

NO. O-2010-05-17

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF NIXON, TEXAS ESTABLISHING RULES AND  
REGULATIONS REGARDING DROUGHT  
CONTINGENCY CONDITIONS.**

**WHEREAS**, it has come to the attention of the City Council of the City of Nixon that it is necessary and reasonable for the City to establish regulations concerning drought conditions and use of the City's water sources under these conditions, and that the City Council has the power to enact such regulations;

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

That the attached rules regulations are hereby adopted:

**CITY OF NIXON  
DROUGHT CONTINGENCY ORDINANCE**

**I. Purpose and Policy**

It is the purpose of this Ordinance and City of Nixon (City) policy to comply with all applicable State and Federal laws. 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 Nixon hereby adopts the following Drought Contingency Ordinance (the Ordinance).

Water uses regulated or prohibited under the Ordinance 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 this plan.

**II. Public Education**

The City of Nixon 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 utility bill inserts and/or press releases in the local newspaper or on the local radio station.

**III. Authorization**

The Mayor of the City of Nixon, 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 this Plan.

#### IV. Application

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

#### V. Definitions

For the purposes of this Ordinance, 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 Nixon.

Domestic water use: water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

Even number address: street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.

Industrial water use: the use of water in processes designed to convert materials of lower value into forms having greater usability and value.

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

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

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

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

## **VI. Criteria for Initiation and Termination of Drought Response Stages**

The Mayor, or his/her designee, shall monitor water supply and/or demand conditions on a weekly basis and shall determine when conditions warrant initiation or termination of each stage of the Ordinance, that is, when the specified "triggers" are reached. Customer notification of the initiation or termination of drought response stages will be made primarily through the news media and local radio station. Emergency Water Storage Condition notifications shall be made by mail or telephone.

The triggering criteria described below are based on: water usage on daily basis; water well out of service; booster pumps or storage tanks out of service; or other required facilities that maintain water supply and pressure.

### **Stage 1 Triggers - MILD Water Shortage Conditions**

Requirements for initiation - The City of Nixon will recognize that a mild water shortage condition exists when:

1. Average daily water use reaches 1,800,000 gallons per day (50% of service pump capacity - 2,500 gpm) for three consecutive days.
2. Consideration will be given to weather conditions, time of year, and customer complaints of low water pressure.

Requirements for termination - Stage 1 of the Ordinance may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days.

### **Stage 2 Triggers - MODERATE Water Shortage Conditions**

Requirements for initiation - The City of Nixon will recognize that a moderate water shortage condition exists when:

1. Average daily water use reaches 2,160,000 gallons per day (60% of service pump capacity - 2,500 gpm) for three consecutive days.
2. Net storage in water storage is continually decreasing on a daily basis and falls below 230,000 gallons (40% capacity of 575,000 gallons) at the Downtown Water Plant and 150,000 gallons (40% capacity of 375,000) at the Lowery Street Plant for 48 hours.
3. Water pressure reaches 35 psi in the distribution system as measured by the pressure gauges in the system.

Requirements for termination - Stage 2 of the Ordinance may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of Stage 2, Stage 1 becomes operative.

### **Stage 3 Triggers - SEVERE Water Shortage Conditions**

Requirements for initiation - The City of Nixon will recognize that a severe water shortage exists when:

Average water demand use reaches 2,700,000 gallons per day (75% of service pump capacity - 2,500 gpm) for three consecutive days.

Requirements for termination - Stage 3 of the Ordinance may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of two (2) consecutive days. Upon termination of Stage 3, Stage 2 becomes operative.

### **Stage 4 Triggers - EMERGENCY Water Shortage Conditions**

Requirements for initiation - The City of Nixon will recognize that an emergency water shortage exists when:

1. The imminent or actual failure of a major component of the system which would cause an immediate health or safety hazard, i.e. water well or plant equipment.
2. Natural or man-made contamination of the water supply source(s).
3. Water demand is exceeding 3,240,000 gallons per day (90% of service pump capacity - 2,500 gpm) for two (2) consecutive days.

