

**ORDINANCE NO. 2011-6
AMENDING ORDINANCE 2005-7A**

AN ORDINANCE REGULATING A DROUGHT CONTINGENCY PLAN FOR THE CITY OF CUMBY; PROHIBITING CERTAIN USES OF WATER PROVIDED TO THE CITY'S WATER CUSTOMERS; PROVIDING A PENALTY FOR VIOLATION OF SAID ORDINANCE; REPEALING PROVISIONS OF PRIOR ORDINANCES IN CONFLICT THEREWITH; DECLARING AN EMERGENCY AND MAKING THIS ORDINANCE EFFECTIVE IMMEDIATELY. BE IT ORDAINED BY THE CITY OF CUMBY.

SECTION I: DECLARATION OF POLICY, PURPOSE AND INTENT.

IN ORDER TO CONSERVE THE AVAILABLE WATER SUPPLY AND PROTECT THE INTEGRITY OF WATER SUPPLY FACILITIES, WITH PARTICULAR REGARD FOR DOMESTIC WATER USE, SANITATION AND FIRE PROTECTION, AND TO PROTECT AND PRESERVE PUBLIC HEALTH, WELFARE AND SAFETY AND MINIMIZE THE ADVERSE IMPACTS OF WATER SUPPLY SHORTAGE OR OTHER WATER SUPPLY EMERGENCY CONDITIONS, THE CITY OF CUMBY HEREBY ADOPTS THE FOLLOWING REGULATIONS AND RESTRICTIONS ON THE DELIVERY AND CONSUMPTION OF WATER.

WATER USES REGULATED OR PROHIBITED UNDER THIS DROUGHT CONTINGENCY PLAN ARE CONSIDERED TO BE NON-ESSENTIAL AND CONTINUATION OF SUCH USES DURING TIMES OF WATER SHORTAGE OR OTHER EMERGENCY WATER SUPPLY CONDITIONS ARE DEEMED TO CONSTITUTE A WASTE OF WATER WHICH SUBJECTS THE OFFENDER(S) TO PENALTIES AS DEFINED IN SECTION X OF THIS PLAN.

SECTION II: PUBLIC INVOLVEMENT

OPPORTUNITY FOR THE PUBLIC TO PROVIDE INPUT INTO THE PREPARATION OF THE PLAN WAS PROVIDED BY THE CITY OF CUMBY BY MEANS OF A COUNCIL MEETING.

SECTION III: PUBLIC EDUCATION

THE CITY OF CUMBY WILL PERIODICALLY PROVIDE THE PUBLIC WITH INFORMATION ABOUT THE PLAN, INCLUDING INFORMATION ABOUT THE CONDITIONS UNDER WHICH EACH STAGE OF THE PLAN IS TO BE INITIATED OR TERMINATED AND THE DROUGHT RESPONSE MEASURES TO BE IMPLEMENTED IN EACH STAGE. THIS INFORMATION WILL BE PROVIDED BY MEANS OF A MEETING, LETTER, PHONE CALL OR FLIERS.

SECTION IV: COORDINATION WITH TCEQ AND OTHER WATER PLANNING GROUPS.

THE MAYOR OR HIS/HER DESIGNEE SHALL NOTIFY TCEQ OF ANY MANDATORY WATER USE RESTRICTION IMPOSED ON CUSTOMERS. THIS NOTICE, WHICH IS REQUIRED BY TCEQ RULES, MUST BE PROVIDED WITHIN FIVE WORKING DAYS OF THE DAY THE MANDATE WAS ISSUED. THE INITIATION AND CESSATION OF THESE RESTRICTIONS MUST BE MADE KNOWN TO THE TCEQ DROUGHT COORDINATOR AT 512-239-6054.

SECTION V: AUTHORIZATION

THE MAYOR OR HIS/HER DESIGNEE IS HEREBY AUTHORIZED AND DIRECTED TO IMPLEMENT THE APPLICABLE PROVISIONS OF THIS PLAN UPON DETERMINATION THAT SUCH IMPLEMENTATION IS NECESSARY TO PROTECT PUBLIC HEALTH, SAFETY AND WELFARE. THE MAYOR OR HIS/HER DESIGNEE, SHALL HAVE THE AUTHORITY TO INITIATE OR TERMINATE DROUGHT OR OTHER WATER SUPPLY EMERGENCY RESPONSE MEASURES AS DESCRIBED IN THE PLAN.

