1) All of the restrictions of Stage I shall apply in addition to those hereinafter set forth.

(2) Formal notification of the public by city manager or his duly authorized representative through media notice, social media outlets, message boards, and/or direct contact with all customers.

(3) Continue public education program set forth in Stage I.

(4) Irrigation utilizing individual sprinklers or sprinkler systems of lawns, gardens, landscaped areas, trees, shrubs, and other plants is prohibited except on the one designated outdoor water use day (see section 22-57, designated outside water use days) and only then during the non-restricted hours of 7:00 a.m. to 11:00 a.m. and 7:00 p.m. to 11:00 p.m. However, this restriction does not apply to the irrigation of commercial nurseries, commercial sod farms, and similarly situated commercial establishments. Said establishments will be requested to curtail all nonessential water use. Irrigation of lawns, gardens, landscaped areas, trees, shrubs, or other plants is permitted at any time if:

a. A hand-held hose is used with a manual or automatic shutoff nozzle;
b. A hand-held, faucet-filled bucket of five (5) gallons or less is used; or
c. A properly functioning drip irrigation system is used.

(5) Refrain from installation of new or replacement turf grass lawn or other landscape features which require water use.

(6) Entities operating athletic playing fields must apply for a special use permit to allow irrigation on more than the one (1) designated water use day. The permit must be reviewed and approved by the city manager or designee. The entity must file a conservation plan and satisfy the “Guidelines for Athletic Field Variance on Water Restrictions” (Exhibit A). All reclaimed, rain catchment or condensate water systems will be used as a first source of water for irrigation if feasible.

(7) The use of water for dust control is prohibited other than from reclaimed water sources.

(8) The refilling or adding of water to swimming and/or wading pools is prohibited except on the one (1) designated outdoor water use day during the non-restricted hours of 7:00 a.m. to 11:00 a.m. and 7:00 p.m. to 11:00 p.m. However, this restriction does not apply to public swimming pools which must be maintained pursuant to health regulations.
(c) \textit{Stage III.}

(1) All of the restrictions of Stages I and II shall apply in addition to those hereinafter set forth.

(2) Irrigation utilizing individual sprinklers or sprinkler systems of lawns, gardens, landscaped areas, trees, shrubs, and other plants is prohibited except every other week beginning on the first Monday after Stage III has been declared on the designated outdoor water use day (see section 22-57, designated outside water use day) and only then during the non-restricted hours of 7:00 a.m. to 11:00 a.m. and 7:00 p.m. to 11:00 p.m. However, this restriction does not apply to the irrigation of commercial nurseries, commercial sod farms, and similarly situated commercial establishments. Said establishments will be requested to curtail all nonessential water use. Irrigation of lawns, gardens, landscaped areas, trees, shrubs, or other plants is permitted on any day between the hours of 7:00 a.m. to 11 a.m. and 7:00 p.m. to 11:00 p.m. if:
   a. A hand-held hose is used with a manual or automatic shutoff nozzle;
   b. A hand-held, faucet-filled bucket of five (5) gallons or less is used; or
   c. A properly functioning drip irrigation system is used.

(3) Request the discontinued operation of all ornamental fountains, water-falls, and similar amenities drawing water from city supply, except for those fountains/structures with a re-circulating system.

(4) Curtail all nonessential public and governmental water uses such as City vehicle washing and street cleaning.

(5) Commercial nurseries, commercial sod farms and other similar establishments must curtail all nonessential water use and shall use only hand held hoses, drip irrigation systems or hand held buckets.

(6) All restaurants are prohibited from serving water to their customers except when specifically requested by the customer.

(7) Work with large commercial water customers to develop and implement individual water conservation plans.

(d) \textit{Stage IV.}

(1) All restrictions of Stages I, II and III shall apply in addition to those hereinafter set forth.

(2) All variances granted by the city manager under Stage II and III shall become null and void upon implementation of Stage IV and no new permits shall be granted.

(3) The sprinkling or watering of lawns is prohibited. The city manager or designee may authorize the watering of trees, shrubbery, annual, biennial or perennial plants, vines, gardens, vegetables and flowers through the means of a hand-held hose equipped with a positive shutoff nozzle, properly functioning drip irrigation or a hand-held bucket or watering can. When authorized, such watering shall be done only between the non-restricted hours of 7:00 a.m. to 11:00 a.m. and 7:00 p.m. to 11:00 p.m. on the one (1) designated outside water use day as specified in section 22-57, stage III. Commercial nurseries shall be exempted from this prohibition and shall be permitted to water nursery stock by means of a hand-held hose equipped with a positive shut-off nozzle, drip irrigation or hand-held
bucket or watering can on any day during the non-restricted hours of 7:00 p.m. and 11:00 a.m.

(4) Vehicle washing allowed only at commercial or automatic car wash establishments which utilize water recycling systems.

(5) Commercial or automatic car wash establishments shall use minimum practical water settings.

(6) Washing sidewalks, driveways, parking areas, tennis courts, patios, or other paved areas, except to alleviate immediate health or fire hazards are prohibited.

(7) The washing of building exteriors is prohibited, except in the interest of public health.

(8) The draining and filling of public swimming pools not equipped with filtration and re-circulation equipment is prohibited; said pools shall be closed.

(9) The operation of any ornamental fountain or similar structure is prohibited.

(10) The following water uses are hereby determined to be nonessential and are prohibited:

   a. The use of water for the expansion of commercial nursery facilities.

   b. The use of water for scenic and recreational ponds and lakes (except for the minimum amount required to support aquatic life) or for the filling of swimming pools or spas (except where the pool is required by a medical doctor’s prescription).

   c. The use of water to put new agricultural land into production.

   d. The use of water for new planting or landscaping.

