

## ORDINANCE 2376

### AN ORDINANCE REPEALING ORDINANCE 2258 IMPLEMENTING WATER CONSERVATION STAGES 2. (B) MANDATORY WATER CONSERVATION.

**WHEREAS**, the City of San Benito ("City", Texas located in the Lower Rio Grande River Basin recognizes that the amount of water available to all entities in the Rio Grande Valley is limited; and

**WHEREAS**, the City realizes that natural limitations due to drought conditions and other acts of God cannot guarantee that a water source will be available in the future for our citizens; and,

**WHEREAS**, the City provides water services to its citizens; and

- (a) **WHEREAS** as authorized under law and in the best interest of the: Citizens of the City of San Benito, the City Commissioners deem it expedient and necessary to establish certain rules and policies for the emergency conservation of water for all the City of San Benito customers both within and outside the city limits;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SAN BENITO, TEXAS**

#### **Section 1: SCOPE**

This is hereby established as the City of San Benito Emergency Water Conservation Plan.

#### **Section 2: DECLARATION OF POLICY**

- (a) In view of the limited water resources available to The City of San Benito, it is hereby declared that the public health, safety and welfare require all water resources available to the city be put to maximum beneficial uses and that the waste, unreasonable use, or unreasonable method of use of water be prevented. The conservation of all water resources is to be pursued with a view toward the reasonable and beneficial use thereof in the interest of all people of the area served by the City's water resources.
- (b) In making decisions under this Ordinance concerning the allocation of water between conflicting interests, highest priority will be given to allocations which will result in the least loss of employment to persons whose income is essential to their families.

#### **Section 3: AUTHORIZATION**

The City Manager or his designee is hereby authorized and directed to implement the applicable provisions of this Ordinance upon the determination that such implementation is necessary to protect the public health, safety and welfare.

**Section 3: AUTHORIZATION (continued)**

Should emergency conditions arise, the City Commission's decision to implement immediate conservation measures may supersede provisions of this ordinance.

**Section 4: APPLICATION**

- (a) The provisions of this Ordinance shall apply to all persons customers and property utilizing the city's water wherever situated. The terms "person" and "customer", as used in this Ordinance include individuals, corporations, partnerships, associations and all other legal entities, including irrigation water provided by Cameron County Irrigation District#2.
- (b) In promoting the conservation of the limited water resources available to the City of San Benito, four water conservation stages are hereby created and listed in Section 5 of this Ordinance.
- (c) When the use of water is regulated during any period of water shortage, such regulations or restrictions on the use of water shall continue until water conservation measures are no longer deemed necessary by the City Manager.
- (d) The order by the City Manager to implement or terminate Stages 1 to 4 in Section 5 of this Ordinance shall be made by public announcement and published a minimum of one time in a newspaper of general circulation in the City of San Benito before the date of implementation. The order shall become effective or terminate after 12:00 midnight on the scheduled date of implementation or termination.
- (e) The highest priority of water use during Stages 3 and 4 shall be for human consumption and fire protection.

**Section 5: ADDITIONAL COSTS**

- (a) If the City incurs any additional costs related to the production of water, such as push water, the costs will be passed on to consumers in an appropriate scale recommended by the City Manager and approved by the City Commission. Surcharges will be assessed at the beginning of the first billing cycle.

**Section 6: WATER CONSERVATION STAGES**

**(A) STAGE 1 - VOLUNTARY WATER CONSERVATION**

- (1) Stage 1 shall be implemented when the level of U.S. water stored in Amistad and Falcon Reservoirs, as determined by the international Boundary and Water Commission, reaches 51% of capacity.

Also upon official request from Cameron County Irrigation District No.2, provisions of this ordinance will apply to those who have lawn water contracts with the district.

- (2) Upon reaching this stage, the City Manager shall notify, by public announcement and publication of notice, customers of the water system of the City of San Benito to voluntarily conserve and limit their use of water.