SECTION VI: APPLICATION

THE PROVISIONS OF THIS PLAN SHALL APPLY TO ALL PERSONS, CUSTOMERS AND PROPERTY UTILIZING WATER PROVIDED BY THE CITY OF CUMBY. THE TERM "PERSON" AND "CUSTOMER" AS USED IN THE PLAN INCLUDE INDIVIDUALS, CORPORATIONS, PARTNERSHIPS, ASSOCIATES AND ALL OTHER LEGAL ENTITIES.

SECTION VII: DEFINITIONS

FOR THE PURPOSE OF THIS PLAN, THE FOLLOWING DEFINITIONS SHALL APPLY:

AESTHETIC WATER USE: WATER USE FOR ORNAMENTAL OR DECORATIVE PURPOSES SUCH AS FOUNTAINS, REFLECTING POOLS AND WATER GARDENS.

COMMERCIAL AND INSTITUTIONAL WATER USE: WATER USE WHICH IS INTEGRAL TO THE OPERATIONS OF COMMERCIAL AND NON-PROFIT ESTABLISHMENTS AND GOVERNMENTAL ENTITIES SUCH AS RETAIL ESTABLISHMENTS, HOTELS AND MOTELS, RESTAURANTS AND OFFICE BUILDINGS.

CONSERVATION: THOSE PRACTICES, TECHNIQUES AND TECHNOLOGIES THAT REDUCE THE CONSUMPTION OF WATER, REDUCE THE LOSS OR WASTE OF WATER, IMPROVE THE EFFICIENCY IN THE USE OF WATER OR INCREASE THE RECYCLING AND REUSE OF WATER SO THAT A SUPPLY IS CONSERVED AND MADE AVAILABLE FOR FUTURE OR ALTERNATIVE USES.

CUSTOMER: ANY PERSON, COMPANY OR ORGANIZATION USING WATER SUPPLIED BY THE CITY OF CUMBY.

DOMESTIC WATER USE: WATER USE FOR PERSONAL NEEDS OR FOR HOUSEHOLD OR SANITARY PURPOSES SUCH AS DRINKING, BATHING, HEATING, COOKING, SANITATION OR FOR CLEANING A RESIDENCE, BUSINESS, INDUSTRY OR INSTITUTION.

EVEN NUMBER ADDRESS: STREET ADDRESS, BOX NUMBERS OR RURAL POSTAL ROUTE NUMBERS ENDING IN 0,2,4,6,8 AND LOCATIONS WITHOUT ADDRESSES.

ODD NUMBER ADDRESS: STREET ADDRESS, BOX NUMBERS OR RURAL POSTAL ROUTE NUMBERS ENDING IN 1,3,5,7,9.

INDUSTRIAL WATER USE: THE USE OF WATER IN PROCESSES DESIGNED TO CONVERT MATERIALS OF LOWER VALUE INTO FORMS HAVING GREATER USABILITY AND VALUE.

LANDSCAPE IRRIGATION USE: WATER USED FOR THE IRRIGATION AND MAINTENANCE OF LANDSCAPED AREAS, WHETHER PUBLICLY OR PRIVATELY OWNED, INCLUDING RESIDENTIAL AND COMMERCIAL LAWNS, GARDENS, GOLF COURSES, PARKS AND RIGHT-OF-WAY AND MEDIANS.

NON-ESSENTIAL WATER USE: WATER USES THAT ARE NOT ESSENTIAL NOR REQUIRED FOR THE PROTECTION OF PUBLIC, HEALTH, SAFETY AND WELFARE, INCLUDING:

- (a) IRRIGATION OF LANDSCAPE AREAS, INCLUDING PARKS, ATHLETIC FIELDS AND GOLF COURSES, EXCEPT OTHERWISE PROVIDED UNDER THIS PLAN;
- (b) USE OF WATER TO WASH ANY MOTOR VEHICLE, MOTORBIKE, BOAT, TRAILER, AIRPLANE OR OTHER VEHICLE;
- (c) USE OF WATER TO WASH DOWN ANY SIDEWALKS, WALKWAYS, DRIVEWAYS, PARKING LOTS, TENNIS COURTS, OR OTHER HARD-SURFACED AREAS;
- (d) USE OF WATER TO WASH DOWN BUILDINGS OR STRUCTURES FOR PURPOSES OTHER THAN IMMEDIATE FIRE PROTECTION;
- (e) FLUSHING GUTTERS OR PERMITTING WATER TO RUN OR ACCUMULATE IN ANY GUTTER OR STREET;
- (f) USE OF WATER TO FILL, REFILL OR ADD TO ANY INDOOR OR OUTDOOR SWIMMING POOLS OR JACUZZI-TYPE POOLS;
- (g) USE OF WATER IN A FOUNTAIN OR POND FOR AESTHETIC OR SCENIC PURPOSES EXCEPT WHERE NECESSARY TO SUPPORT AQUATIC LIFE;
- (h) FAILURE TO REPAIR A CONTROLLABLE LEAK (s) WITHIN A REASONABLE PERIOD AFTER HAVING BEEN GIVEN NOTICE DIRECTING THE REPAIR OF SUCH LEAK(s); AND
- (i) USE OF WATER FROM HYDRANTS FOR CONSTRUCTION PURPOSES OR ANY OTHER PURPOSES OTHER THAN FIREFIGHTING.

SECTION VIII: CRITERIA FOR INITIATION AND TERMINATION OF DROUGHT RESPONSE STAGES

THE MAYOR OR HIS/HER DESIGNEE SHALL MONITOR THE WATER SUPPLY AND/OR DEMAND CONDITIONS ON A DAILY BASIS AND SHALL DETERMINE WHEN CONDITIONS WARRANT INITIATION OR TERMINATION OF EACH STAGE OF THE PLAN, THAT IS, WHEN THE SPECIFIED TRIGGERS ARE REACHED.

THE TRIGGERING CRITERIA DESCRIBED BELOW ARE BASED ON STATISTICAL ANALYSIS OF AVAILABLE WATER FOR WATER USAGE.

STAGE 1 TRIGGERS – MILD WATER SHORTAGE CONDITIONS

REQUIREMENTS FOR INITIATION: CUSTOMERS SHALL BE REQUIRED TO VOLUNTARILY CONSERVE WATER AND ADHERE TO THE PRESCRIBED RESTRICTIONS ON CERTAIN WATER USES, DEFINED IN SECTION VII-DEFINITIONS, ANNUALLY MAY 1 THROUGH SEPTEMBER 30.

REQUIREMENTS FOR TERMINATION: STAGE 1 OF THE PLAN MAY BE RESCINDED AFTER SEPTEMBER 30.

STAGE 2 TRIGGERS- MODERATE WATER SHORTAGE CONDITIONS

REQUIREMENTS FOR INITIATION: CUSTOMERS SHALL BE REQUIRED TO COMPLY WITH THE REQUIREMENTS AND RESTRICTIONS ON CERTAIN NON-ESSENTIAL WATER USES PROVIDED IN SECTION IX OF THIS PLAN WITH A 20% DECREASE IN THE AVERAGE WATER VOLUME PUMPED.

REQUIREMENTS FOR TERMINATION: STAGE 2 OF THE PLAN MAY BE RESCINDED WHEN ALL OF THE CONDITIONS LISTED AS TRIGGERING EVENTS HAVE CEASED TO EXIST FOR A PERIOD OF 24 HOURS. UPON TERMINATION OF STAGE 2, STAGE 1 BECOMES OPERATIVE.

STAGE 3 TRIGGERS – SEVERE WATER SHORTAGE CONDITIONS

REQUIREMENTS FOR INITIATION: CUSTOMERS SHALL BE REQUIRED TO COMPLY WITH THE REQUIREMENTS AND RESTRICTIONS ON CERTAIN NON-ESSENTIAL WATER USES FOR STAGE 3 OF THIS PLAN WITH A 30% DECREASE IN THE AVERAGE WATER PUMPED.