(11) A drought surcharge, at the rate of five dollars ($5.00) per one thousand (1,000) gallons for residential water used in excess of ten thousand (10,000) gallons per billing cycle, shall be implemented. The city council of Boerne may implement other surcharges to ensure compliance.

Sec. 22-57. Designated outside water use days.

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PASSED AND APPROVED ON FIRST READING on this the 12th day of July, 2022.

PASSED AND APPROVED on this the 26th day of July, 2022.
APPROVED:

[Signature]
Mayor Pro Tem

ATTEST:

[Signature]
City Secretary

APPROVED AS TO FORM:

[Signature]
City Attorney
ORDINANCE NO. 2015-07

AN ORDINANCE OF THE CODE OF ORDINANCES, CITY OF BOERNE, TEXAS, CHAPTER 22, UTILITIES, AMENDING ARTICLE II: WATER SYSTEM, SEC. 22.56. DROUGHT RESPONSE STAGES; (B) STAGE II. WATER WATCH, MANDATORY COMPLIANCE, TWENTY FIVE (25) PERCENT REDUCTION GOAL; (C) STAGE III. WATER ALERT, MANDATORY COMPLIANCE, THIRTY FIVE (35) PERCENT REDUCTION GOAL; (D) STAGE IV. WATER WARNING, MANDATORY COMPLIANCE, FORTY FIVE (45) PERCENT REDUCTION GOAL; (E) STAGE V - WATER EMERGENCY, MANDATORY COMPLIANCE, SIXTY (60) PERCENT REDUCTION GOAL, AND ESTABLISHING A PENALTY NOT TO EXCEED $1,000 FOR VIOLATIONS OF THE ORDINANCE.

WHEREAS, it becomes necessary from time to time to make certain changes in ordinances of the City of Boerne, Texas;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS:

That the Code of Ordinances, City of Boerne, Texas, Chapter 22, Section 22.5 Drought Response Stages is hereby amended to read:

ARTICLE II. WATER SYSTEM

DIVISION 1. GENERALLY.

Sec. 22-41. Prohibited Uses of Water-Year Round Restrictions.
(a) Irrigation outside restricted hours. Landscape watering with hose-end sprinklers or automatic irrigation systems shall be prohibited between the hours of 10:00 a.m. and 6:00 p.m. on any day of the week, year-round.

(b) Defenses. It shall be a defense to prosecution under subsection 22-41(a), Prohibited Uses of Water-Year Round Restrictions- Irrigation outside restricted hours, if:
   (1) The person is irrigating a landscaped area by means of:
       (i) A hand-held hose with a manual or automatic shutoff nozzle; or
       (ii) A properly functioning drip irrigation system.
   (2) The landscape watering is performed by commercial enterprises in the business of growing or maintaining plants for sale, including plant nurseries; provided, however, that such landscape watering shall be performed solely for the establishment, growth, and maintenance of such plants:
   (3) A landscape watering permit has been issued pursuant to section 22-42 to allow for landscape watering on any newly planted or transplanted landscaping so as to accomplish a reasonable establishment and maintenance of growth; or
   (4) Operation of an automatic irrigation system is performed solely for the purpose of conducting maintenance and testing.

(c) Water from hydrants and blow-offs. It is unlawful for a person to use water from hydrants and blow-offs for any purpose other than firefighting, fire flow testing, flushing of mains, or other actions necessary for the proper operation of the public water supply system, unless provided for under section 22-31, Water for construction generally. Boerne City Code of Ordinances.
ARTICLE II. WATER SYSTEM

DIVISION 2. CONSERVATION AND EMERGENCY DROUGHT MANAGEMENT

Sec. 22-51. Generally.
(a) 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 Boerne (the City) hereby adopts the following regulations and restrictions on the delivery and consumption of water.

Water uses regulated or prohibited (under this Conservation and Emergency Drought Management Ordinance) 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 this Ordinance.

(b) Public Involvement
Opportunity for the public to provide input into the preparation of the Ordinance was provided by the City of Boerne by means of public input opportunities during City Council meetings held on November 22 and December 13, 2005.

(c) Public Education
The City of Boerne will periodically provide the public with information about the Ordinance, including information about the conditions under which each stage of the Ordinance 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 City of Boerne newsletter (the Boerne Beacon), City of Boerne website, press releases, utility bill notifications and/or other methods noted herein.

(d) Coordination with Regional Water Planning Groups
The service area of the City of Boerne is located within the South Central Texas Regional Water Planning Group (Region L). The City of Boerne will provide a copy of this Ordinance to the Region L Water Planning Group to ensure consistency with the appropriate approved regional water plans.

Sec. 22-52. Water Sources.
The primary water sources for the City of Boerne are Boerne City Lake, City-owned wells, and Canyon Reservoir through the Guadalupe Blanco River Authority (GBRA) as part of the Western Canyon Regional Water Supply Project. In addition, the City provides for use of recycled water at a fill station adjacent to the Wastewater Treatment Plant on Esser Road.

Sec. 22-53. Emergency action by City Manager.
The City Manager, may cause any of the water usage restrictions prescribed in this Division to be implemented, in such combination and at such time as may be determined, upon presentation of evidence that a critical water shortage exists, or is imminent. Relevant data considered in this determination will include:

- Water levels at Boerne City Lake
- Water levels in the City’s Trinity Aquifer wells & any withdrawal restrictions placed on the wells by the Cow Creek Groundwater Conservation District
- Water depth at Canyon Lake and any water use restrictions placed on the City’s permitted withdrawals by GBRA
- The City’s ability to meet water consumption and production demands from customers considering operational limitations and cost constraints
• Water quality conditions which impact access to a water source
• Other issues which have or could have a quantitative impact on water supply or production capacity

The action of the City Manager will be reviewed and either affirmed or amended at the next meeting of the City Council subsequent to the date upon which implementation began, or at a special called meeting conforming to applicable provision of state statutes.