**(B) STAGE 2- MANDATORY WATER CONSERVATION**

- (1) Stage 2 shall be implemented when the levels of U.S. water stored in Amistad and Falcon Reservoirs, as determined by the International Boundary and Water Commission, reaches 25% of capacity. Also upon request from Cameron County Irrigation District No.2, provisions of this ordinance will apply to those who have lawn water contracts with the district.
- (2) Upon reaching this stage, the City Manager shall notify, by public announcement and publication of notice, customers of the water system of the City of San Benito to mandatory conserve and limit their use of water. All municipal operations shall be placed on mandatory conservation. If any provision in Stage 1 conflicts with a provision in Stage 2, the provision in Stage 2 will control.
- (3) The City Manager at his discretion may implement Stage 2 when the water plant reaches 95% capacity.
- (4) No watering should be done between the hours of 10:00 AM and 6:00 PM. Grass, trees, shrubbery, annual, biennial or perennial plants, vines, gardens, and other similar vegetation may be watered with a hand-held hose equipped with a positive shut-off nozzle or a hand-held bucket or water can no larger than five (5) gallons in capacity. A drip Irrigation system and other sprinkler systems are allowed.

**(B) STAGE 2- MANDATORY WATER CONSERVATION**  
**(continued)**

- (5) Commercial nurseries, commercial sod farms and other similar establishments may water their nursery stock by means of a handheld bucket or watering can between the hours of 8:30 AM and 6:00 PM.

Drip or sprinkle Irrigation systems are also permitted to water nursery stock during the hours of 8:30 AM to 6:00 PM. The use of water for the expansion of commercial nursery facilities is prohibited.

- (6) All water allowed to run off yards, plants, or other vegetation into gutters or streets shall be deemed a waste of water and is prohibited.

- (7) Washing of personal automobiles, trucks, trailers, boats, airplanes and other mobile equipment may be done only with a hand-held hose equipped with a positive shut-off nozzle or with a hand-held bucket or watering not to exceed five (5) gallons in capacity between the hours of 6:00 PM to 9:00 PM.
- (8) Permitting or maintaining defective plumbing in a home, business establishment or any location where water is used on the premises is prohibited. Permitting the waste of any water by reason of defective plumbing as mentioned above shall include the existence of water closets in need of repair, underground leaks, defective faucets and taps. Permitting water to flow constantly through a tap, hydrant, valve or otherwise by any user of water connected to the City system, shall be considered a waste of water and prohibited.
- (9) The use office hydrants for any purpose other than fire fighting is prohibited, except that the City Manager may permit the use of metered fire hydrant water by the City or by commercial operators using jet Roding equipment to clear and clean sanitary and storm sewers.
- (10) The use of water in ornamental fountains or in artificial waterfalls where the water is not reused or recirculated in any manner is prohibited.
- (11) The use of water to wash down any sidewalk, walkways, driveways, parking lots, tennis courts or other hard surfaced areas, or any building or structure is prohibited except to alleviate immediate health or fire hazards.
- (12) The use of water for dust control is prohibited except for health concerns.
- (13) The use of water for all privately and publicly owned swimming pools, wading pools, Jacuzzi pools, hot tubs and like or similar uses is prohibited except as necessary to maintain the structural integrity of the pool or tub. Construction permits will be issued, however, they may not be filled with water until such time this ordinance reverts to Stage 1 or to a non-conservation stage.
- (14) The use of City water to place new agricultural land into production is prohibited.
- (15) The following rates will be placed into effect during Stage 2 of the water conservation ordinance.

**RESIDENTIAL**

<b><u>GALLONS</u></b>	<b><u>RATE (SURCHARGE)</u></b>	
	<b><u>Per 1000 gallons</u></b>	
1	2000	23.03
2001	10,000	2.01
10,001	20,000	2.51
20,001	30,000	3.01
30,001	50,000	3.51
50,001	100,000	4.01
100,001	200,000	4.51
200,001	300,000	5.01
300,000	+	5.51

**COMMERCIAL**

All commercial accounts will be assessed same as B-15 per month per account during Stage 2.

**(C) STAGE 3 - WATER USE RESTRICTION**

- (1) Stage 3 shall be implemented when the levels of U.S. water stored in Amistad and Falcon Reservoirs, as determined by the International Boundary and Water Commission reaches 15%, Provisions of this ordinance will apply to those who have lawn water contracts with the district.
  
- (2) Upon reaching this stage, the City Manager shall notify, by public announcement and publication of notice, customers of the water system of the City of San Benito to further restrict and conserve and limit their use of water. All municipal operations shall be placed on mandatory conservation. If any provision in Stage 1 or 2 conflicts with a provision in Stage 3, the provision in Stage 3 will control.

Grass, trees, shrubbery, annual, biennial or perennial plants, vines, gardens, and other similar vegetation may be watered with a hand-held hose equipped with a positive shut-off nozzle or a hand-held bucket or water can no larger than five (5) gallons in capacity, a drip irrigation's system, or an automatic sprinkler system only between the hours of 6:00 PM to 10:00 AM.

- (3) Commercial nurseries, commercial sod farms and other similar establishments may water their nursery stock by means of hand-held bucket or watering can between the hours of 8:30 AM and 6:00 PM. Drip or sprinkle irrigation systems are also permitted to water nursery stock during the hours of 8:30 AM to 6:00 PM. The use of water for the expansion of commercial nursery facilities is prohibited. Watering days are Monday through Friday except Wednesdays.

- (4) All water allowed to run off yards, plants, or other vegetation into gutters or streets shall be deemed a waste of water and is prohibited.
- (5) Personal washing of automobiles, trucks, trailers, boats, airplanes and other mobile equipment may be done only with a hand-held hose equipped with a positive shut-off nozzle or with a hand-held bucket or watering can not to exceed five (5) gallons in capacity between the hours of 6:00 PM to 9:00 PM.
- (6) Permitting or maintaining defective plumbing in a home, business establishment or any location where water is used on the premises is prohibited. Permitting the waste of any water by reason of defective plumbing as mentioned above shall include the existence of water closets in need of repair, under ground leaks, defective faucets. Permitting water to flow constantly through a tap, hydrant, valve or otherwise by any user of water connected to the City system, shall be considered a waste of water and prohibited.
- (7) The use of fire hydrants for any purpose other than fire fighting is prohibited, except that the City Manager may permit the use of metered fire hydrant water by the City or by commercial operators using jet rodding equipment to clear and clean sanitary and storm sewers.
- (8) The use of water in ornamental fountains or in artificial water falls where the water is not reused or recirculated in any manner is prohibited.
- (9) The use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts or other hard surfaced areas, or any building or structure is prohibited except to alleviate immediate health or fire hazards.
- (10) The use of water for dust control is prohibited except health reasons.
- (11) The use of water for all privately and publicly owned swimming pools, wading pools, Jacuzzi pools, hot tubs and like or similar uses is prohibited except as necessary to maintain the structural integrity of the pool or tub. Construction permits will not be issued, until such time this ordinance reverts to Stage 2 or 1 or to a non-conservation stage.
- (12) The use of water to place a new agricultural land into production is prohibited.
- (13) The following rates will be placed into effect during Stage 3 of the water conservation ordinance.

**RESIDENTIAL**

**GALLONS**

**RATE (SURCHARGE)**

Per 1000 gallons

1	2000	23.03
2001	8,000	2.01
8,001	15,000	2.51 - (+50%)
15,001	30,000	3.01 - (+75%)
30,001	50,000	3.51 - (+100%)
50,001	100,000	4.01 - (+200%)
100,001	200,000	4.51 - (+300%)
200,001	300,000	5.01 - (+400%)
300,001	+	5.51 - (+500%)

**COMMERCIAL**

All commercial accounts will be assessed based on C-13 Stage 3

**(D) STAGE 4 - WATER USE EMERGENCY**

- (1) Stage 4 shall be implemented when the levels of U.S. water stored in Amistad and Falcon Reservoirs, as determined by the International Boundary and Water Commission, reaches 10% of capacity. Also upon request from Cameron County Irrigation District No.2, provisions of this ordinance will apply to those who have lawn water contracts with the district.
- (2) All nonessential water uses or uses not necessary to maintain the public health, safety and welfare are prohibited. Nonessential water uses are defined in this Ordinance to include the watering of grass, trees, plants and other vegetation (except when Stage 2 restrictions specifically remain applicable), the non commercial washing of automobiles, trucks, trailers, boats, airplanes and other mobile equipment, and the use of fountains or artificial waterfalls.
- (3) No application for new, additional expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or other water services facilities of any kind shall be allowed or approved except as approved by the City Commission.
- (4) The maximum amounts of monthly water usage for residential and nonresidential customers and the accompanying surcharges may be revised during the state of an emergency in Stage 4. These revised allocation and surcharge amounts are subject to approval by the City Commission.
- (5) The City Manager is hereby authorized to take any other actions deemed necessary to meet the conditions resulting from the emergency including, but not limited to, pressure reduction.

**Section 6: VIOLATIONS. PENALTY AND ENFORCEMENT**

- (a) No person shall knowingly or intentionally allow the use of water for residential, commercial, 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 conservation stage in effect at the time pursuant to action taken by the City Manager, or his designee, in accordance with the provisions of this Ordinance, including irrigation water provided by Cameron County irrigation District No.2.
- (b) Any person who violates this Ordinance is guilty of a misdemeanor and, upon conviction shall be punished by a fine not less than fifty dollars (\$50) and not more than two hundred dollars (\$200). Each day that anyone or more of the provisions in this Ordinance is violated shall constitute a separate offense. If a person is convicted of two or more distinct violations of the provisions of this Ordinance per day, the City Manager shall, upon due notice to the Customer, be authorized to discontinue water service to the premises where such violations occur. Compliance may also be sought through injunctive relief in the district court.
- (c) Any police officer or other city employee designated by the City Manager, may issue a citation to a person he 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 City of San Benito's Municipal Court on the date shown on the citation which date shall be not 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 the 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 at 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 Ordinance. 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.

- (d) A person, including a person classified as a water customer of the City of San Benito, 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 did not commit the violation. Parents shall be presumed to be responsible for violations of other 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 proves that he previously directed the child not to use the water as it was used in the violation, but any such parent may be excused if he proves that he had previously directed the child not to use the water as it was used in the violation and that the parent could not have reasonably known of the violation.

#### **Section 7: SEVERABILITY OF PARTS OF ORDINANCE**

It is hereby declared to be the intention of the city commission that the sections, paragraph, 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 unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Commission without the incorporation into this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

#### **Section 8: AMENDMENT**

The regulations, requirements, restrictions and provisions in the Ordinance may from time to time be amended, supplemented, changed or repealed, provided, the changes are approved by the City Commission of the City of San Benito.

#### **Section 9: OTHER ORDINANCES**

All ordinances or parts of ordinances in conflict herewith, including specifically Ordinance No. 2255, are hereby repealed.

#### **Section 10: ADDITIONAL SYSTEM INFORMATION**

##### **A. LINE SIZES**

The water treated by the City of San Benito Filtration Plant is diverted from the Rio Grande, Cameron County, Texas.

The City of San Benito has a potable water and sanitary sewer system that meets all the requirements of the State's regulatory agency, the Texas Commission Environmental Quality.

The City of San Benito's Water System has approximately seventy two miles of lines ranging in size from two inches (2) to sixteen inches (16) and the Sanitary Sewer System has approximately fifty seven and one half miles (57%) of lines ranging in size from six inches (6) to fifteen inches (15).

Changes in weather patterns are not extreme therefore water usage remains relatively stable. The average water usage for the winter is approximately ninety seven million gallons per month and approximately ninety eight million gallons per month during the summer.

The total number of customers currently being served by the City of San Benito is five thousand six hundred and forty one (7,300).

### **B. UNACCOUNTED WATER**

All of the City's water lines are in populated areas and as a result, we do not have any problems with water leaks being unreported. All leaks are generally either fixed within one hour after being reported or repairs to the lines are started within the first hour after being reported.

The system's operating pressure is seventy (70) PSI, consequently, illegal taps into the system do not occur.

### **C. MEASURE**

All City meters are read on a monthly basis and are changed if the meter readers notice a sporadic readings or if the meters are not registering properly. Additionally, our computer system rejects any reading that may be unusually high or low which alerts staff to possible problems with the meter in question.

### **D. NON PROMOTIONAL RETAIL WATER RATE STRUCTURE**

### **E. EDUCATION AND INFORMATIN PROGRAMS**

The citizens of San Benito will be informed of this plan through several communications.

1. The public will be invited and encouraged to participate in the plan during public meetings along with public hearing associated with the accompanying ordinance.
2. Brochures will be displayed at the utilities department and at city hall.
3. Information flyers will be distributed to the community.
4. Conservation tips will be printed on the monthly water statements.
5. Public service announcements, television and radio.

## **F. COORDINATION WITH REGIONAL WATER PLANNING GROUPS**

The service area of the City of San Benito is located within the Lower Rio Grande Valley Development Council and the Cameron County Irrigation District No. 2 and the City of San Benito has provided a copy of this plan to the Irrigation District and the Development Council. Additionally, a copy of the plan will also be provided to the Water Master.