REQUIREMENTS FOR TERMINATION: STAGE 3 OF THE PLAN MAY BE RESCINDED WHEN ALL OF THE CONDITIONS LISTED AS TRIGGERING EVENTS HAVE CEASED

TO EXIST FOR A PERIOD OF 2 CONSECUTIVE DAYS. UPON TERMINATION OF STAGE 3, STAGE 2 BECOMES OPERATIVE.

STAGE 4 TRIGGERS – CRITICAL WATER SHORTAGE CONDITIONS

REQUIREMENTS FOR INITIATION: CUSTOMERS SHALL BE REQUIRED TO COMPLY WITH THE REQUIREMENTS AND RESTRICTIONS ON CERTAIN NON-ESSENTIAL WATER USES FOR STAGE 4 OF THIS PLAN WITH A 40% DECREASE IN AVERAGE WATER PUMPED.

REQUIREMENTS FOR TERMINATION: STAGE 4 OF THE PLAN MAY BE RESCINDED WHEN ALL OF THE CONDITIONS LISTED AS TRIGGERING EVENTS HAVE CEASED TO EXIST FOR A PERIOD OF 2 CONSECUTIVE DAYS. UPON TERMINATION OF STAGE 4, STAGE 3 BECOMES OPERATIVE.

STAGE 5 TRIGGERS – EMERGENCY WATER SHORTAGE CONDITIONS

REQUIREMENTS FOR INITIATION: CUSTOMERS SHALL BE REQUIRED TO COMPLY WITH THE REQUIREMENTS AND RESTRICTIONS FOR STAGE 5 OF THIS PLAN WHEN THE MAYOR, OR HIS/HER DESIGNEE, DETERMINES THAT A WATER SUPPLY EMERGENCY EXISTS BASED ON:

1) MAJOR WATER LINE BREAKS, OR PUMP(S) OR SYSTEM FAILURES OCCUR, WHICH CAUSE UNPRECEDENTED LOSS OF CAPABILITY TO PROVIDE WATER SERVICE; OR

2) NATURAL OR MAN-MADE CONTAMINATION OF WATER SUPPLY SOURCE(S).

REQUIREMENTS FOR TERMINATION: STAGE 5 OF THE PLAN MAY BE RESCINDED WHEN ALL OF THE CONDITIONS LISTED AS TRIGGERING EVENTS HAVE CEASED TO EXIST FOR A PERIOD OF 2 CONSECUTIVE DAYS.

SECTION IX: DROUGHT RESPONSE STAGES

THE MAYOR OR HIS/HER DESIGNEE, SHALL MONITOR THE WATER SUPPLY AND/OR DEMAND CONDITIONS ON A DAILY BASIS AND, IN ACCORDANCE WITH THE TRIGGERING CRITERIA SET FORTH IN SECTION VIII OF THIS PLAN, SHALL DETERMINE THAT A MILD, MODERATE, SEVERE, CRITICAL, EMERGENCY OR WATER SHORTAGE CONDITION EXISTS AND SHALL IMPLEMENT THE FOLLOWING NOTIFICATION PROCEDURES:

NOTIFICATION OF THE PUBLIC: THE MAYOR OR HIS/HER DESIGNEE SHALL NOTIFY THE PUBLIC BY MEANS OF ONE OR MORE OF THE FOLLOWING:

PUBLIC SERVICE ANNOUNCEMENTS

TAKE-HOME FLIERS
PHONE CALLS

ADDITIONAL NOTIFICATION: THE MAYOR OR HIS/HER DESIGNEE SHALL NOTIFY DIRECTLY, OR CAUSE TO BE NOTIFIED DIRECTLY, THE FOLLOWING INDIVIDUALS AND ENTITIES:

MAYOR
FIRE CHIEF
TCEQ
MAJOR WATER USERS
PUBLIC FACILITY MANAGERS
SCHOOL

STAGE 1 RESPONSE – MILD WATER SHORTAGE CONDITIONS

GOAL: ACHIEVE A VOLUNTARY 20% REDUCTION IN THE DAILY AVERAGE TOTAL WATER DEMAND.

SUPPLY MANAGEMENT MEASURES: REDUCE OR DISCONTINUE FLUSHING OF WATER MAINS AND FIRE HYDRANTS.