Sec. 22-54. Application.
The provisions of this Ordinance shall apply to all persons, corporations and other entities including without limitation any customer or property wherever situated utilizing water provided by the City.

Sec. 22-55. Criteria for Initiation and Termination of Drought Response Stages. (Except When a Critical Water Shortage Exists)
(a) Upon determination that a critical water shortage exists or is imminent as described in Sec 22-53, or other pertinent conditions indicate that implementation criteria have been met, the Director of Public Works shall report the condition of the water supply to the Assistant City Manager and City Manager.

(b) The City Manager shall report the water supply conditions to the City Council within 3 days (72 hours) of consultation with the Assistant City Manager and Director of Public Works.

(c) Upon consultation with the Assistant City Manager and Director of Public Works on water supply conditions and production restraints, the City Manager shall determine the implementation date of Stage I and all consequent water use restrictions. Thereafter, each subsequent stage shall take effect after determination by the City Manager that the new implementation conditions have been reached and with 24 hours public notice of the change.

(d) The City Manager may terminate emergency water use restrictions or water stage restrictions, when conditions warrant such termination. Public notice of such termination, giving the effective date and listing the restrictions being terminated, shall be posted electronically, if feasible, and in the usual physical location for posting of public notices.

(e) No person, corporation or other entity including, without limitation, any customer utilizing water provided by the City shall knowingly make, cause, use or permit the use of water received from the City for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to any provision of this Ordinance or in an amount in excess of that use permitted by the conservation stage in effect. The stages for water conservation shall be designated as follows and include a targeted level of reduction in consumption

(1) Stage I, Water Awareness. Voluntary conservation measures with the desired result of a fifteen (15) percent reduction in overall water consumption. This stage shall be implemented utilizing the criteria set forth in Sec. 22-53.

(2) Stage II, Water Watch. Mandatory conservation measures with the desired result of a twenty five (25) percent reduction in overall water consumption. This stage shall be implemented utilizing the criteria set forth in Sec. 22-53.

(3) Stage III, Water Alert. Mandatory conservation measures with the desired result of a thirty five (35) percent reduction in overall water consumption. This stage shall be implemented utilizing the criteria set forth in Sec. 22-53.
(4) **Stage IV, Water Warning.** Mandatory conservation measures with the desired result of a forty-five (45) percent reduction in overall water consumption. This stage shall be implemented utilizing the criteria set forth in Sec. 22-53.

(5) **Stage V, Water Emergency.** Mandatory conservation measures with the desired result of a sixty (60) percent reduction in overall water consumption. This stage shall be implemented utilizing the criteria set forth in Sec. 22-53.

**Sec. 22.56. Drought Response Stages**

(a) **Stage I.** Water Awareness, voluntary compliance. Fifteen (15) percent reduction goal.

(1) Formal public notification by the City Manager or his duly authorized representative of an existing or impending water shortage.

(2) Request public to initiate voluntary water use curtailments and refrain from installation of a new or replacement turf grass lawn or other landscape features which require water use.

(3) Increase efforts to educate the public by disseminating information on such subjects as water saving tips, water saving devices, irrigation practices, etc.

(4) Request the discontinued operation of all ornamental fountains, water falls, and similar amenities drawing water from City supply, except for those fountains/structures with a re-circulating system.

(5) Curtail all nonessential public and governmental water uses such as City vehicle washing and street cleaning.

(6) Request general reduction of outdoor water use for lawn or garden irrigation. Confine watering and sprinkling to the hours of 5:00 a.m. to 11:00 a.m. and 7:00 p.m. to 11:00 p.m. with the exception of commercial nurseries, florists and agricultural usage.

(7) Request general curtailment of indoor water use.

(8) Washing of automobiles, trucks, trailers, recreational vehicles, boats, airplanes and other mobile equipment must be done with a hand-held bucket and hand-held hoses must be equipped with a positive shutoff nozzle. Washing may occur on the immediate premises of a commercial washing facility.

(9) Request commercial nurseries, commercial sod farms and other similar establishments to curtail all nonessential water use.

(10) Request that restaurants not serve water to customers except when specifically requested by the customer.

(11) Work with industrial customers to develop and implement individual water conservation plans.

(12) Identify and eliminate defective plumbing in a home, business establishment or any location where water is used on the premises to avoid wasting of any water by such defective plumbing.
(b) Stage II. Water Watch, mandatory compliance, twenty five (25) percent reduction goal.

(1) All of the restrictions of Stage I shall apply in addition to those hereinafter set forth.

(2) Formal notification of public by City Manager and/or his duly authorized representative through media notice and/or direct contact with all general services customers.

(3) Continue public education program set forth in Stage I.

(4) Irrigation utilizing individual sprinklers or sprinkler systems of lawns, gardens, landscaped areas, trees, shrubs, and other plants is prohibited except on the two designated outdoor water use days (see section 22-57 Designated outside water use days) and only then during the hours of 5:00 a.m. to 11:00 a.m. and 7:00 p.m. to 11:00 p.m. However, this restriction does not apply to the irrigation of commercial nurseries, commercial sod farms, and similarly situated commercial establishments. Said establishments will be requested to curtail all nonessential water use. Irrigation of lawns, gardens, landscaped areas, trees, shrubs, or other plants is permitted at any time if:
   a. A hand-held hose is used with a manual or automatic shutoff nozzle;
   b. A hand-held, faucet-filled bucket of five (5) gallons or less is used, or
   c. A properly functioning drip irrigation system is used.

