

ORDINANCE #11-02-01

AN ORDINANCE OF THE CITY OF JEWETT, TEXAS, AMENDING THE ADOPTED DROUGHT CONTINGENCY PLAN OF MAY 1, 2000; ESTABLISHING CRITERIA FOR THE INITIATION AND TERMINATION OF DROUGHT RESPONSE STAGES; ESTABLISHING RESTRICTIONS ON CERTAIN WATER USES; ESTABLISHING PENALTIES FOR THE VIOLATION OF AND PROVISIONS FOR ENFORCEMENT OF THESE RESTRICTIONS; ESTABLISHING PROCEDURES FOR GRANTING VARIANCES; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE AND REPEALING ORDINANCE #00-08-01

WHEREAS, the City of Jewett, Texas, recognizes that the amount of water available to the City and its water utility customers is limited and subject to depletion during periods of extended drought;

WHEREAS, the City recognizes that natural limitations due to drought conditions and other acts of God cannot guarantee an uninterrupted water supply for all purposes;

WHEREAS, Section 12.1272 of the Texas Water Code and applicable rules of the Texas Natural Resource Conservation Commission require all public water supply systems in Texas to prepare a drought contingency plan; and

WHEREAS, an authorized under law, and in the best interests of the citizens of Jewett, Texas, the City Council deems it expedient and necessary to establish certain rules and policies for the orderly and efficient management of limited water supplies during drought and other water supply emergencies;

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

SECTION 1.

That the City of Jewett, Texas, Drought Contingency Plan, as amended by this ordinance, attached hereto and made part hereof for all purposes be, and the same is hereby, adopted as the official policy of the City.

SECTION 2.

That all ordinances that are in conflict with the provisions of this ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3.

Should any paragraph, sentence, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

SECTION 4.

Changes to the Drought Contingency Plan for the City of Jewett are due to the addition of Well #1 and changes in the daily water demand requirements.

SECTION 5.

This Ordinance replaces Ordinance #00-08-01 and is effective immediately.

DULY PASSED BY THE CITY OF JEWETT, TEXAS, on the 14<sup>th</sup> day of February 2011.

APPROVED:

  
JUDI KIRKPATRICK, Mayor

ATTEST:



  
SHARON WEILER, City Secretary

**DROUGHT CONTINGENCY PLAN  
FOR THE  
CITY OF JEWETT  
MAY 1, 2000**

**Section I: Declaration of Policy, Purpose, and Intent**

In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the City of Jewett hereby adopts the following regulations and restrictions on the delivery and consumption of water.

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 as defined in Section XI of this Plan.

**Section II: Public Involvement**

Opportunity for the public to provide input into the preparation of the Plan was provided by the City of Jewett by means of City Council Meetings.

**Section III: Public Education**

The City of Jewett 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 monthly city council meetings.

**Section IV: Coordination with Regional Water Planning Groups**

The service area of the City of Jewett is located within the Houston Regional Water Planning Group (H) and the City of Jewett has provided a copy of this Plan to the Houston Regional Water Planning Group (H).

**Section V: Authorization**

The Mayor or his 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 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 Jewett. 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 or alternative uses.

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

Domestic water use: water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning as 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:

- (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, motorcycle, boat, trailer, airplane or other vehicle;
- (c) use of water to wash down any sidewalk, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- (d) use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (e) flushing gutters or permitting water to run or accumulate in any gutter;
- (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 fire fighting.

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

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

The Mayor or his 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 known system capacity limits.

**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 one or more of the following conditions exist:

- (a) When the specific capacity of the City of Jewett Wells 1, 2 and 3 are equal to or less than 80% of the well's original specific capacity. \*

\*

\*

(b) When total daily water demand equals or exceeds .45 million gallons for three (3) consecutive days of .45 million gallons on a single day (e.g., based on the "safe" operating capacity of water supply facilities).

\*

(c) Continually falling treated water reservoir levels, which do not refill above 100% overnight (e.g. based on an evaluation of minimum treated water storage required to avoid system outage).

(d) When the distribution system cannot maintain 35 psi because of high water demand.