Requirements for termination - Stage 4 of the Ordinance may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of two (2) consecutive days.

## **VII. Drought Response Stages**

The Mayor, or his/her designee, shall monitor water supply and/or demand conditions on a weekly basis and, in accordance with the triggering criteria set forth in this Ordinance, shall determine that a mild, moderate, severe, or emergency water shortage condition exists and shall implement the following actions:

## **Notification**

Public notification of the initiation or termination of drought response stages will be made by publication in the local newspaper, by public service announcements on the local radio station, by notification on monthly billing, by mail, or by telephone. Local schools, Holmes Foods, Lazarus refinery, Griffin Industries, and area nursing homes and medical facilities will be contacted. The TCEQ shall be notified when mandatory restrictions are imposed.

### **Stage 1 Response - MILD Water Shortage Conditions**

Target: Achieve a voluntary ten percent (10%) reduction in daily water demand.

Best Management Practices for Supply Management:

City shall look for any significant water leaks.

Voluntary Water Use Restrictions for Reducing Demand:

1. The Mayor, or his/her designee(s), will provide a weekly report to news media with information regarding current water supply and/or demand conditions, projected water supply and demand conditions if drought conditions persist, and consumer information on water conservation measures and practices.

Customers should be aware of high usage and the need to use water wisely and smart.

2. Water 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 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and to irrigate landscapes only between the hours of 12:00 midnight and 10:00 a.m. and 8:00 p.m. to 12:00 midnight on designated watering days.

3. All operations of the City of Nixon shall adhere to water use restrictions prescribed for Stage 2 of the Plan.

4. Water customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes.

### **Stage 2 Response - MODERATE Water Shortage Conditions**

Target: Achieve a ten percent (10%) reduction in daily water demands.

Best Management Practices for Supply Management:

City shall look for any significant water leaks. City administrative staff shall double verify all meter readings to ensure daily water demand reductions are being achieved.

Water Use Restrictions for Reducing Demand:

1. The Mayor, or his/her designee(s), will initiate weekly contact with customers to discuss water supply and/or demand conditions and the possibility of pro rata curtailment of water diversions and/or deliveries.
2. The Mayor, or his/her designee(s), will initiate preparations for the implementation of pro rata curtailment of water diversions and/or deliveries by preparing a monthly water usage allocation baseline for each customer.
3. The Mayor, or his/her designee(s), will provide a weekly report to news media with information regarding current water supply and/or demand conditions, projected water supply and demand conditions if drought conditions persist, and consumer information on water conservation measures and practices.
4. Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and irrigation of landscaped areas is further limited to the hours of 12:00 midnight until 10:00 a.m. and between 8:00 p.m. and 12:00 midnight 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.
5. 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 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight. 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 rises. 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 cleansing, such as garbage trucks and vehicles used to transport food and perishables.

6. Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8 p.m. and 12:00 midnight.
7. 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.
8. Use of water from hydrants shall be limited to fire fighting, related activities, or other activities necessary to maintain public health, safety, and welfare. Use of water from designated fire hydrants for construction purposes may be allowed under special permit from the City of Nixon.
9. Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours 12:00 midnight and 10:00 a.m. and between 8 p.m. and 12:00 midnight. However, if the golf course utilizes a water source other than that provided by the City of Nixon, the facility shall not be subject to these regulations.
10. All restaurants are prohibited from serving water to patrons except upon request of the patron.
11. The following uses of water are defined as non-essential and are prohibited:
  - a. wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
  - b. use of water to wash down buildings or structures for purposes other than immediate fire protection;
  - c. use of water for dust control;
  - d. flushing gutters or permitting water to run or accumulate in any gutter or street; and

- e. 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**

Target: Achieve a fifteen percent (15%) reduction in daily water demands.

Best Management Practices for Supply Management:

City shall look for any significant water leaks. City administrative staff shall double verify all meter readings to ensure daily water demand reductions are being achieved. City shall provide staff from other departments to verify compliance with Moderate Water Storage Condition Restrictions.