(5) Allowing defective plumbing in a home, business establishment or any location where water is used on the premises is prohibited. Wasting of any water by reason of defective plumbing as hereinabove mentioned is prohibited and shall include the existence of out-of-repair water closets, underground leaks, defective faucets and taps. Allowing water to flow constantly through a tap, hydrant, valve or otherwise by any user of water connected to the City system, shall be considered wasting of water and is prohibited.

(6) The following uses of water are defined as “waste of water” and are prohibited:
   a. Allowing water to run off into a gutter, ditch, or drain; or
   b. Failing to repair a controllable leak.

(7) Any use of water for the purposes or in a manner prohibited in this section shall be deemed to be a waste of water; and any person in whose name a water meter connection is registered in the utilities department, which water connection serves premises upon which a violation occurs, shall constitute in evidence a prima facie presumption that the person in whose name such water connection is registered was the person who permitted or caused the act of waste charged to occur on the premises.

(8) The City Manager and/or his duly authorized representative(s) shall consider permit requests of water users for special consideration to be given due to their respective particular circumstances and shall hear and decide such requests. The City Manager is hereby authorized, in special cases, to grant a permit from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, and so that the spirit of this Ordinance shall be observed and substantial justice done. Should a permit for special exception be granted, it shall be in effect from the time of granting, provided, that the permit is prominently posted on the premises within two (2) feet of the street number located on the premises. Should the City Manager receive written protest after granting of any such permit which indicates the conditions of the permit are not being met, the City Manager or his duly authorized representative(s) may reconsider the permit. After the conclusion of reconsideration, the City Manager shall take such action by way of revocation of such permit, or refusal to revoke the same, or modification of such permit as the City Manager may deem proper under the circumstances.
(9) The City Manager shall update members of the City Council on a regular basis of any water supply, production or system issues.

(c) Stage III. Water Alert, mandatory compliance, thirty five (35) percent reduction goal.

(1) All of the restrictions of Stages I and II shall apply in addition to those hereafter set forth.

(2) Irrigation utilizing individual sprinklers or sprinkler systems of lawns, gardens, landscaped areas, trees, shrubs, and other plants is prohibited except on the one designated outdoor water use day (see section 22-57 Designated outside water use day) and on and then during the hours of 5:00 a.m. to 11:00 a.m. and 7:00 p.m. to 11:00 p.m. However, this restriction does not apply to the irrigation of commercial nurseries, commercial sod farms, and similarly situated commercial establishments. Said establishments will be requested to curtail all nonessential water use. Irrigation of lawns, gardens, landscaped areas, trees, shrubs, or other plants is permitted at any time if:
   a. A hand-held hose is used with a manual or automatic shutoff nozzle;
   b. A hand-held, faucet-filled bucket of five (5) gallons or less is used, or
   c. A properly functioning drip irrigation system is used.

(3) All restaurants are prohibited from serving water to their customers except when specifically requested by the customer.

(4) Entities operating Athletic Playing Fields must apply for a Special Use Permit to allow irrigation on more than the one designated water use day. The permit must be reviewed and approved by the City Manager or Designee. The entity must file a Conservation Plan and satisfy the "Guidelines for Athletic Field Variance on Water Restrictions". All re-use water systems will be used as a first source of water for irrigation if at all possible.

(5) The operation of any ornamental fountain or other structure making similar use of water is prohibited. This restriction does not apply to those fountains/structures with a re-circulating system. However, the use of treated water to fill, refill, or maintain the level of any fountain is prohibited.

(6) The use of water for dust control is prohibited other than from re-use water sources.

(7) The refilling or adding of water to swimming and/or wading pools is prohibited except on the one designated outdoor water use day between the hours of 12:00 midnight to 6:00 a.m. and 7:00 p.m. to 12:00 midnight. However, this restriction does not apply to public swimming pools which must be maintained pursuant to health regulations.

(d) Stage IV. Water Warning, mandatory compliance, forty five (45) percent reduction goal.

(1) All restrictions of Stages I, II and III shall apply in addition to those hereinafter set forth.

(2) All variances granted by the City Manager under Stage II and III shall become null and void upon implementation of Stage IV and no new permits shall be granted.

(3) The sprinkling or watering of lawns is prohibited. The City Manager or Designee may authorize the watering of trees, shrubbery, annual, biennial or perennial plants, vines, gardens, vegetables and flowers through the means of a hand-held hose equipped with a positive shutoff nozzle, properly functioning drip irrigation or a hand-held bucket or watering can. When authorized, such watering shall be done only between the hours of 8:00 p.m. and 8:00 a.m. on the one designated outside water use day as specified in Section 22.57, Stage III. Commercial nurseries shall be exempted from this prohibition and shall be
permitted to water nursery stock by means of a hand-held hose equipped with a positive shut-off nozzle, drip irrigation or hand-held bucket or watering can on any day, but such watering is not allowed between 12 noon and 7 p.m.

(4) Commercial or automatic car wash establishments shall use minimum practical water settings.

(5) Washing sidewalks, driveways, parking areas, tennis courts, patios, or other paved areas, except to alleviate immediate health or fire hazards are prohibited.

(6) The washing of building exteriors is prohibited, except in the interest of public health.

(7) The draining and filling of public swimming pools not equipped with filtration and recirculation equipment is prohibited, said pools shall be closed.

(8) The operation of any ornamental fountain or similar structure is prohibited.

(9) Commercial nurseries, commercial sod farms, and similarly situated commercial establishments shall water only on the one designated outdoor water use day as specified in section 22.57. Stage III. Such watering is not allowed between 12 noon and 7 p.m. and shall utilize only hand-held hoses, drip irrigation systems, or hand-held buckets.

(10) The following water uses are hereby determined to be nonessential and are prohibited:
   a. The use of water for the expansion of commercial nursery facilities.
   b. The use of water for scenic and recreational ponds and lakes (except for the minimum amount required to support aquatic life) or for the filling of swimming pools or Jacuzzi pools (except where the pool is required by a medical doctor’s prescription).
   c. The use of water to put new agricultural land into production.
   d. The use of water for new planting or landscaping.