#### 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 three 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 one or more of the following exist:

\*

(a) When the specific capacity of the City of Jewett Wells 1, 2 and 3 are equal to \* or less than 90% of the well's original specific capacity.

\*

(b) When total daily water demand equals or exceeds .50 million gallons for three (3) consecutive days of .50 million gallons on a single day (e.g., based on the "safe" operating capacity of water supply facilities).

(c) Continually falling treated water reservoir levels, which do not refill above 90% overnight (e.g., based on an evaluation of minimum treated water storage required to avoid system outage).

(d) When the distribution system cannot maintain 35 psi because of high water demand.

##### 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 three (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 one or more of the following conditions exist:

- \* (a) When the specific capacity of the City of Jewett Wells 1, 2 and 3 are equal to or less than 100% of the well's original specific capacity. \*
- \* (b) When total daily water demand equals or exceeds .55 million gallons for three (3) consecutive days of .55 million gallons on a single day (e.g., based on the "safe" operating capacity of water supply facilities). \*
- (c) Continually falling treated water reservoir levels, which do not refill above 80% overnight (e.g. based on an evaluation of minimum treated water storage required to avoid system outage).
- (d) When the distribution system cannot maintain 35 psi because of high water demand.

#### 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 three (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 the Plan when one or more of the following conditions exist:

- \* (a) When the specific capacity of the City of Jewett Wells 1, 2 and 3 are equal to or less than 100% of the well's original specific capacity. \*
- \* (b) When the total daily water demand equals or exceeds .60 million gallons for three (3) consecutive days of .60 million gallons on a single day (e.g., based on the "safe" operating capacity of water supply facilities). \*
- (c) Continually falling treated water reservoir levels, which do not refill above 80% overnight (e.g., based on an evaluation of minimum treated water storage required to avoid system outage).

- (d) When the distribution system cannot maintain 35 psi because of high water demand.

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 three consecutive days. Upon termination of Stage 4, Stage 3 becomes operative.

**Stage 5 Triggers – EMERGENCY Water Shortage Conditions**

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions for Stage 5 of this Plan when the Mayor or his designee, determines that a water supply emergency exists based on:

- (a) Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; or
- (b) Natural or man-made contamination of the water supply sources(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 three consecutive days.

**Section IX: Drought Response Stages**

The Mayor or his 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, critical, emergency or water shortage condition exists and shall implement the following notification procedures:

**Notification**

Notification of the Public:

The Mayor or his designee shall notify the public by means of publication in a newspaper of general circulation, direct mail to each customer, public service announcements, or signs posted in public places.

Additional Notification:

The Mayor or his designee shall notify directly, or cause to be notified directly, the following individuals and entities:

- Fire Chief(s)
- County Judge & Commissioner(s)



\*  
 State Disaster District/Department of Public Safety  
 TCEQ (required when mandatory restrictions are imposed)  
 Major water users  
 \*

\*  
 Stage 1 Response – MILD Water Shortage Conditions  
 \*

Goal: Achieve a voluntary 15% reduction in daily water demand.

Supply Management Measures: The system will reduce flushing of water mains. The system will encourage conservation through notice on bills and other means.

Voluntary Water Use Restrictions:

- (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 landscapes only between the hours of midnight and 10:00 a.m. and 8:00 p.m. to midnight on designated watering days.
- (b) All operations of the City of Jewett 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.

Stage 2 Response – MODERATE Water Shortage Conditions

Goal: Achieve a 20% reduction in daily water demand.

Supply Management Measures: The system will reduce flushing of water mains. The system will encourage conservation through notices on bills or other methods.

Water Use Restrictions: Under threat of penalty for violation, the following water use restrictions shall apply to all persons:

- (a) Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems

- (b) 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.
- (c) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or jacuzzi-type pools is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8 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 fire fighting, 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 the City of Jewett.
- (f) 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).

### Stage 3 Response – SEVERE Water Shortage Conditions

Goal: Achieve a 30% reduction in daily water demand.

Supply Management Measures: The system will reduce or discontinue flushing of water mains. The system will encourage conservation by notice on bill or by other methods.

