

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) *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 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) *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.**

**STAGE I, STAGE II AND STAGE III**

Last Digit of Address	Days
0 or 1	Monday
2 or 3	Tuesday
4 or 5	Wednesday
6 or 7	Thursday
8 or 9	Friday

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

PASSED AND APPROVED on this the 26<sup>th</sup> day of July, 2022.

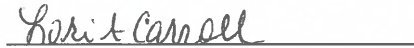


APPROVED:




Mayor Pro Tem

ATTEST:

  
City Secretary

APPROVED AS TO FORM:

  
City Attorney