(11) A drought surcharge, at the rate of five dollars ($5.00) per one thousand (1,000) gallons for residential water used in excess of ten thousand (10,000) gallons per billing cycle, shall be implemented.

(e) Stage V-Water Emergency, mandatory compliance, sixty (60) percent reduction goal

(1) All restrictions of Stages I, II, III and IV shall apply in addition to those hereinafter set forth.

(2) The washing of automobiles, trucks, trailers, boats, airplanes, or other types of mobile equipment is prohibited except upon the immediate premises of a commercial car wash or a commercial service station in the immediate interest of the public health, safety, and welfare, and shall only occur between the hours of 12:00 noon and 5:00 p.m.

(3) No applications for new, additional, further expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or other water service facilities of any kind shall be allowed, approved, or installed except as approved by the City Council.

(4) All outside water use for any purpose is prohibited without the specific authorization of the City Manager or Designee.
(5) The drought surcharge shall be increased to ten dollars ($10.00) per one thousand (1,000) gallons of residential water used in excess of six thousand (6,000) gallons per billing cycle.

Sec. 22.57. Designated outside water use days.
TABLE INSET:

STAGE II - WATER WATCH

<table>
<thead>
<tr>
<th>Last Digit of Address</th>
<th>Days</th>
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</tr>
<tr>
<td>2 or 3</td>
<td>Tuesday, Saturday</td>
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<td>6 or 7</td>
<td>Thursday, Sunday</td>
</tr>
<tr>
<td>8 or 9</td>
<td>Friday, Sunday</td>
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</table>

STAGE III - WATER ALERT

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<td>6 or 7</td>
<td>Thursday</td>
</tr>
<tr>
<td>8 or 9</td>
<td>Friday</td>
</tr>
</tbody>
</table>

Sec. 22-58. Special exemptions.
None of the water and use regulations in section 22-56 above shall apply to the following uses of water.

(a) The necessary use of water by a governmental entity in pursuit of its governmental functions for the benefit of the general public, such as for capital improvement construction projects, flushing of utility lines, concrete work, and for building construction purposes.

(b) The necessary use of water for land development, such as roadway construction, flushing and installation of utility lines, concrete and asphalt work, and for building construction processes, other than for landscape irrigation.

(c) The necessary use of water for emergency maintenance or repair of water distribution, wastewater collection, residential and commercial plumbing and permanently installed landscape irrigation systems.

Sec. 22-59. Enforcement
(a) No person, corporation, firm, association, customer or other entity shall use or allow the use of water supplied by or in the City in a manner contrary to any provision of this Ordinance, or any policy adopted pursuant to this Ordinance, for residential, commercial, industrial, agricultural, governmental, or any other purpose.
(b) Any person, corporation, firm, association, customer or other user of the City's water system violating this Ordinance is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than $1,000.00. Each day that one or more of the provisions of this Ordinance is violated shall constitute a separate offense. If a person, corporation, firm, association, customer or other user of the City's water system is convicted of three or more distinct violations of this Ordinance, the public works director 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 reconnection charge and any other costs incurred by the City in discontinuing service and any outstanding fines for violations of this Ordinance. In addition, suitable assurances, in a manner to be determined and set by the public works director, must be given that no further violations shall occur while the restrictions contained in this Ordinance are in effect. Further convictions for violations of this Ordinance may result in further action by the City, with the authorization of the City Manager, up to and including the service discontinuation, having installed a flow restriction device, or reduction of service. Compliance with this Ordinance may also be sought through injunctive relief in the district court.

(c) A person, corporation, firm, association, customer or other user of the City's water system shall be presumed to be the violator if the person, corporation, firm, association, customer or other user of the City's water system is the owner or occupant of the subject property, exercises actual or apparent control over the subject property, or is listed as the water customer of the City for the subject property. Proof that the violation occurred on or originated from the subject property shall constitute a rebuttable presumption that the person, corporation, firm, association, customer or other user of the City's water system who owns, occupies, exercises actual or apparent control of, or is listed as the water customer for the subject property committed the violation. Parents shall be responsible for violations of their children, for purposes of this Ordinance a child is a person under 17 years old and proof that a violation, committed by a child, occurred on property where the parent is listed as the water customer or the parent is the owner or occupant of the property shall constitute a conclusive presumption that the parent committed the violation.

(d) Any City police officer or the code enforcement officer, may issue a citation to a person he 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, the offense charged, and shall direct the alleged violator to appear in the municipal court by the time shown on the citation for which date shall not be less than ten days from the date the citation was issued. The alleged violator shall be served a copy of the citation.

(e) Service of the citation shall be complete upon either of the following occurrences:

   (1) Personal delivery of the citation to the alleged violator; or
   
   (2) Mailing a copy of the citation addressed to the alleged violator's address, a copy sent by regular mail and a copy sent by certified mail, return receipt requested.

Failure of the alleged violator to accept delivery, pick up or receive a copy of the citation sent via certified mail shall not constitute lack of service. If the alleged violator fails to appear in municipal court, a warrant for his arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant.
PASSED AND APPROVED on this the 24th day of March, 2015

APPROVED.

______________________________
Mayor

ATTEST:

XohlcftM.4l(  
City Secretary

APPROVED AS TO FORM:


City Attorney
EXHIBIT A

Guidelines for Athletic Field Variance on Water Restrictions

In order to maintain a safe playing surface, a variance to the water restrictions will be granted for a period of 30 days under the following conditions.