VOLUNTARY WATER USE RESTRICTIONS:

(a) CUSTOMERS ARE REQUESTED TO VOLUNTARILY LIMIT THE IRRIGATION OF LANDSCAPED AREAS TO SUNDAYS AND THURSDAYS FOR CUSTOMERS WITH A STREET ADDRESS ENDING IN AN EVEN NUMBER (0,2,4,6,8) AND SATURDAYS AND WEDNESDAYS FOR WATER CUSTOMERS WITH A STREET ADDRESS ENDING IN AN ODD NUMBER (1,3,5,7,9), AND TO IRRIGATE LANDSCAPES ONLY BETWEEN THE HOURS OF 8:00p.m. TO MIDNIGHT (12:00a.m.) AND 6:00 a.m. TO 9:00 a.m. ON DESIGNATED WATERING DAYS.

(b) ALL OPERATIONS OF THE CITY OF CUMBY SHALL ADHERE TO WATER USE RESTRICTIONS PRESCRIBED FOR STAGE 2 OF THE PLAN.

(c) WATER CUSTOMERS ARE REQUESTED TO PRACTICE WATER CONSERVATIONS AND TO MINIMIZE OR DISCONTINUE WATER USE FOR NON-ESSENTIAL PURPOSES.

STAGE 2 RESPONSE – MODERATE WATER SHORTAGE CONDITIONS

GOAL: ACHIEVE A VOLUNTARY 30% REDUCTION IN THE DAILY AVERAGE TOTAL WATER DEMAND.

SUPPLY MANAGEMENT MEASURES: REDUCE OR DISCONTINUE FLUSHING OF WATER MAINS, REDUCED OR DISCONTINUED IRRIGATION OF PUBLIC LANDSCAPED AREAS;

WATER USE RESTRICTIONS: UNDER THREAT OF PENALTY FOR VIOLATION, THE FOLLOWING WATER USE RESTRICTIONS SHALL APPLY TO ALL PERSONS:

A) IRRIGATION OF LANDSCAPED AREAS WITH HOSE-END SPRINKLERS OR AUTOMATIC IRRIGATION SYSTEMS SHALL BE LIMITED TO WEDNESDAYS AND SATURDAYS FOR WATER CUSTOMERS WITH A STREET ADDRESS ENDING IN AN ODD NUMBER (1,3,5,7,9), AND SUNDAYS AND THURSDAYS FOR CUSTOMERS WITH A STREET ADDRESS ENDING IN AN EVEN NUMBER (0,2,4,6,8), AND IRRIGATION OF LANDSCAPED AREAS IS FURTHER LIMITED TO THE HOURS OF 8:00 p.m. – 8:00 a.m. ON DESIGNATED WATERING DAYS. HOWEVER, IRRIGATION OF LANDSCAPED AREAS IS PERMITTED AT ANYTIME IF IT IS BY MEANS OF A HAND-HELD HOSE, A FAUCET FILLED BUCKET OR WATERING CAN OF FIVE (5) GALLONS OR LESS, OR DRIP IRRIGATION SYSTEM.

B) USE OF WATER TO WASH ANY MOTOR VEHICLE, MOTORBIKE, BOAT, TRAILER, AIRPLANE OR OTHER VEHICLE IS PROHIBITED EXCEPT ON DESIGNATED WATERING DAYS BETWEEN THE HOURS OF 8:00 p.m. AND 8:00 a.m. SUCH WASHING, WHEN ALLOWED, SHALL BE DONE WITH A HAND-HELD BUCKET OR A HAND –HELD HOSE EQUIPPED WITH A POSITIVE SHUTOFF NOZZLE FOR QUICK RINSES. VEHICLE WASHING MAY BE DONE AT ANY TIME ON THE IMMEDIATE PREMISES OF A COMMERCIAL CAR WASH OR COMMERCIAL SERVICE STATION. FURTHER, SUCH WASHING MAY BE EXEMPTED FROM THESE REGULATIONS IF THE HEALTH, SAFETY AND WELFARE OF THE PUBLIC IS CONTINGENT UPON FREQUENT VEHICLE CLEANING, SUCH AS GARBAGE TRUCKS AND VEHICLES USED TO TRANSPORT FOOD AND PERISHABLES.