Water Use Restrictions for Reducing Demand:

All requirements of Stage 2 shall remain in effect during Stage 3 except:

1. The Mayor is authorized to initiate allocation of water supplies according to this Ordinance.
2. The Mayor, or his/her designee(s), will request that wholesale water customers initiate additional mandatory measures to reduce non-essential water use (implement Stage 3 of the drought contingency Ordinance).
3. Irrigation of landscaped areas shall be limited to designated watering days between the hours of 6:00 a.m. and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight and shall be by means of hand-held hoses, hand-held buckets, or drip irrigation only. The use of hose-end sprinklers or permanently installed automatic sprinkler systems are prohibited at all times.
4. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial car wash and commercial service stations and not in the immediate interest of public health, safety, and welfare is prohibited. Further, such vehicle washing at commercial car washes and commercial service stations shall occur only between the hours of 6:00 a.m. and 10:00 a.m. and between 6:00 p.m. and 10 p.m.
5. The filling, refilling, or adding of water to swimming pools, wading pools, and Jacuzzi-type pools is prohibited.

6. 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.
7. No application for new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be approved, and time limits for approval of such applications are hereby suspended for such time as this drought response stage or a higher-numbered stage shall be in effect.
8. The watering of golf course tees is prohibited unless the golf course utilizes a water source other than that provided by the City of Nixon.
9. The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued.

#### **Stage 4 Response - EMERGENCY Water Shortage Conditions**

##### Best Management Practices for Supply Management:

City shall look for any significant water leaks. City administrative staff shall double verify all meter readings to ensure daily water demand reductions are being achieved. City shall provide all staff to verify compliance with Severe Water Storage Condition Restrictions.

##### Water Use Restrictions for Reducing Demand:

1. The Mayor shall:
  - a. Assess the severity of the problem and identify the actions needed and time required to solve the problem.
  - b. Inform the utility operators or other responsible officials of each water customer by telephone or in person and suggest actions, as appropriate, to alleviate problems (notification of the public to reduce water use until service is restored).
  - c. If appropriate, notify city, county, and/or state emergency response officials for assistance.

- d. Undertake necessary actions, including repairs and/or cleanup as needed.
  - e. Prepare a post-event assessment report on the incident and critique of emergency response procedures and actions.
2. All requirements of Stage 3 shall remain in effect during Stage 4 except:
- a. Irrigation of landscaped areas is absolutely prohibited.
  - b. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.
  - c. Meters will be monitored to avoid higher usages.
  - d. There will be no unnecessary use of water.

**VIII. Water Allocation**

In the event that the triggering criteria specified in Stage 3 - Severe Water Shortage Conditions have been met, the Mayor, or his/her designee, is authorized to allocate water according to the following water allocation plan:

**Single-Family Residential Customers**

The allocation to residential water customers residing in a single-family dwelling shall be as follows:

<b>Persons per Household</b>	<b>Gallons per Month</b>
1 or 2	6,000
3 or 4	7,000
5 or 6	8,000
7 or 8	9,000
9 or 10	10,000
11 or more	12,000

"Household" means the residential premises served by the customer's meter. "Persons per household" include only those persons currently physically residing at the premises and expected to reside there for the entire billing period. It shall be assumed that a particular customer's household is comprised of two (2) persons unless the customer notifies the City of Nixon of a greater number of persons per household on a form prescribed by the City. The Mayor shall give his/her best effort to see that such forms are mailed, otherwise provided, or made available to every residential customer. If, however, a customer does not receive such a form, it shall be the customer's responsibility to go to the City of Nixon offices to complete and sign the form claiming more than two (2) persons per household. New customers may claim more persons per household at the time of applying for water service on the form prescribed by the City. When the number of persons per household increases so as to place the customer in a different allocation category, the customer may notify the City of Nixon on such form and the change will be implemented in the next practicable billing period. If the number of persons in a household is reduced, the customer shall notify the City of Nixon in writing within two (2) days. In prescribing the method for claiming more than two (2) persons per household, the City shall adopt methods to insure the accuracy of the claim. Any person who knowingly, recklessly, or with criminal negligence falsely reports the number of persons in a household or fails to timely notify the City of Nixon of a reduction in the number of persons in a household shall be fined not less than \$100.00 but not more than \$500.00.