- An Athletic Field (Athletic Field is defined as a field used for active, organized sporting activities, such as football fields used by schools for sporting events and softball fields in parks that are used for league play. A variance of this type is intended to address safety concerns for persons using this field when the use is part of an organized system of scheduled play and other alternatives are cost prohibitive or otherwise unfeasible) Conservation Plan must be filed with the City of Boerne prior to the variance being granted.
- The Athletic Field Conservation Plan must include a list of the fields, including address of each, estimate of 1" irrigation requirement per field, as well as a contact name.
- The Athletic Field Conservation Plan must also include a proposed irrigation schedule with the field name and corresponding watering day, which must be approved by the City of Boerne.
- Each Athletic field may be watered up to twice a week between 8PM and 8AM.
- The amount of water utilized on each field cannot exceed 1" per week. A measuring device (water gauge) must be utilized on each field and available for inspection by the City of Boerne Code Enforcement Department.
- The day after each watering event, a report of the actual irrigation for each field measured in 1/10 of an inch with the irrigation water meter reading must be provided to the City. Reporting may be done via email to Jesse Aguirre at iaguirre@ci.boerne.tx.us.
- Watering/irrigation outside of the specified time frame (8PM to 8AM) or in amounts consistently more than 1" per field, per week, can result in termination of this variance.
- Hand watering, with hose or bucket, or with soaker hose is allowed any day, any time, but not recommended between 12 noon and 7 pm to avoid evaporation.
- All re-use water systems will be used as a first source of water for irrigation if at all possible.
Sec. 22-56. - Drought response stages.

All of the following drought response stages are mandatory compliance. Reclaimed water use is subject to the waste of water provisions as listed in [section 22-56(a)] (8, 9, 10).

(a) **Stage I.**

(1) Formal public notification by the city manager or duly authorized representative of an existing or impending water supply, production, or quality concern.

(2) Request public to initiate water use curtailments.

(3) Increase efforts to educate the public by disseminating information on such subjects as water saving tips, water saving devices, irrigation practices, etc.

(4) Irrigation utilizing individual sprinklers or sprinkler systems of lawns, gardens, landscaped areas, trees, shrubs, and other plants is prohibited except on the two designated outdoor water use days (see section 22-57, designated outside water use days) and only then during the non-restricted hours of 7:00 p.m. to 11:00 a.m. However, this restriction does not apply to the irrigation of commercial nurseries, commercial sod farms, and similarly situated commercial establishments. Said establishments will be requested to curtail all nonessential water use. Irrigation of lawns, gardens, landscaped areas, trees, shrubs, or other plants is permitted at any time if:
   a. A hand-held hose is used with a manual or automatic shutoff nozzle;
   b. A hand-held, faucet-filled bucket of five (5) gallons or less is used; or
   c. A properly functioning drip irrigation system is used.

(5) Request general curtailment of indoor water use.

(6) Washing of automobiles, trucks, trailers, recreational vehicles, boats, airplanes and other mobile equipment must be done with a hand-held bucket and hand-held hoses must be equipped with a manual or automatic shutoff nozzle.

(7) Identify and eliminate defective plumbing in a home, business establishment or any location where water is used on the premises to avoid wasting of any water by such defective plumbing.

(8) Allowing defective plumbing in a home, business establishment or any location where water is used on the premises is prohibited. Wasting of any water by reason of defective plumbing as hereinabove mentioned is prohibited and shall include the existence of out-of-repair water closets, underground leaks, defective faucets and taps. Allowing water to flow constantly through a tap, hydrant, valve or otherwise by any user of water connected to the city system, shall be considered wasting of water and is prohibited.

(9) The following uses of water are defined as "waste of water" and are prohibited:
   a. Allowing water to run off into a gutter, ditch, or drain;
   b. Failing to repair a controllable leak;
c. Applying water to impermeable surfaces; or
d. Operating an irrigation system with damaged sprinkler heads.

(10) Any use of water for the purposes or in a manner prohibited in this section shall be
deemed to be a waste of water; and any person in whose name a water meter
connection is registered in the utilities department (including reclaimed water meters),
which water connection serves premises upon which a violation occurs, shall constitute in
evidence a prima facie presumption that the person in whose name such water
connection is registered was the person who permitted or caused the act of waste
charged to occur on the premises.

(11) The city manager or his duly authorized representative shall consider permit requests of
water users for special consideration to be given due to their respective particular
circumstances and shall review and decide such requests. The city manager is hereby
authorized, in special cases, to grant a permit from the terms of this division as will not
be contrary to the public interest, where, owing to special conditions, a literal
enforcement of the provisions of this division will result in unnecessary hardship, and so
that the spirit of this division shall be observed and substantial justice done. Should a
permit for special exception be granted, it shall be in effect from the time of granting;
provided, that the permit is prominently posted on the premises. Should the city
manager receive written protest after granting of any such permit which indicates the
conditions of the permit are not being met, the city manager or his duly authorized
representative may reconsider the permit. After the conclusion of reconsideration, the
city manager shall take such action by way of revocation of such permit, or refusal to
revoke the same, or modification of such permit as the city manager may deem proper
under the circumstances.

(12) The city manager shall update members of the city council on a regular basis of any water
supply, production, quality or system issues.

(b) **Stage II.**

(1) All of the restrictions of Stage I shall apply in addition to those hereinafter set forth.

(2) Formal notification of the public by city manager or his duly authorized representative
through media notice, social media outlets, message boards, and/or direct contact with
all customers.

(3) Continue public education program set forth in Stage I.

(4) Irrigation utilizing individual sprinklers or sprinkler systems of lawns, gardens,
landscaped areas, trees, shrubs, and other plants is prohibited except on the one
designated outdoor water use day (see [section 22-57](#), designated outside water use days)
and only then during the non-restricted hours of 7:00 p.m. to 11:00 a.m. However, this
restriction does not apply to the irrigation of commercial nurseries, commercial sod
farms, and similarly situated commercial establishments. Said establishments will be requested to curtail all nonessential water use. Irrigation of lawns, gardens, landscaped areas, trees, shrubs, or other plants is permitted at any time if:

a. A hand-held hose is used with a manual or automatic shutoff nozzle;

b. A hand-held, faucet-filled bucket of five (5) gallons or less is used; or

c. A properly functioning drip irrigation system is used.

(5) Refrain from installation of new or replacement turf grass lawn or other landscape features which require water use.

(6) Entities operating athletic playing fields must apply for a special use permit to allow irrigation on more than the one (1) designated water use day. The permit must be reviewed and approved by the city manager or designee. The entity must file a conservation plan and satisfy the "Guidelines for Athletic Field Variance on Water Restrictions" (Exhibit A). All reclaimed, rain catchment or condensate water systems will be used as a first source of water for irrigation if feasible.

(7) The use of water for dust control is prohibited other than from reclaimed water sources.

(8) The refilling or adding of water to swimming and/or wading pools is prohibited except on the one (1) designated outdoor water use day during the non-restricted hours of 7:00 p.m. to 11:00 a.m. However, this restriction does not apply to public swimming pools which must be maintained pursuant to health regulations.

(C) **Stage III.**

(1) All of the restrictions of Stages I and II shall apply in addition to those hereafter set forth.

(2) Irrigation utilizing individual sprinklers or sprinkler systems of lawns, gardens, landscaped areas, trees, shrubs, and other plants is prohibited except every other week beginning on the first Monday after Stage III has been declared on the designated outdoor water use day (see section 22-57, designated outside water use day) and only then during the non-restricted hours of 7:00 p.m. to 11:00 a.m. However, this restriction does not apply to the irrigation of commercial nurseries, commercial sod farms, and similarly situated commercial establishments. Said establishments will be requested to curtail all nonessential water use. Irrigation of lawns, gardens, landscaped areas, trees, shrubs, or other plants is permitted at any time if:

a. A hand-held hose is used with a manual or automatic shutoff nozzle;

b. A hand-held, faucet-filled bucket of five (5) gallons or less is used; or

c. A properly functioning drip irrigation system is used.

(3) Request the discontinued operation of all ornamental fountains, water-falls, and similar amenities drawing water from city supply, except for those fountains/structures with a recirculating system.

(4) Curtail all nonessential public and governmental water uses such as City vehicle washing
and street cleaning.

(5) Commercial nurseries, commercial sod farms and other similar establishments must curtail all nonessential water use and shall use only hand held hoses, drip irrigation systems or hand held buckets.

(6) All restaurants are prohibited from serving water to their customers except when specifically requested by the customer.

(7) Work with large commercial water customers to develop and implement individual water conservation plans.

(d) Stage JV.

(1) All restrictions of Stages I, II and III shall apply in addition to those hereinafter set forth.

(2) All variances granted by the city manager under Stage II and III shall become null and void upon implementation of Stage IV and no new permits shall be granted.

(3) The sprinkling or watering of lawns is prohibited. The city manager or designee may authorize the watering of trees, shrubbery, annual, biennial or perennial plants, vines, gardens, vegetables and flowers through the means of a hand-held hose equipped with a positive shutoff nozzle, properly functioning drip irrigation or a hand-held bucket or watering can. When authorized, such watering shall be done only between the non-restricted hours of 7:00 p.m. and 11:00 a.m. on the one (1) designated outside water use day as specified in section 22-57, stage III. Commercial nurseries shall be exempted from this prohibition and shall be permitted to water nursery stock by means of a hand-held hose equipped with a positive shut-off nozzle, drip irrigation or hand-held bucket or watering can on any day during the non-restricted hours of 7:00 p.m. and 11:00 a.m.

(4) Vehicle washing allowed only at commercial or automatic car wash establishments which utilize water recycling systems.

(5) Commercial or automatic car wash establishments shall use minimum practical water settings.

(6) Washing sidewalks, driveways, parking areas, tennis courts, patios, or other paved areas, except to alleviate immediate health or fire hazards are prohibited.

(7) The washing of building exteriors is prohibited, except in the interest of public health.

(8) The draining and filling of public swimming pools not equipped with filtration and recirculation equipment is prohibited; said pools shall be closed.

(9) The operation of any ornamental fountain or similar structure is prohibited.

(10) The following water uses are hereby determined to be nonessential and are prohibited:

a. The use of water for the expansion of commercial nursery facilities.

b. The use of water for scenic and recreational ponds and lakes (except for the minimum amount required to support aquatic life) or for the filling of swimming
pools or spas (except where the pool is required by a medical doctor's prescription).

c. The use of water to put new agricultural land into production.

d. The use of water for new planting or landscaping.

(11) A drought surcharge, at the rate of five dollars ($5.00) per one thousand (1,000) gallons for residential water used in excess of ten thousand (10,000) gallons per billing cycle, shall be implemented. The city council of Boerne may implement other surcharges to insure compliance.

Sec. 22-39. - Native grasses.

(a) **Definitions.**

*Clear area* shall mean a five-foot strip of land adjacent to the property line that must be maintained at two to three (2-3) inches in height.

*Native landscaping* shall mean the practice of cultivating plants which are indigenous to the region, which once established, require minimal mowing, fertilization or watering, if any.

*Noxious weed*. The following plant species are defined as noxious weeds. They are typically opportunistic/invasive weeds/grasses:

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<th>Plant Species</th>
<th>Family</th>
<th>Common Name</th>
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<tr>
<td>Sonchus asper (L.) Hill</td>
<td>Asteraceae</td>
<td>Sow Thistle</td>
</tr>
<tr>
<td>Sorghum halepense (L.) Pers.</td>
<td>Poaceae</td>
<td>Johnson Grass</td>
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<td>Ambrosia sp.</td>
<td>Asteraceae</td>
<td>Rag Weed</td>
</tr>
<tr>
<td>Cenchrus incertus M. A. Curtis</td>
<td>Poaceae</td>
<td>Grass Bur</td>
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<td>Rumex crispus L.</td>
<td>Polygonaceae</td>
<td>Curly Dock</td>
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<tr>
<td>Croton capitatus Michx.</td>
<td>Euphorbiaceae</td>
<td>Dove Weed</td>
</tr>
<tr>
<td>Chenopodium sp.</td>
<td>Chenopodiaceae</td>
<td>Goosefoot</td>
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<tr>
<td>Amarantus sp.</td>
<td>Amaranthaceae</td>
<td>Pig Weed</td>
</tr>
<tr>
<td>Rhus toxicodendron L.</td>
<td>Anacardiaceae</td>
<td>Poison Ivy</td>
</tr>
<tr>
<td>Conyza Canadensis (L.) Cronq.</td>
<td>Asteraceae</td>
<td>Horse Weed</td>
</tr>
</tbody>
</table>
Texas Wildscapes. Program sponsored by the Texas Parks and Wildlife Department that promotes habitat restoration for rural and urban areas.

(b) *Native landscaping.* It shall be lawful to grow native and naturalized plants including ferns, wildflowers, grasses, forbs, shrubs and trees, provided the owner registers their intent to do so with the city.

(c) *Clear spaces shall be maintained.* Registered native landscapes shall maintain a clear area as provided for in this section.

(d) *Noxious weeds.* Noxious weeds are indicators of neglect and areas that contain these species shall be brought into conformance of section 14.3.2.b [sic], even if those properties are registered native landscapes, under the guidelines set forth in that instrumental code.

(e) *Registration.* Owners of property who wish to have a native landscape shall notify the City of Boerne Code Enforcement, in writing, of their intent to manage a native landscape.

(f) *Penalty.*

1. Any person violating any provision of this section shall be fined not more than two hundred dollars ($200.00) for each offense. Each hour or portion thereof, in which any violation shall occur, shall constitute a separate offense.

2. Enforcement hereunder shall not require the pleading or proving of any culpable mental state.

3. All other ordinances or parts of ordinances in conflict herewith repealed to the extent that they are in conflict.

4. That if any of the provisions of this section shall be held void or unconstitutional, it is hereby provided that all other part of the same which are not held void or unconstitutional shall remain in full force and effect.

(Ord. No. 2004-21, 4-27-04)
Summary of Updates/Revisions to the Drought Management Ordinance

December 15, 2015

- **Year round restrictions** for landscape watering prohibited between the hours of 11:00 a.m. and 7:00 p.m.

- There are **4 designated drought response stages** instead of 5 which incorporate water use restrictions.

- **Drought Response Stage 1** is no longer a voluntary conservation measure but a mandatory measure with a formal public notification to include increased public education efforts and only allows outside water use on two designated days during the non-restricted hours of 7:00 p.m. to 11:00 a.m.

- Waste of water provision prohibiting **defective plumbing in a home**, business or establishment was moved from **Stage 2 to Stage 1**. In addition to the waste of water provisions the following was added:
  - Applying water to impermeable surfaces is prohibited
  - Operating a system with damaged irrigation heads is prohibited

- **Drought Response Stage 2** now includes social media outlets for formal notification, outdoor water use was revised to only one designated day per week during the hours of 7:00 p.m. to 11:00 a.m., entities operating athletic playing fields must apply for a Special Use Permit, the use of water for dust control is prohibited other than from reclaimed water sources, and the refilling of pools is prohibited except for one designated outdoor water use day during the non-restricted hours of 7:00 p.m. to 11:00 a.m.

- **Drought Response Stage 3**- irrigation with sprinklers or sprinkler systems is prohibited except every other week beginning on the first Monday after Stage III has been declared and then only during the hours of 7:00 p.m. to 11:00 a.m.

- **Drought Response Stage 4**- Authorized watering allowed only between the hours of 7:00 p.m. to 11:00 a.m., vehicle washing allowed only at commercial or automatic car wash establishments which utilize recycling systems, and drought surcharges may be implemented by City Council to insure compliance.

- Irrigation outside restricted hours allowed if the source of water is from rainwater catchment and/or condensate.
• For the delivery and consumption of water, new regulations and restrictions were added as follows:
  o For most effective watering apply no more than 1 inch of water per week, preferably at one time per week.
  o Drip systems should be used to the greatest extent possible on new or renovated irrigation systems.
  o Watering is prohibited when temperatures fall below 32 degrees (F).

• Public Education now includes social media.

• For primary sources of water, Type I Reclaimed Water can be utilized for irrigation purposes only in certain developments.

• Type II "reclaimed water" is stated rather than "recycled water".

• City Manager now consults with the Mayor on water supply conditions and production constraints to determine implementation dates and stages of water use restrictions.

• Customers utilizing reclaimed water must also adhere to provisions of the drought ordinance.

• Reclaimed water included in the enforcement provisions outlined in the drought management ordinance.

• City Manager may initiate and terminate emergency water use restrictions on reclaimed water use as a response to limitations on supply to include implementation of drought response stages.

• Athletic field variance on water restrictions now states "reclaimed water" instead of recycled water and specified time frame for watering/irrigation changed to 7:00 p.m. to 11:00 a.m.

September 11, 2018

• Year round restrictions include those using reclaimed water.

• Reclaimed water added as a source that can have impact on water supply, production or storage.

• Persons with reclaimed water meters registered with the utilities department are subject to waste of water provisions and the person's name whose such connection is registered constitutes as evidence as the person who permitted or caused the act of waste.