

**ORDINANCE NO. O-2024-47**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 19, "UTILITIES," ARTICLE VIII, "RETAIL SUPPLIER DROUGHT CONTINGENCY PLAN," ARTICLE IX, "WHOLESALE SUPPLIER DROUGHT CONTINGENCY PLAN," AND ARTICLE X, "WATER CONSERVATION /EMERGENCY DEMAND MANAGEMENT PLAN," OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS BY ADOPTING THE WATER CONSERVATION, DROUGHT CONTINGENCY, AND EMERGENCY DEMAND MANAGEMENT PLAN; AMENDING AND REMOVING SECTIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, it is the intent of the City Council to protect the public health, safety, and welfare; and

**WHEREAS**, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and welfare of citizens; and

**WHEREAS**, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

**WHEREAS**, Texas Local Government Code Section 51.072(a) states that a home-rule municipality has full power of self-government; and

**WHEREAS**, Texas Local Government Code Section 51.072(b) provides that the grant of powers to a municipality under the Texas Local Government Code does not prevent, by implication or otherwise, the municipality from exercising the authority incident to self-government; and

**WHEREAS**, Section 1 of the Tyler City Charter states that the City of Tyler may make any and all rules and regulations by ordinances and resolutions; and

**WHEREAS**, Section 1 of the Tyler City Charter states that the City of Tyler may make and enforce local police, sanitary, and other regulations, and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the City, and for the performance of the functions thereof; and

**WHEREAS**, Section 2 of the Tyler City Charter states that the enumeration of particular powers by the Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated in the Charter, the City shall have, and may exercise all other powers which, under the constitution and laws of Texas, it would be competent for the Charter specifically to enumerate; and

**WHEREAS**, Section 6 of the Tyler City Charter states that pursuant to the provisions of and subject only to the limitations imposed by the State law and the Charter, all of powers of the City shall be vested in an elective Council, which shall, among other duties, enact legislation; and

**WHEREAS**, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for the good government, peace, or order of the municipality; and

**WHEREAS**, Texas Local Government Code Section 51.001(2) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

**WHEREAS**, the City Council has determined there is a need in the best public interest of the City of Tyler to adopt the updated 5-Year Water Conservation and Drought Contingency Emergency Demand Management Plan; and

**WHEREAS**, the City Council now desires to evidence its approval of the 5-Year Water Conservation and Drought Contingency Emergency Demand Management Plan and adopt such a plan as an official policy of the City;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS;**

**PART 1.** That the findings set forth above are incorporated into the body of this ordinance as if fully set forth herein.

**PART 2.** That Tyler City Code Chapter 19, "Utilities," Article VIII., "Retail Supplier Drought Contingency Plan," Sections 19-250 through 19-269 is hereby amended, removed, and shall read as follows:

**Article VIII. RETAIL SUPPLIER DROUGHT CONTINGENCY PLAN**

**Sec. 19-250. Water Conservation and Drought Contingency Emergency Demand Management Plan**

Tyler Water Utilities (TWU) recognizes the importance of water conservation and drought readiness. Water Conservation, Drought Contingency and Emergency Demand Management Plans aim to safeguard water supply, promote responsible water usage, and provide sustainable access to potable water for all residents, businesses, and wholesale customers. Extreme heat throughout recent summers has highlighted the importance of the efficient use of existing supplies. As such, Section 3 of the report entitled "Water Conservation and Drought Contingency Emergency Demand Management Plan," dated April 2024, is hereby adopted by reference and is incorporated herein. A copy of the Plan is on file and is available for public review in the Water Utilities Department. (Ord. 0-99-62, 8/18/99; (Ord. No 0-2024- 47, 4/24/24)

### **Sec. 19-251. Enforcement**

- a. No person shall knowingly or intentionally allow the use of water from the City for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of the Water Conservation and Drought Contingency Emergency Demand Management Plan.
- b. Any person who violates this Plan could be guilty of a misdemeanor and, upon conviction shall be punished by a fine of not less than two hundred and fifty dollars (\$250.00) and not more than two thousand dollars (\$2,000.00). Each day that one or more of the provisions in this Plan is violated shall constitute a separate offense. If a person is convicted of three or more distinct violations of this Plan, the Manager shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. (Ord. No 0-2024- 47; 4/24/24)

### **Sec. 19-252. Severability**

It is hereby declared to be the intention of the Tyler City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Plan shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Plan, since the same would not have been enacted by the Tyler City Council without the incorporation into this Plan of any such unconstitutional phrase, clause, sentence, paragraph, or section. (Ord. 0-99-62, 8/18/99) (Ord. No.0-2024-47;4/24/24)

### **Secs. 19-253 through 19-269. Reserved.**

**PART 3:** That Tyler City Code Chapter 19, "Utilities," Article IX., "Wholesale Supplier Drought Contingency Plan," Section 19-270 through 19-299 is hereby amended, removed, and shall read as follows:

#### **Article IX. WHOLESALE SUPPLIER DROUGHT CONTINGENCY PLAN**

### **Sec. 19-270. Water Conservation and Drought Contingency Emergency Demand Management Plan**

Tyler Water Utilities (TWU) recognizes the importance of water conservation and drought readiness. Water Conservation, Drought Contingency and Emergency Demand Management Plans aim to safeguard water supply, promote responsible water usage, and provide sustainable access to potable water for all residents, businesses, and wholesale customers. Extreme heat throughout recent summers has highlighted the importance of the efficient use of existing supplies. As such, Section 3 of the report entitled "Water Conservation and Drought Contingency Emergency Demand Management Plan," dated April 2024, is hereby adopted by reference and is incorporated herein. A copy of the Plan is on file and is available for public review in the Water Utilities Department. (Ord. 0-99-62, 8/18/99) (Ord. No. 0-2024-47;4/24/24)

### **Sec. 19-271. Enforcement**

- a. No person shall knowingly or intentionally allow the use of water from the City for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of the Water Conservation and Drought Contingency Emergency Demand Management Plan.
- b. Any person who violates this Plan could be guilty of a misdemeanor and, upon conviction shall be punished by a fine of not less than two hundred and fifty dollars (\$250.00) and not more than two thousand dollars (\$2,000.00). Each day that one or more of the provisions in this Plan is violated shall constitute a separate offense. If a person is convicted of three or more distinct violations of this Plan, the Manager shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. (Ord. No. 0-2024-47;4/24/24)

### **Sec. 19-272. Severability**

It is hereby declared to be the intention of the Tyler City Council that the sections, paragraphs, sentences, clauses, and phrases of this Plan are severable and, if any phrase, clause, sentence, paragraph, or section of this Plan shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Plan, since the same would not have been enacted by the Tyler City Council without the incorporation into this Plan of any such unconstitutional phrase, clause, sentence, paragraph, or section. (Ord. 0-99-63, 8/18/99) (Ord. No. 0-2024-47;4/24/24)

### **Sec. 19-273 through 19-299. Reserved.**

**PART 4:** That Tyler City Code Chapter 19, "Utilities," Article X., "Water Conservation and Drought Contingency / Emergency Demand Management Plan," Section 19-300 through 19-309 is hereby amended, removed, and shall read as follows:

#### **Article X. WATER CONSERVATION/EMERGENCY DEMAND MANAGEMENT PLAN**

### **Sec. 19-300. Water Conservation and Drought Contingency Emergency Demand Management Plan**

Tyler Water Utilities (TWU) recognizes the importance of water conservation and drought readiness. Water Conservation, Drought Contingency and Emergency Demand Management Plans aim to safeguard water supply, promote responsible water usage, and provide sustainable access to potable water for all residents, businesses, and wholesale customers. Extreme heat throughout recent summers has highlighted the importance of the efficient use of existing supplies. As such, Section 2 and 4 of the report entitled "Water Conservation and Drought Contingency Emergency

Demand Management Plan”, dated April 2024 is hereby adopted by reference and is incorporated herein. A copy of the Plan is on file and available for public review in the Water Utilities Department. (Ord. 0-99-62, 8/18/99) (Ord. No. 0-2024-47;4/24/24)

#### **Sec. 19-301. Enforcement**

- a. No person shall knowingly or intentionally allow the use of water from the City for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of the Water Conservation and Drought Contingency Emergency Demand Management Plan.
- b. Any person who violates this Plan could be guilty of a misdemeanor and, upon conviction shall be punished by a fine of not less than two hundred and fifty dollars (\$250.00) and not more than two thousand dollars (\$2,000.00). Each day that one or more of the provisions in this Plan is violated shall constitute a separate offense. If a person is convicted of three or more distinct violations of this Plan, the Manager shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. (Ord. No. 0-2024-47;4/24/24)

#### **Sec. 19-302. Severability**

It is hereby declared to be the intention of the Tyler City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Plan shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Plan, since the same would not have been enacted by the Tyler City Council without the incorporation into this Plan of any such unconstitutional phrase, clause, sentence, paragraph, or section. (Ord. No.0-2024-47;4/24/24)

#### **Secs. 19-303 through 19-309. Reserved.**

**PART 5:** Should any section, subsection, sentence, provision, clause or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause or phrase of this ordinance and same are deemed severable for this purpose.

**PART 6:** That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until after its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be April 26, 2024.

**PART 7:** It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that the public notice of the time, place, and

purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

**PASSED AND APPROVED THIS** the 24<sup>th</sup> day of April, A. D., 2024.

DONALD P. WARREN, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:

CASSANDRA BRAGER, CITY CLERK



APPROVED:

DEBORAH G. PULLUM,  
CITY ATTORNEY