C) USE OF WATER TO FILL, REFILL OR ADD TO ANY INDOOR OR OUTDOOR SWIMMING POOLS, WADING POOLS, OR JACUZZI-TYPE POOLS IS PROHIBITED EXCEPT ON DESIGNATED WATERING DAYS BETWEEN THE HOURS OF 8:00 p.m. – 8:00 a.m.

D) OPERATION OF ANY ORNAMENTAL FOUNTAIN OR POND FOR AESTHETIC OR SCENIC PURPOSES IS PROHIBITED EXCEPT WHERE NECESSARY TO SUPPORT AQUATIC LIFE OR WHERE SUCH FOUNTAINS OR PONDS ARE EQUIPPED WITH A RECIRCULATION SYSTEM.

E) USE OF WATER FROM HYDRANTS SHALL BE LIMITED TO FIREFIGHTING, RELATED ACTIVITIES, OR OTHER ACTIVITIES NECESSARY TO MAINTAIN PUBLIC HEALTH, SAFETY, AND WELFARE, EXCEPT THAT USE OF WATER FROM DESIGNATED FIR HYDRANTS FOR CONSTRUCTION PURPOSES MAY BE ALLOWED UNDER SPECIAL PERMIT FROM THE CITY OF CUMBY.

F) USE OF WATER FOR THE IRRIGATION OF PARKS (BALL FIELDS OF ANY TYPE) IS PROHIBITED EXCEPT ON DESIGNATED WATERING DAYS BETWEEN THE HOURS OF 8:00 p.m. AND 8:00 a.m. HOWEVER, IF THE PARKS UTILIZE A WATER SOURCE OTHER THAN THAT PROVIDED BY THE CITY OF CUMBY, THE FACILITY SHALL NOT BE SUBJECT TO THESE REGULATIONS.

G) ALL RESTAURANTS ARE PROHIBITED FROM SERVING WATER TO PATRONS EXCEPT UPON REQUEST OF THE PATRON.

H) THE FOLLOWING USES OF WATER ARE DEFINED AS NON-ESSENTIAL AND ARE PROHIBITED:

- 1) WASH DOWN OF ANY SIDEWALKS, WALKWAYS, DRIVEWAYS, PARKING LOTS, TENNIS COURTS, OR OTHER HARD-SURFACED AREAS;
- 2) USE OF WATER TO WASH DOWN BUILDINGS OR STRUCTURES FOR PURPOSES OTHER THAN IMMEDIATE FIRE PROTECTION;
- 3) USE OF WATER FOR DUST CONTROL;
- 4) FLUSHING OF GUTTERS OR PERMITTING WATER TO RUN OR ACCUMULATE IN ANY GUTTER OR STREET; AND
- 5) FAILURE TO REPAIR A CONTROLLABLE LEAK(s) WITHIN A REASONABLE PERIOD AFTER HAVING BEEN GIVEN NOTICE DIRECTING THE REPAIR OF SUCH LEAK(s).

STAGE 3 RESPONSE – SEVERE WATER SHORTAGE CONDITIONS

GOAL: ACHIEVE A VOLUNTARY 40% REDUCTION IN THE DAILY AVERAGE TOTAL WATER DEMAND.

SUPPLY MANAGEMENT MEASURES: REDUCE OR DISCONTINUE FLUSHING OF WATER MAINS, REDUCED OR DISCONTINUED IRRIGATION OF PUBLIC LANDSCAPED AREAS;

WATER USE RESTRICTIONS- ALL REQUIREMENTS OF STAGE 2 SHALL REMAIN IN EFFECT DURING STAGE 3 WITH THE EXCEPTION OF WATERING HOURS. THE STAGE 3 HOURS SHALL BE: WEDNESDAYS FOR WATER CUSTOMERS WITH A STREET ADDRESS ENDING IN AN ODD NUMBER (1,3,5,7,9), AND THURSDAYS FOR CUSTOMERS WITH A STREET ADDRESS ENDING IN AN EVEN NUMBER (0,2,4,6,8). AND THE HOURS OF 8:00 p.m. – 12:00 a.m. ON DESIGNATED WATERING DAYS.