Water Use Restrictions: 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 and 10:00 a.m. and between 8 p.m. and 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 use of water for construction purposes from designated fire hydrants under special permit is to be discontinued.

### Stage 4 Response – CRITICAL Water Shortage Conditions

Goal: Achieve a 40% reduction in daily water demand.

Supply Management Measures: The system will reduce or discontinue flushing of water mains. The system will encourage conservation by notice on bills or by other methods.

Water Use Restrictions: All requirements of Stage 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. 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.

- (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 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.
- (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 applications are hereby suspended for such time as this drought response stage or a higher-numbered stage shall be in effect.

#### Stage 5 Response -- EMERGENCY Water Shortage Conditions

Goal: Achieve a 50% reduction in daily water demand.

Supply Management Measures: The system will reduce or discontinue flushing of water mains. The system will encourage conservation by notice on bill or by other methods.

Water Use Restrictions: 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.

#### Stage 6 Response -- WATER ALLOCATION

In the event that water shortage conditions threaten public health, safety, and welfare, the Mayor is hereby 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:

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

“Household” means the residential premises served by the customer’s meter. “Persons per household” includes 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 Jewett of a greater number of persons per household on a form prescribed by the Mayor. The Mayor shall give his 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 Jewett 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 Mayor. 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 Jewett 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 in writing within two (2) days. In prescribing the method for claiming more than two (2) persons per household, the Mayor 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 a reduction in the number of persons in a household shall be fined not less than \$100.00.

Residential water customers shall pay the following surcharges:

- \$3.00 for the first 1,000 gallons over allocation.
- \$3.50 for the second 1,000 gallons over allocation.
- \$4.00 for the third 1,000 gallons over allocation.
- \$5.00 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 (e.g., 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 a greater number on a form prescribed by the Mayor. The Mayor shall give his 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 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 Mayor. If the number of dwelling units served by a master meter is reduced, the customer shall notify the City in writing within two (2) days. In prescribing the method for claiming more than two (2) dwelling units, the Mayor 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 a reduction in the number of persons in a household shall be fined not less than \$250.00. Customers billed from a master meter under this provision shall pay the following month surcharges:

\$3.00 for 1,000 gallons over allocation up through 1,000 gallons for each dwelling unit.

\$3.50, thereafter, for each additional 1,000 gallons over allocation up through a second 1,000 gallons for each dwelling unit.

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

\$5.00, 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 designee, for each non-residential commercial customer other than an industrial customer who uses water for processing purposes. The non-residential customer's allocation shall be approximately 50% of the customer's usage for corresponding month's billing period for 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% of whose monthly usage is less than 3,000 gallons, shall be allocated 3,000 gallons. The Mayor shall give his 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 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 Mayor or City Council. Non-residential commercial customers shall pay the following surcharges:

Customers whose allocation is 3,000 gallons through 10,000 gallons per month:

- \$3.00 per thousand gallons for the first 1,000 gallons over allocation.
- \$3.50 per thousand gallons for the second 1,000 gallons over allocation.
- \$4.00 per thousand gallons for the third 1,000 gallons over allocation.
- \$5.00 per thousand gallons for each additional 1,000 gallons over allocation.

Customers whose allocation is 10,000 gallons per month or more:

- 1.5 times the block rate for each 1,000 gallons in excess of the allocation up through 5% above allocation.
- 2 times the block rate for each 1,000 gallons from 5% through 10% above allocation.
- 2.5 times the block rate for each 1,000 gallons from 10% through 15% above allocation.
- 3 times the block rate for each 1,000 gallons more than 15% 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.

#### Industrial Customers

A monthly water allocation shall be established by the Mayor, or his designee, for each industrial customer, which uses water for processing purposes. The industrial customer's allocation shall be approximately 50% of the customer's water usage baseline. Ninety (90) days after the initial imposition of the allocation for industrial customers, the industrial customer's allocation shall be further reduced to 30% of the customer's water usage baseline. The industrial customer's water use baseline will be computed on the average water use for the 12 month period ending prior to the date of implementation of Stage 2 of the Plan. If the industrial water 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 billing history exists. The Mayor shall give his best effort to see that notice of each industrial 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 to determine the allocation, and the allocation shall be fully effective notwithstanding the lack of receipt of written notice. Upon request of the customer or at the initiative of the Mayor, the allocation may be reduced or increased, (1)

if the designated period does not accurately reflect the customer's normal water use because the customer had shutdown a major processing unit for repair or overhaul during the period, (2) the customer has added or is in the process of adding significant additional processing capacity, (3) the customer has shutdown or significantly reduced the production of a major processing unit, (4) the customer has previously implemented significant permanent water conservation measures such that the ability to further reduce water use is limited, (5) the customer agrees to transfer part of its allocation to another industrial customer, or (6) if other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the Mayor or City Council. Industrial customers shall pay the following surcharges:

Customers whose allocation is 3,000 gallons through 10,000 gallons per month:

- \$3.00 per thousand gallons for the first 1,000 gallons over allocation.
- \$3.50 per thousand gallons for the second 1,000 gallons over allocation.
- \$4.00 per thousand gallons for the third 1,000 gallons over allocation.
- \$5.00 per thousand gallons for each additional 1,000 gallons over allocation.

Customers whose allocation is 10,000 gallons per month or more:

- 3 times the block rate for each 1,000 gallons in excess of the allocation up through 5% above allocation.
- 4 times the block rate for each 1,000 gallons from 5% through 10% above allocation.
- 5 times the block rate for each 1,000 gallons from 10% through 15% above allocation.
- 6 times the block rate for each 1,000 gallons more than 15% 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.

#### Section X: Enforcement

- (a) No person shall knowingly or intentionally allow the use of water from the City of Jewett 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 Mayor, or his 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 \$100.00 and not more than \$500.00. Each day that one or more of the provisions in this Plan is violated shall constitute a separate offense. If a person is convicted of three or more distinct violations of this Plan, the Mayor shall, upon due notice to the customer, be authorized to discontinued under such circumstances shall be restored only upon payment of a reconnection charge, hereby established at \$25.00, and any other costs incurred by the City in discontinuing service. In addition, suitable assurance must be given to the Mayor that the same action shall not be repeated while the Plan is in effect. Compliance with this plan may also be sought through injunctive relief in the district court.
- (c) Any person, including a person classified as a water customer of the City of Jewett, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parents' control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this Plan and that the parent could not have reasonably known of the violation.
- (d) Any employee of the City of Jewett, police officer, or other City employee designated by the Mayor, may issue a citation to a person he/she reasonably believes to be in violation of this Ordinance. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, the offense charged, and shall direct him/her to appear in the City of Jewett Municipal Court on the date shown on the citation for which the date shall not be less than three (3) days nor more than five (5) days from the date the citation was issued. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to 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 City of Jewett 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 City of Jewett 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 City of Jewett Municipal Court before all other cases.

## Section XI: Variances

The Mayor, or his 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 Jewett within five (5) days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the Mayor, or his 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 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 of Jewett shall be subject to the following conditions, unless waived or modified by the Mayor or his 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.

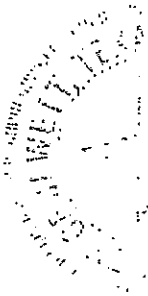
No variance shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance.

PASSED, APPROVED, AND ADOPTED this the 14<sup>th</sup> day of August, 2000, at a regular meeting of the City Council of the City of Jewett, Texas, with notice having been given of the meeting as required by law and with a quorum present and voting heron.

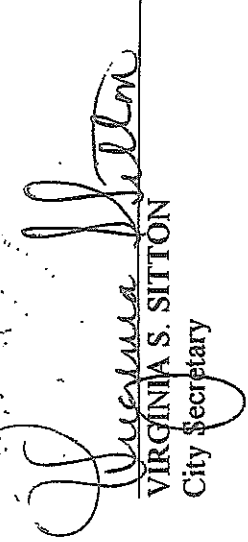
APPROVED:



JAMES L. WINN  
Mayor, City of Jewett



ATTEST:



VIRGINIA S. SITTON  
City Secretary