Residential water customers shall pay the following surcharges:

\$4.00 for the first 1,000 gallons over allocation. \$4.50 for the second 1,000 gallons over allocation. \$5.00 for the third 1,000 gallons over allocation. \$5.50 for each additional 1,000 gallons over allocation.

Surcharges shall be cumulative.

### **Master-Metered Multi-Family Residential Customers**

The allocation to a customer billed from a master meter which jointly measures water to multiple permanent residential dwelling units (example: apartments, mobile homes) shall be allocated 6,000 gallons per month for each dwelling unit. It shall be assumed that such a customer's meter serves two dwelling units unless the customer notifies the City of Nixon of a greater number on a form prescribed by the City. The Mayor shall give his/her best effort to see that such forms are mailed, otherwise provided, or made available to every such customer. If, however, a customer does not receive such a form, it shall be the customer's responsibility to go to the City of Nixon offices to complete and sign the form claiming more

than two (2) dwellings. A dwelling unit may be claimed under this provision whether it is occupied or not. New customers may claim more dwelling units at the time of applying for water service on the form prescribed by the City. If the number of dwelling units served by a master meter is reduced, the customer shall notify the City of Nixon in writing within two (2) days. In prescribing the method for claiming more than two (2) dwelling units, the City shall adopt methods to insure the accuracy of the claim. Any person who knowingly, recklessly, or with criminal negligence falsely reports the number of dwelling units served by a master meter or fails to timely notify the City of Nixon of a reduction in the number of dwelling units shall be fined not less than \$100.00. Customers billed from a master meter under this provision shall pay the following monthly surcharges:

\$4.00 for 1,000 gallons over allocation up through 1,000 gallons for each dwelling unit.

\$4.50, thereafter, for each additional 1,000 gallons over allocation up through a second 1,000 gallons for each dwelling unit.

\$5.00, thereafter, for each additional 1,000 gallons over allocation up through a third 1,000 gallons for each dwelling unit.

\$5.50, thereafter for each additional 1,000 gallons over allocation.

Surcharges shall be cumulative.

### **Commercial Customers**

A monthly water allocation shall be established by the Mayor, or his/her designee, for each nonresidential commercial customer other than an industrial customer who uses water for processing purposes. The non-residential customer's allocation shall be approximately 75 percent of the customer's usage for the corresponding month's billing period from the previous 12 months. If the customer's billing history is shorter than 12 months, the monthly average for the period for which there is a record shall be used for any monthly period for which no history exists. Provided, however, a customer, 75 percent of whose monthly usage is less than 10,000 gallons, shall be allocated 8,000 gallons. The Mayor shall give his/her best effort to see that notice of each non-residential customer's allocation is mailed to such customer. If, however, a customer does not receive such notice, it shall be the customer's responsibility to contact the City of Nixon to determine the allocation. Upon request of the customer or at the initiative of the Mayor, the allocation may be reduced or increased if, (1) the designated period does not accurately reflect the customer's normal water usage, (2) one non-residential customer agrees to transfer part of its allocation to another non-residential customer, or (3) other objective evidence demonstrates that the designated allocation is

inaccurate under present conditions. A customer may appeal an allocation established hereunder to the City Council. Non-residential commercial customers shall pay the following surcharges:

Customers whose allocation is 8,000 gallons through 100,000 gallons per month:

\$4.00 per thousand gallons for the first 1,000 gallons over allocation.

\$4.50 per thousand gallons for the second 1,000 gallons over allocation.

\$5.00 per thousand gallons for the third 1,000 gallons over allocation.

\$5.50 per thousand gallons for each additional 1,000 gallons over allocation.

Customers whose allocation is 100,000 gallons per month or more:

3.0 times the block rate for each 1,000 gallons in excess of the allocation up through 5 percent above allocation.

3.5 times the block rate for each 1,000 gallons from 5 percent through 10 percent above allocation.

4.0 times the block rate for each 1,000 gallons from 10 percent through 15 percent above allocation.

4.5 times the block rate for each 1,000 gallons more than 15 percent above allocation.

The surcharges shall be cumulative. As used herein, "block rate" means the charge to the customer per 1,000 gallons at the regular water rate schedule at the level of the customer's allocation.

## **IX. Enforcement**

1. No person shall knowingly or intentionally allow the use of water from the City of Nixon 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 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 Ordinance.

2. Any person who violates this Ordinance will be charged with a Class C misdemeanor and, upon conviction and finding of guilt, shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than two hundred dollars (\$500.00). Each day that one or more of the provisions of this Ordinance are violated within a 120-day period, shall constitute a separate offense. Every time an offense is committed within a 120-day period, the rate of the fine shall increase. The starting fine shall be one hundred dollars (\$100.00) for the first violation; and for each subsequent, separate offense, the fine shall be increased by one hundred dollars (\$100.00) per violation, not to exceed five hundred dollars (\$500.00). If a person is convicted of three or more distinct violations of this Ordinance within a 120-day period, the Mayor shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a re-connection charge, hereby established at \$100.00 plus any other costs incurred by the City of Nixon in discontinuing service. Compliance with this plan may also be sought through injunctive relief in the Gonzales County District Court.

3. Any person, including a person classified as a water customer of the City of Nixon, 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.

4. The City of Nixon Police Department 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 before the City of Nixon Municipal Court on the date shown on the citation for which the date shall not be less than five (5) days nor more than seven (7) days from the date the citation was issued. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over 14 years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear before the City of Nixon Municipal Court to enter a plea of guilty or not guilty for the violation of this Ordinance. If the alleged violator fails to appear before the City of Nixon 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 before the City of Nixon Municipal Court before all other cases.

## X. Variances

The Mayor, or his/her designee, may, in writing, grant a temporary variance for existing water uses otherwise prohibited under this Ordinance *IF* it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:

1. Compliance with this Ordinance cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Ordinance is in effect.
2. Alternative methods can be implemented which will achieve the same level of reduction in water use.

Persons requesting an exemption from the provisions of this Ordinance shall file a petition for variance with the City of Nixon within 5 days after the particular drought response stage has been invoked. All petitions for variances shall be reviewed by the Mayor, or his/her designee, and shall include the following:

1. Name and address of the petitioner(s).
2. Purpose of water use.
3. Specific provision(s) of the Ordinance from which the petitioner is requesting relief.
4. Detailed statement as to how the specific provision(s) of the Ordinance adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Ordinance.
5. Description of the relief requested.
6. Period of time for which the variance is sought.

7. Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this Ordinance and the compliance date.
8. Other pertinent information.

Variations granted by the City Council shall be subject to the following conditions, unless waived or modified by the City Council or its designee:

1. Variations granted shall include a timetable for compliance.
2. Variations granted shall expire when the Ordinance is no longer in effect, unless the petitioner has failed to meet specified requirements.

No variance shall be retroactive or otherwise justify any violation of this Ordinance occurring prior to the issuance of the variance.

#### **XI. Severability**


It is hereby declared to be the intention of the 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 Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionally shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would not have been enacted by the City Council without the incorporation into this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

#### **XII. Publication of Caption**

The penal provisions contained in this Ordinance shall be effective from and after the date of publication of the caption of same in the official City newspaper, in accordance with law.


PASSED AND APPROVED on this 17<sup>th</sup> day of May, 2010.

CITY OF NIXON, TEXAS

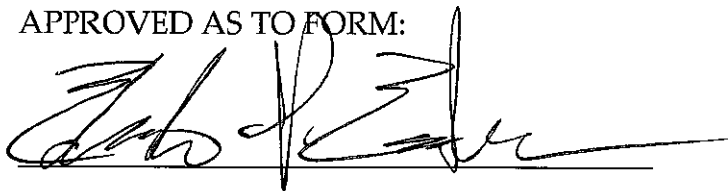
By: 

Don Chessher  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_

Eduardo "Eddie" Escobar, City Attorney