### **Section 11: Triggering Criteria for Initiation and Termination of Drought Response Stages**

The City Manager 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 this plan. Public notification of the initiation or termination of drought response stages shall be by means of publication in a newspaper of general circulation. The triggering criteria described below are based on the water levels of U.S. water stored in Amistad and Falcon Reservoirs, as determined by the International Boundary and Water Commission.

#### **A. Stage 1 Mild Water Shortage Conditions**

Customers shall be requested to voluntarily conserve water and adhere to Section 5 Part A, of this Ordinance when the water stored in Amistad and Falcon Reservoirs, as determined by the International Boundary and Water Commission reaches 51% of capacity. Also upon official request from Cameron County Irrigation District No. 2, provisions of this ordinance will apply to those who have lawn water contracts with the district.

#### **B. Stage 2 Moderate Water Shortage Conditions**

Customers shall be required to comply with the requirements and restrictions on certain non essential water uses provided in Section 5 Part B of this Ordinance when the water stored in Amistad or Falcon Reservoirs whichever is less, as determined by the International Boundary and Water Commission reaches 25% of capacity. Also upon official request from Cameron County Irrigation District No. 2, provisions of this ordinance will apply to those who have lawn water contracts with the district.

#### **C. Stage 2 Moderate Water Shortage Conditions**

Requirements for termination of Stage 2, Moderate Water Shortage Conditions may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 5 consecutive days. Upon termination of Stage 2, Stage 1 becomes operative.

#### **D. Stage 3 Severe Water Shortage Conditions**

Customers shall be required to comply with the requirements and restrictions of certain non essential water uses provided in Section 5 Part C of this Ordinance when water stored in Amistad or Falcon Reservoirs whichever is less, as determined by the International Boundary and Water Commission, reaches 15% of capacity.

Also upon official request from Cameron County Irrigation District No.2, provisions of this ordinance will apply to those who have lawn water contracts with the district.

Requirements for termination of Stage 3, Sever Water Shortage Conditions may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 5 consecutive days. Upon termination of Stage 3, Stage 2 becomes operative.

#### **E. Stage Emergency Water Shortage Conditions**

Customers shall be required to comply with the requirements and restrictions of certain water uses provided in Section 5 Part D of this Ordinance when water stored in Amistad and Falcon Reservoirs, as determined by the International Boundary and Water Commission, reaches 10% of capacity.

Additionally, when the City Manager 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 sources. Requirements for termination of emergency conditions under any of these two scenarios may be lifted as soon as the triggering conditions cease to exist. Moreover, after the Emergency Condition has been lifted, Stage 3 will not be operative if any emergency was declared for any of the two preceding conditions.

Requirements for termination of all other Stage 4 triggering conditions, Emergency Water Shortage Conditions, may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 5 consecutive days. Upon termination of Stage 4, Stage 3 becomes operative.

## **F. Alternative Water Sources**

During severe Water Shortage conditions and the Emergency Water Shortage Conditions, the City Manager may utilize water purchased from the Harlingen Water Works System through the interconnection of the two water supply systems. Additionally, the City may utilize water recovered from Water Wells in an attempt to supplement surface water sources.

### **Section 12. Variances**

The City Commission may, in writing, grant temporary variance for existing water uses otherwise prohibited under this Plan if it is determined that failure to grant such a variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting and approved or denied such a 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 a variance with the City Manager within 5 days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the City Commission, 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 for 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 others if petitioner complies with this Ordinance.
- (e) Description of the relief requested.
- (f) Period of time for which the variance is sought.
- (g) Alternative water use restrictions 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.

Variances granted by the City Commission shall be subject to the following conditions, unless waived or modified.

(a) Variances granted shall include a timetable for compliance.

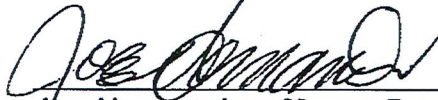
(b) Variances granted shall expire when the Plan is no longer in effect, unless the petitioner has failed to meet specified requirements.

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

First Reading March 7, 2006

Second Reading March 21, 2006

CITY OF SAN BENITO



Joe Hernandez, Mayor Pro-Tem

ATTEST:

  
Lupita Passement, City Secretary