STAGE 4 RESPONSE – CRITICAL WATER SHORTAGE CONDITIONS

GOAL: ACHIEVE A VOLUNTARY 50% REDUCTION IN THE DAILY AVERAGE TOTAL WATER DEMAND.

SUPPLY MANAGEMENT MEASURES: NO INSTALLATION OF NEW WATER TAPS.

WATER USE RESTRICTIONS- ALL REQUIREMENTS OF STAGE 2 AND 3 SHALL REMAIN IN EFFECT DURING STAGE 4 WITH THE EXCEPTION OF WATERING HOURS. THE STAGE 4 HOURS SHALL BE: NO OUTSIDE WATERING WILL BE ALLOWED. HOWEVER, WATERING IS PERMITTED AT ANYTIME IF IT IS BY MEANS OF A HAND-HELD HOSE, A FAUCET FILLED BUCKET OR WATERING CAN OF FIVE (5) GALLONS OR LESS, OR DRIP IRRIGATION SYSTEM.

STAGE 5 RESPONSE – EMERGENCY WATER SHORTAGE CONDITIONS

GOAL: ACHIEVE A VOLUNTARY 60% REDUCTION IN THE DAILY AVERAGE TOTAL WATER DEMAND.

SUPPLY MANAGEMENT MEASURES: THE CITY OF CUMBY WILL DISCONTINUE THE FLUSHING OF WATER MAINS, DISCONTINUE IRRIGATION OF PUBLIC LANDSCAPED AREAS, AND WILL PROCURE WATER FROM SULPHUR SPRINGS AND/OR CASH WATER SUPPLY.

WATER USE RESTRICTIONS- ALL REQUIREMENTS OF STAGE 2, 3 AND 4 SHALL REMAIN IN EFFECT DURING STAGE 5 WITH THE EXCEPTION OF WATERING HOURS. NO OUTSIDE WATERING WILL BE ALLOWED.

SECTION X: ENFORCEMENT

(A) NO PERSON SHALL KNOWINGLY OR INTENTIONALLY ALLOW THE USE OF WATER FROM THE CITY OF CUMBY FOR RESIDENTIAL, COMMERCIAL, INDUSTRIAL, AGRICULTURAL, GOVERNMENTAL, OR ANY OTHER PURPOSE IN A MANNER CONTRARY TO ANY PROVISION OF THIS PLAN, OR IN AN AMOUNT IN EXCESS OF THAT PERMITTED BY THE DROUGHT RESPONSE STAGE IN EFFECT AT THE TIME PURSUANT TO ACTION TAKEN BY THE MAYOR, OR HIS/HER DESIGNEE, IN ACCORDANCE WITH PROVISIONS OF THIS PLAN.

(B) ANY PERSON WHO VIOLATES THIS PLAN IS GUILTY OF A MISDEMEANOR AND UPON CONVICTION SHALL BE PUNISHED BY A FINE OF NOT LESS THAN \$100.00 AND NOT MORE THAN \$200.00 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 MAYOR SHALL, UPON DUE NOTICE TO THE CUSTOMER, BE AUTHORIZED TO DISCONTINUE WATER SERVICE TO THE PREMISES WHERE SUCH VIOLATIONS OCCUR. SERVICE DISCONTINUED UNDER SUCH CIRCUMSTANCES SHALL BE RESTORED ONLY UPON PAYMENT OF A RECONNECTION CHARGE, HEREBY ESTABLISHED AT \$25.00, OR MORE AND ANY OTHER COSTS INCURRED

BY THE CITY OF CUMBY IN DISCONTINUING SERVICE. IN ADDITION, SUITABLE ASSURANCE MUST BE GIVEN TO THE MAYOR THAT THE SAME ACTION SHALL NOT BE REPEATED WHILE THE PLAN IS IN EFFECT. COMPLIANCE WITH THIS PLAN MAY ALSO BE SOUGHT THROUGH INJUNCTIVE RELIEF IN THE DISTRICT COURT.

(C) ANY PERSON, INCLUDING A PERSON CLASSIFIED AS A WATER CUSTOMER OF THE CITY OF CUMBY, IN APPARENT CONTROL OF THE PROPERTY WHERE A VIOLATION OCCURS OR ORIGINATES SHALL BE PRESUMED TO BE THE VIOLATOR, AND PROOF THAT THE VIOLATION OCCURRED ON THE PERSON'S PROPERTY SHALL CONSTITUTE A REBUTTABLE PRESUMPTION THAT THE PERSON IN APPARENT CONTROL OF THE PROPERTY COMMITTED THE VIOLATION, BUT ANY SUCH PERSON SHALL HAVE THE RIGHT TO SHOW THAT HE/SHE DID NOT COMMIT THE VIOLATION. PARENTS SHALL BE PRESUMED TO BE RESPONSIBLE FOR VIOLATIONS OF THEIR MINOR CHILDREN AND PROOF THAT A VIOLATION, COMMITTED BY A CHILD, OCCURRED ON PROPERTY WITHIN THE PARENTS; CONTROL SHALL CONSTITUTE A REBUTTABLE PRESUMPTION THAT THE PARENT COMMITTED THE VIOLATION, BUT ANY SUCH PARENT MAY BE EXCUSED IF HE/SHE PROVES THAT HE/SHE HAD PREVIOUSLY DIRECTED THE CHILD NOT TO USE THE WATER AS IT WAS USED IN VIOLATION OF THIS PLAN AND THAT THE PARENT COULD NOT HAVE REASONABLY KNOWN OF THE VIOLATION.

(D) ANY EMPLOYEE OF THE CITY OF CUMBY, POLICE OFFICER, OR OTHER EMPLOYEE DESIGNATED BY THE MAYOR MAY ISSUE A CITATION TO A PERSON HE/SHE REASONABLY BELIEVES TO BE IN VIOLATION OF THIS ORDINANCE. THE CITATION SHALL BE PREPARED IN DUPLICATE AND SHALL CONTAIN THE NAME AND ADDRESS OF THE ALLEGED VIOLATOR, IF KNOWN, THE OFFENSE CHARGED, AND SHALL DIRECT HIM/HER TO APPEAR IN THE MUNICIPAL COURT ON THE DATE SHOWN ON THE CITATION FOR WHICH THE DATE SHALL NOT BE LESS THAN 3 DAYS NOR MORE THAN 5 DAYS FROM THE DATE THE CITATION WAS ISSUED. THE ALLEGED VIOLATOR SHALL BE SERVED A COPY OF THE CITATION. SERVICE OF THE CITATION SHALL BE COMPLETE UPON DELIVERY OF THE CITATION TO BE ALLEGED VIOLATOR, TO AN AGENT OR EMPLOYEE OF A VIOLATOR, OR TO A PERSON OVER 14 YEARS OF AGE WHO IS A MEMBER OF THE VIOLATOR'S IMMEDIATE FAMILY OR IS A RESIDENT OF THE VIOLATOR'S RESIDENCE. THE ALLEGED VIOLATOR SHALL APPEAR IN MUNICIPAL COURT TO ENTER A PLEA OF GUILTY OR NOT GUILTY FOR THE VIOLATION OF THIS PLAN. IF THE ALLEGED VIOLATOR FAILS TO APPEAR IN MUNICIPAL COURT, A WARRANT FOR HIS/HER ARREST MAY BE ISSUED. A SUMMONS TO APPEAR MAY BE ISSUED IN LIEU OF AN ARREST WARRANT. THESE CASES SHALL BE EXPEDITED AND GIVEN PREFERENTIAL SETTING IN MUNICIPAL COURT BEFORE ALL OTHER CASES.

IF ANY SECTION, SENTENCE, CLAUSE OR PHRASE OF THIS ORDINANCE IS FOR ANY REASON HELD TO BE ILLEGAL, ULTRA VIRES OR UNCONSTITUTIONAL, SUCH INVALIDITY SHALL NOT EFFECT THE VALIDITY OF THE REMAINING PORTIONS OF THIS ORDINANCE.

PASSED AND APPROVED THIS 8TH DAY OF AUGUST 2011.


MAYOR

ATTEST:



