

ORDINANCE NO. 2019 - _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS AMENDING CHAPTER 130, ARTICLE IV. OF THE CODE OF ORDINANCES OF THE CITY OF NEW BRAUNFELS, TEXAS, TO AMEND THE WATER CONSERVATION AND DROUGHT MANAGEMENT PLAN ORDINANCE, REPEALING ALL ORDINANCES IN CONFLICT, ADDING A SAVINGS CLAUSE, AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the Board of Trustees of the New Braunfels Utilities has recommended that the City Council approve amendments to Chapter 130, Article IV, Divisions 5, 6 and 7 of the Code of Ordinances of the City of New Braunfels concerning water conservation and drought management; and

WHEREAS, City Councilmembers have determined that the recommended amendments to the water conservation and drought management ordinance should be accepted and approved; and

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

I.

THAT, the following sections in Chapter 130, Article IV, Code of Ordinances, as heretofore established by ordinance, be and are hereby amended as set forth below effective for all customers on or after May 1, 2019:

A. Section 130-209 concerning authorization to enforce is amended to read in its entirety as follows:

Sec. 130-209. – Authorization to Enforce.

The CEO of NBU or his or her designee and/or the city is authorized and directed to commence any action, in law or in equity, including the filing of criminal charges deemed necessary for the purpose of enforcing this article. As a condition of service, all customers, including those whose service properties are located outside the city limits of the City of New Braunfels, are subject to Chapter 130 of New Braunfels Code of Ordinances. The CEO of NBU or the designee and/or the city may seek civil penalties or impose surcharges as may be allowed by statute and this ordinance and any other legal or equitable relief available under common law or this article, under V.T.C.A., Local Government Code Ch. 54 as it may be amended to address the subject matter of this article, or any other applicable city, state or federal code, ordinance, statute, rule or regulation.

B. Section 130-213.1 with respect to landscape watering in general is amended to read in its entirety as follows:

Sec. 130-213.1. – Landscape Watering.

From and after the effective date of this division, landscape watering is regulated as described in section 130-220.1

C. Section 130-219(a) concerning enforcement and violations is amended to read in its entirety as follows:

Sec. 130-219. – Enforcement.

(a) *Violations.* It shall be a violation of this article for any person in the corporate limits of the city or its extra territorial jurisdiction or any person in the NBU CCN that receives water service from NBU to intentionally, knowingly, recklessly or criminally negligently allow or cause water waste, allow landscape watering outside the prescribed hours for sprinkling, or allow or cause any violation of any provision of this division or of the drought management plan. As a condition of service, all customers, including those whose service properties are located outside the city limits of the City of New Braunfels, are subject to Chapter 130 of New Braunfels Code of Ordinances.

D. A new Section 130.220.1 providing for regulation of landscape watering is added to read in its entirety as follows:

Sec. 130-220.1. – Landscape Watering.

It is the policy of the city to promote the efficient use of water without waste at all times on a year round basis. From and after the effective date of this division, landscape watering for residential and commercial properties will be limited to two days per week according to the street address as follows.

Last number of address	Watering Day
Even number (0,2,4,6,8)	Monday, Thursday
Odd number (1,3,5,7,9)	Tuesday, Friday
No address, more than one address associated with a single contiguous property	Monday, Friday

It is unlawful for any person to perform or permit landscape watering on any property within the city or its extraterritorial jurisdiction or areas covered by NBU's CCN between the hours of 10:00 a.m. and 8:00 p.m. on any day, except as expressly provided herein. Landscape watering is also restricted further during the times the drought management plan is in effect as provided herein.

E. Section 130-221 establishing the basis of water use reduction measures and aquifer stage conditions is amended to read in its entirety as follows:

Sec. 130-221. – Basis of water use reduction measures and aquifer stage conditions.

The water use reduction measures may be based on the Edwards Aquifer water levels in Well AY-68-37-203 in San Antonio (also known as "Dodd Field Test Well" or "J-17") as set out in section 130-224, or on the discharge level of the Comal Springs, NBU water supply, or on aquifer water quality or other aquifer, potable water system capacity, or seasonal or weather conditions not based on water levels in J-17 (set out in section 130-226).

F. Section 130-222 is amended by deleting the title and text and indicating that it is reserved.

G. Section 130-223(a) concerning authorization of the Mayor to declare water use reductions is amended to read in its entirety as follows:

Sec. 130-223. – Declaration of Water Use Restriction Stages in effect; notice by publication required.

(a) The Mayor of the City of New Braunfels or his or her designee, in consultation with NBU, is hereby authorized to declare that water use reduction measures are in effect.

H. Section 130-224 establishing trigger levels for water use reduction is amended to read in its entirety as follows:

Sec. 130-224. – “Trigger levels” for implementation and termination of water use reduction measures, stages I, II and III.

Implementation and termination of stages I, II and III of the water use reduction measures, based upon the J-17 Edwards Aquifer water levels or the Comal Springs discharge may occur according to the following schedule:

	Description	Stage I	Stage II	Stage III
1	When the aquifer is at or below this level msl, based on a 10 day rolling average calculated and determined by the Edwards Aquifer Authority, or the discharge from the Comal Springs is at or below this cfs, whichever happens first, or as determined by section 130-221, the Mayor of the City of New Braunfels, in consultation with NBU, may officially declare the respective stage. NBU shall coordinate water use reduction with customers in its service area. The City and NBU shall enforce the water use reduction provisions set out in section 130-225, for each stage.	660 msl 225 cfs	650 msl 200 cfs	640 msl 150 cfs
2	When the aquifer subsequently rises above this level msl or the discharge from the Comal Springs rises above this cfs, whichever occurs last, NBU staff will monitor the consistency of the various levels and other conditions as set out in section 130-221 for a period of 15 calendar days, before consulting with the Mayor of the City of New Braunfels on whether to terminate the drought restrictions for that stage.	660 msl 225 cfs	650 msl 200 cfs	640 msl 150 cfs

I. Section 130-225 designating landscape irrigation times and days is amended to read in its entirety as follows:

Sec. 130-225. – Designated landscape irrigation times and days (stages I, II and III).

During any period when stages I, II, or III have been declared to be in effect, irrigation with a sprinkler or irrigation system of existing landscape on any property (other than parks and athletic fields, the restrictions for which are set out in section 130-228) may occur only on certain designated days and at certain times, as follows:

(1) For stage I, landscape watering for residential and commercial properties will be limited to one day per week according to the street address as follows:

Last number of address	Watering day
0,1	Monday
2, 3	Tuesday
4, 5	Wednesday
6, 7	Thursday
8, 9	Friday

If there is no street address associated with the property, such as a parkway, or if there is more than one street address associated with a single contiguous property, the irrigation day is Wednesday.

(2) For stage II, landscape watering for residential and commercial properties will be limited to one day per week, according to the street address as follows:

Last number of address	Watering day
0, 1	Monday
2, 3	Tuesday
4, 5	Wednesday
6, 7	Thursday
8, 9	Friday

If there is no street address associated with the property, such as a parkway, or if there is more than one street address associated with a single contiguous property, the irrigation day is Wednesday.

(3) For stage III, landscape watering for residential and commercial properties will be limited to one day per week **every other week**, beginning on the second Monday after the stage III has been declared according to the street address as follows:

Last number of address	Watering day
0, 1	Monday
2, 3	Tuesday
4, 5	Wednesday
6, 7	Thursday
8, 9	Friday

If there is no street address associated with the property, such as a parkway, or if there is more than one street address associated with a single contiguous property, the irrigation day is Wednesday.

(4) For stage I, II and III the following associated irrigation methods apply: Irrigation with a hose-end sprinkler or in-ground irrigation system is allowed on the days specified.

(5) For stage I landscape irrigation with a soaker hose (that does not send spray in the air), handheld hose, drip irrigation system or bucket is allowed on any day at any time.

(6) For stage II and III landscape irrigation with a soaker hose (that does not send spray in the air), handheld hose, drip irrigation system or bucket is allowed on any day.

Note: Vehicle washing at home is limited to designated landscape sprinkling watering days and times, but use of a commercial facility is permitted any day for all drought stages.

II.

THAT, all other ordinances or parts of ordinances in conflict herewith are repealed to the extent that they are in conflict.

III.

THAT, all provisions hereof are hereby declared to be severable and if any provision hereof is declared to be invalid or unconstitutional, such shall not invalidate or affect the remaining provisions hereof which will be and remain in full force and effect.

IV.

THAT, this ordinance shall become adopted as shown below and effective April 1, 2019.

PASSED AND APPROVED: First reading this the _____ day of March, 2019.

PASSED AND APPROVED: Second and final reading this the _____ day of March, 2019.

CITY OF NEW BRAUNFELS

BARRON CASTEEL, Mayor

ATTEST:

PATRICK ATEN, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney