

ORDINANCE NO. 2024-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GONZALES, TEXAS, APPROVING AND READOPTING CHAPTER 13 UTILITIES ARTICLE 13.600 DROUGHT CONTINGENCY PLAN OF THE CITY OF GONZALES CODE OF ORDINANCES; ESTABLISHING ADMINISTRATIVE PENALTIES; ESTABLISHING AN EFFECTIVE DATE HEREOF.

WHEREAS, to conserve the available water supply and/or to 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 Gonzales hereby adopts the following regulations and restrictions on the delivery and consumption of water through an ordinance; and

WHEREAS, water uses regulated or prohibited under this Drought Contingency Plan (the Plan) are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute a waste of water which subjects the offender(s) to penalties; and

WHEREAS, opportunity for the public to provide input into the preparation of the Plan was provided by the City of Gonzales by means of public notice in the Gonzales Inquirer newspaper of a public hearing; and

WHEREAS, the City of Gonzales 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; and

WHEREAS, the City of Gonzales will periodically provide wholesale water customers 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; and

WHEREAS, the service area of the City of Gonzales is located within Region L and the City of Gonzales has provided a copy of the Plan to the Texas Water Development Board.

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

Section 1. The City Council of the City of Gonzales, Texas hereby approves and readopts Chapter 13 Utilities Article 13.600 Water Conservation and Drought Contingency Plans of the City of Gonzales Code of Ordinances as set forth in Exhibit A.

Section 2. That the recitals contained in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance be severable, and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared invalid by judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance and the remainder of this ordinance shall be enforced as written.

Section 4. That it is officially found, determined and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 5. This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

Section 6. The repeal or amendment of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue or as affecting any rights of the City of Gonzales under any section or provisions of any ordinances in effect at the time of passage of this ordinance.

Section 7. The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter as that covered herein.

PASSED AND APPROVED this 11th day of April, 2024.

CITY OF GONZALES



Mayor, S.H. Sucher

ATTEST:



Kristina Vega, City Secretary

The City of Gonzales, Gonzales County, Texas

Drought Contingency Plan

Prepared by:



TBPE Firm #3937

829 N. Saint Joseph Street

Gonzales, Texas 78629

April 2024

City of Gonzales

P.O. Box 547 Gonzales, TX 78629

CCN# 11210

PWS #s 0890001

May 9, 2024

Section I: Declaration of Policy, Purpose, and Intent

In order to conserve the available water supply and/or to 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 Gonzales hereby adopts the following regulations and restrictions on the delivery and consumption of water through an ordinance/or resolution.

Water uses regulated or prohibited under this Drought Contingency Plan (the 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 City of Gonzales by means of public notice in the Gonzales Inquirer Newspaper.

Section III: Public Education

The City of Gonzales 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 brief article published yearly in the City of Gonzales quarterly newsletter.

Wholesale Water Customer Education

The City of Gonzales will periodically provide wholesale water customers 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 providing a copy of the Plan to the wholesale customer and periodic mailing of information about the Plan.

Section IV: Coordination with Regional Water Planning Groups

The service area of the City of Gonzales is located within Region L and the City of Gonzales has provided a copy of the Plan to the Texas Water Development Board.

Section V: Authorization

The City Manager, 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 City Manager, 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.

Section VI: Application

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

Section VII: Definitions

For the purposes 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 use alternative uses.

Customer: any person, company, or organization using water supplied by City of Gonzales.

Domestic water use: water used 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, 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 irrigation and maintenance of landscaped areas (whether publicly or privately owned), including residential and commercial lawns, gardens, golf courses, parks, 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:

- 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 area;
- 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.

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

Section VIII: Criteria for Initiation and Termination of Drought Response Stages

The City Manager, or his/her designee, shall monitor 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 the flow rate of the Guadalupe River.

Stage 1 Triggers -- MILD Water Shortage Conditions

Requirements for initiation

Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain water uses, defined in Section VII – Definitions, when flows in the Guadalupe River are equal to or less than 200 cubic feet per second.

Requirements for termination

Stage 1 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 3 consecutive days.

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 when flows in the Guadalupe River are equal to or less than 100 cubic feet per second.

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 3 consecutive days. 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 when flows in the Guadalupe River are equal to or less than 75 cubic feet per second.

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 3 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 when flows in the Guadalupe River are equal to or less than 50 cubic feet per second.

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 3 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 City Manager, or his/her designee, determines that a water supply emergency exists based on:

1. Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; or
2. Natural or man-made contamination of the 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 3 consecutive days.

Section IX: Drought Response Stages

The City Manager, or his/her designee, shall monitor 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, or critical condition exists and shall implement the following notification procedures:

Notification

Notification of the Public:

The City Manager or his/her designee shall notify the public by means of:

- A. Publication in a newspaper of general circulation
- B. Public service announcements on the local TV and radio station.

Wholesale Customers:

The City Manager or his/her designee shall notify the public by means of:

- A. Mail or,
- B. Telephone

Additional Notification:

The City Manager or his/her designee shall notify directly, or cause to be notified directly, the following individuals and entities:

- A. Mayor/Chairman and members of the City Council/Utility Board
- B. Fire Chief

- C. City and/or County Emergency Management Coordinator(s)
- D. TCEQ
- E. Other major water users

Stage 1 Response -- MILD Water Shortage Conditions

Target: Achieve a voluntary 10 percent reduction in total water use.

Best Management Practices for Supply Management:

- A. Reduced or discontinued flushing of water mains.
- B. Use of reclaimed water for non-potable purposes.

Voluntary Water Use Restrictions for Reducing Demand:

- a) 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 landscaped only between the hours of midnight and 10:00 a.m. and 8:00 p.m. midnight on designated watering days.
- b) All operations of the City of Gonzales shall adhere to water use restrictions prescribed for Stage 2 of the plan.
- c) Water customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes

Wholesale Customers:

The City Manager or designee, will contact wholesale water customers to discuss water supply and/or demand conditions and will request that wholesale water customers initiate voluntary measure to reduce water use. (e.g. implement Stage 1 of the customer's drought contingency plan.)

Stage 2 Response -- MODERATE Water Shortage Conditions

Target: Achieve a 15 percent reduction in total water use.

Best Management Practices for Supply Management:

- A. Reduced or discontinued flushing of water mains
- B. Reduced or discontinued irrigation of public landscaped areas
- C. Use of an alternative supply source(s)
- D. Use of reclaimed water for non-potable purposes

Water Use Restrictions for Demand Reduction:

Under threat of penalty for violation, the following water use restriction shall apply to all persons:

- a) 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 hours of 12:00 midnight until 10:00 a.m. and between 8:00 p.m. 12:00 midnight on designated watering days. However, irrigation of landscaped areas is permitted at any time 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 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 as 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.
- 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 water days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight.
- 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 fire hydrants for construction purposes may be allowed under special permit from City of Gonzales.
- f) Use of water for the irrigation of golf course green, 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 City of Gonzales, 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 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).

Wholesale Customers:

1. The City Manager or designee, will contact wholesale water customers to discuss water supply and/or demand conditions and the possibility of pro rata curtailment of water diversions and/or deliveries.
2. The City Manager or designee, will request wholesale water customers to initiate mandatory measures to reduce non-essential water use (e.g. implement Stage 2 of the customer's drought contingency plan).
3. The City Manager or designee, 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 wholesale customer according to the procedures specified in Section XII of the Plan.

Stage 3 Response -- SEVERE Water Shortage Conditions

Target: Achieve a 20 percent reduction in total water use.

Best Management Practices for Supply Management:

- A. Reduced or discontinued flushing of water mains
- B. Reduced or discontinued irrigation of public landscaped areas
- C. Use of an alternative supply source(s)
- D. Use of reclaimed water for non-potable purposes

Water Use Restrictions for Demand Reduction:

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

- a) Irrigation of landscaped areas shall be limited to designated watering days between the hours of 12:00 midnight until 10:00 a.m. and between 8:00 p.m. 12:00 midnight and shall be by means of hand-held hoses, hand-held buckets, drip irrigation, or permanently installed automatic sprinkler system only. The use of hose-end sprinklers is prohibited at all times
- b) The watering of golf course tees is prohibited unless the golf course utilizes a water source other than that provided by the City of Gonzales.
- c) The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued.

Wholesale Customers:

1. The City Manager or designee, will contact wholesale water customers to discuss water supply and/or demand conditions and will request wholesale water customers to initiate mandatory measures to reduce non-essential water use (e.g. implement Stage 3 of the customer's drought contingency plan).
2. The City Manager or designee, will initiate pro rata curtailment of water diversions and/or deliveries for each wholesale customer according the procedures specified in Section XII of the Plan.

Stage 4 Response -- CRITICAL Water Shortage Conditions

Target: Achieve a 25 percent reduction in total water use.

Best Management Practices for Supply Management:

- A. Reduced or discontinued flushing of water mains
- B. Reduced or discontinued irrigation of public landscaped areas
- C. Use of an alternative supply source(s)
- D. Use of reclaimed water for non-potable purposes

Water Use Restrictions for Demand Reduction:

All requirements of Stages 2 and 3 shall remain in effect during Stage 4 except:

- a) Irrigation of landscaped areas shall be limited to designated watering days between the hours of 6:00 a.m. until 10:00 a.m. and between 8:00 p.m. 12:00 midnight and shall be by means of hand-held hoses, hand-held buckets, drip irrigation, or permanently installed automatic sprinkler system only. The use of hose-end sprinklers is prohibited at all times
- b) 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 station shall occur only between hours of 6:00 a.m. and 10:00 a.m. and between 6:00 p.m. and 10 p.m.
- c) The filling, refilling, or adding of water to swimming pools, wading pools, and Jacuzzi type pools is prohibited.
- 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) 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 application are hereby suspended for such time as this drought response stage or a higher-numbered stage shall be in effect.

Wholesale Customers:

The City Manager or designee shall contact responsible wholesale water customer official by phone and request they implement stage 4 of their drought contingency plan.

The City Manager or designee will initiate pro rata curtailment for water diversions to achieve a 20 percent reduction in all wholesale customers' drought contingency allocations.

Stage 5 Response -- EMERGENCY Water Shortage Conditions

Target: Achieve a 30 percent reduction in total water use.

Best Management Practices for Supply Management:

- A. Reduced or discontinued flushing of water mains
- B. Reduced or discontinued irrigation of public landscaped areas
- C. Use of an alternative supply source(s)
- D. Use of reclaimed water for non-potable purposes

Water Use Restrictions for Demand Reduction:

All requirements of stage 2, 3, and 4 shall remain in effect during Stage 5 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.

Wholesale Customers:

The City Manager or designee shall contact responsible wholesale water customer official by phone and request they implement stage 5 of their drought contingency plan.

Section X: Enforcement

- a) No person shall knowingly or intentionally allow the use of water from the City of Gonzales 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 City Manager, or his/her designee, in accordance with provision 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 50.00 dollars and not more than 1,000.00 dollars. 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 City Manager 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 \$50.00, and any other costs incurred by the City of Gonzales in discontinuing service. In addition suitable assurance must be given to the City Manager 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 Gonzales, 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 violation 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 Gonzales, police officer, or other City employee designated by the City Manager, 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 offence charged, and shall direct him/her to appear in Gonzales Municipal Court on the date shown on the citation. 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 in Gonzales 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 Gonzales 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 Gonzales Municipal Court before all other cases.

Section XI: Wholesale Customer Water Contracts

In the event the city of Gonzales enters into a contract with a wholesale customer it shall be a requirement that the wholesale customer develop and implement a water conservation plan. The requirement shall be made a part of the contract. Further, if the wholesale customer intends to resell the water, the contract between the initial supplier and wholesale customer must provide that the contract for resale of the water has a water conservation requirement, so that each successive customer in the resale of the water will be required to implement conservation measures accordance with TAC Chapter 288.

It shall also be a contract provision in every water wholesale contract entered into or renewed after adoption of the Plan, that in case of water shortage resulting from drought, potable water must be distributed in accordance with Texas Water Code 11.039.

Section XII: Pro Rata Water Allocations (Wholesale Customers)

In the event that the triggering criteria specified in Section XI of the Plan for Stage 3 – Severe Water Shortage conditions have been met, the City Manager is hereby authorized to initiate allocation of water supplies on a pro rata basis in accordance with Texas Water Code Section 11.039 and according to the following water allocation policies and procedures:

1. A wholesale customer’s monthly allocation shall be a percentage of the customer’s water usage baseline. The percentage will be set by resolution of the city Council based on the City Manager’s assessment of the severity of the water shortage condition and the need to curtail water diversions and/or deliveries and may be adjusted periodically by resolution of the City Council as conditions warrant. Once pro rata allocation is in effect, water diversion by or deliveries to each wholesale customer shall be limited to the allocation established for each month.

2. A monthly water usage allocation shall be established by the City Manager or designee for each wholesale customer. The wholesale customer’s water usage baseline will be computed on the average water usage by month for the previous four-year period. If the wholesale water customer’s billing history is less than four years, the monthly average for the period for which there is a record shall be used for any monthly period for which no billing history exists.

Example Calculation of Monthly Allocation for a Hypothetical Wholesale Water Customer
 All Units in this Chart represent 1000 Gallons

MONTH	2009	2010	2011	2012	2013	SUM	AVG	ALLOCATION PERCENTAGE	MONTHLY ALLOCATION
January	133	137	146	148	156	720	144	75%	108
February	115	122	133	133	147	650	130	75%	98
March	130	150	146	149	159	734	147	75%	110
April	130	167	168	157	187	809	162	75%	121
May	160	152	179	183	171	845	169	75%	127
June	226	184	172	205	249	1036	207	75%	155
July	235	274	232	314	246	1301	260	75%	195
August	222	203	206	337	309	1277	255	75%	192
September	199	160	196	229	198	982	196	75%	147
October	165	172	197	165	185	884	177	75%	133
November	139	142	149	153	162	745	149	75%	112
December	142	143	150	156	165	756	151	75%	113
TOTAL	1996	2006	2074	2329	2334	10739	2148		

3. The City Manager shall provide notice by Certified Mail to each wholesale customer informing them of their monthly water usage allocations and shall notify the news media and the Executive Director of the Texas Commission on Environmental Quality upon initiation of pro rata water allocation.
4. Upon the request of the customer or at the initiative of the City Manager, the allocation may be reduced or increased if:
 - a. The designated period does not accurately reflect the wholesale customer's normal water usage; or
 - b. The customer agrees to transfer part of its allocation to another wholesale customer; or
 - c. 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 of the City of Gonzales.

Section XIII: Variances

The City Manager, or his/her designee, may in writing, grant temporary variance for existing water uses otherwise prohibited under this Plan 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:

- a. Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.
- b. 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 Gonzales within 5 days after the Plan or particular drought response stage has been invoked. All petitions for variances shall be reviewed by the City Manager, or his/her designee, and shall include the following:

- a. Name and address of the petitioner(s)
- b. Purpose of water use.
- c. Specific provision(s) of the Plan from which the petitioner is requesting relief.
- d. Detailed statement as to how the specific provision of the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or other if petitioner complies with this Ordinance.
- e. Description of the relief requested.
- f. Period of time for which variance is sought.
- g. Alternative water use restriction or other measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.
- h. Other pertinent information

- i. Variances granted by City of Gonzales shall be subject to the following conditions, unless waived or modified by the City Manager or his/her designee:
 - a. Variances granted shall include a timetable for compliance
 - b. Variances granted shall expire when the Plan 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 Plan occurring prior to the issuance of the variance.

Wholesale Customers:

During any period when pro rata allocation of available water supplies is in effect, wholesale customers shall pay the following surcharges on excess water diversions and/or deliveries:

1. 1.5 times the normal water charge per 1,000 gallons for deliveries excess of the monthly allocation up through five percent (5%) above the monthly allocation.
2. 2.0 times the normal water charge per 1,000 gallons for deliveries in excess of the monthly allocation from five percent (5%) through ten percent (10%) above the monthly allocation.
3. 2.5 times the normal water charge per 1,000 gallons for deliveries in excess of the monthly allocation from ten percent (10%) through fifteen percent (15%) above the monthly allocation.
4. 3.0 times the normal water charge per 1,000 gallons for deliveries more than fifteen percent (15%) above the monthly allocation.
5. The above surcharges shall be cumulative.