

ORDINANCE NO. 2023-\_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS AMENDING CHAPTER 130, ARTICLE IV, SECTION 130-228, CODE OF ORDINANCES OF THE CITY OF NEW BRAUNFELS, TEXAS RELATING TO DROUGHT MANAGEMENT PLAN**

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**WHEREAS**, the City Council of New Braunfels, Texas, owns and operates by and through New Braunfels Utilities its own water and wastewater systems in accordance with the laws of the State of Texas and the charter of said City;

**WHEREAS**, the Board of Trustees of New Braunfels Utilities recommended updates to the Drought Management Plan codified as Chapter 130, Article IV, New Braunfels Code of Ordinances in 2014 to include prohibiting the construction, installation, and filling of new pools while in stage III drought restrictions;

**WHEREAS**, NBU is committed to resilient management of NBU water resources and promoting water conservation;

**WHEREAS**, the City of New Braunfels entered stage III drought restrictions on June 21, 2022, which restrictions prohibit the construction, installation, and filling of new pools;

**WHEREAS**, NBU's water supply has greater diversification and supply than it did in 2014;

**WHEREAS**, prohibiting the construction, installation, and filling of new pools is an important water reduction measure but is only a temporary water reduction mechanism that does not encourage water conservation behavioral changes;

**WHEREAS**, prohibiting the construction, installation, and filling of new pools is more appropriately implemented as a tool in later stages of drought restrictions; and

**WHEREAS**, the New Braunfels Utilities Board of Trustees has recommended that the ordinance be amended.

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

**SECTION 1.**

**THAT**, the findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

## SECTION 2.

**THAT**, Sections 130-228 of Chapter 130, Article IV, New Braunfels Code of Ordinances, as heretofore established by ordinance, be and are hereby amended in the following section with deleted language signified by strikethrough font and new language signified by underlined font:

### Sec. 130-228. Specific water use reduction measures.

Specific water use reduction measures, their corresponding stages and scope are set out in the table, below:

Measures for	Stages	Scope of Restrictions
Essential Services	I, II, III	Fire-fighting and medical uses — no restrictions.
	I	Reduction in fire hydrant; sewer line flushing recommended.
	II, III	Hydrant flushing and sewer line flushing — only on emergency basis.
Water Purveyor Use	I, II, III	Water purveyors are encouraged to implement voluntary measures, such as improving leak detection surveys and repair programs and stabilizing and equalizing system pressure.
Power Production	I, II, III	Water used for power production shall be voluntarily reduced.
Agricultural	I	Reduction of water use by any means available is encouraged.
	II, III	The escape of irrigation tail water, as that term is commonly used in the agricultural community, is prohibited. Water loss through percolation in transmission canals is prohibited.
	III	Additional reductions may be imposed by the city council if conditions warrant.
Livestock Use	I, II, III	Reduction of water use by any means available is encouraged.
Industrial, Commercial, and Other	I, II, III	Reduction of water use by any means available is encouraged. Compliance with the mandatory demand reduction measures is required for those uses in the outdoor category, including landscape watering, swimming pools, hot tubs and similar facilities, golf courses, aesthetic uses such as fountains; such restrictions specifically include industrial users, as well as all others. Use of gray water, treated wastewater or reuse water is a defense to prosecution.

	III	Additional reductions may be imposed by the mayor if conditions warrant. Use of treated wastewater or recycled water is a defense to prosecution.
Restaurants, or other Eating Establishments	Year Round	NBU strongly encourages that water be served to guests only upon request.
Household	I, II, III	Reduction of water use by any means available is encouraged. Compliance with the mandatory demand reduction measures shall be achieved for those uses in the outdoor category, such as landscape watering, swimming pools, hot tubs, and similar facilities.
Swimming Pools, Hot Tubs, etc.	I, II, III	NBU strongly encourages that all swimming pools, other than public swimming pools, be covered with an effective evaporation cover or screen or evaporation shields covering at least 25 percent of the surface of the pool when the pool is not in active use. Active use includes necessary maintenance that requires removal of the cover, screen, or shields. Active use of public, commercial and apartment pools is whenever the pool is not officially closed.
Replenishing Pool, Hot Tubs, etc. water levels	I, II, III	Replenishing to maintenance level permitted within watering hours.
New Pools, Filling New Pools, Hot Tubs etc.	I, II, <del>III</del>	Construction, installation, and filling of new pools will be allowed.
	<del>III</del>	<del>Construction, installation, and filling of new pools will not be allowed. If a building permit has already been issued for pool construction, before the drought management stage was declared, construction, installation, and filling of new pools is allowed. Property owners, prior to construction, installation, or filling of pools should submit by mail, facsimile, or e-mail to the NBU Conservation Coordinator their name, address where the new pool is to be installed, the date of installation, and copy of the approved building permit in order to receive an approval letter from NBU.</del>
Draining Pools, Hot Tubs, etc.	I, II, III	Draining permitted only onto pervious surface, or onto pool deck where the water is transmitted directly to a previous surface, only if: 1. Draining excess water from pool due to rain in order to lower water to maintenance level; 2. Repairing, maintaining or replacing pool component that has become hazardous; or 3. Repairing pool leak 4. Refilling of public swimming pool permitted only if pool has been drained for the repairs, maintenance or replacement set out in items 2 or 3

		above. It is prohibited to drain swimming pools into the street, alley, gutter or other public right-of-way, ditch, or storm water drainage system or facility. It is considered water waste to drain a pool and allow the water to leave the property in which the pool is located.
Aesthetics (fountains, waterfalls, etc.)	I, II, III	Outside prohibited. The 100 percent use of treated wastewater, condensate, or cooling tower blow down is defense to prosecution under this paragraph. Alternate on-site reclaimed sources may be approved through variance on a case-by-case basis. If 100 percent use of gray water, treated wastewater or reuse water, condensate water, cooling tower blow will be used, signs identifying this property as using recycled or reclaimed water source must be posted on site at a location for the general public view.
Ornamental lakes and ponds, etc.	I, II, III	Re-filling of ornamental lakes or ponds is prohibited; except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a drought response level under this article. A user may file, in writing, with NBU a request for an aquatic life variance. The request must include: (1) a statement indicating compelling reasons why the users aquatic life qualifies as significant value; and (2) the amount of time the aquatic life have been present in the said lake/pond; and (3) a management plan for the aquatic life.
Foundation Watering	I, II, III	Foundations may be watered up to two hours on any day, during watering times, by handheld hose; or using a soaker hose or drip system placed within 24 inches of the foundation that does not produce a spray of water above the ground.
Other Outdoor Uses	I, II, III	Waste is prohibited. No person may allow irrigation tail water to escape from that person's land. Non-commercial washing of vehicles and mobile equipment (e.g., washing vehicle at a residence) is permitted only on assigned residential landscape sprinkling watering days and times (see section 130-225) with hand-held hose (with automatic shut-off nozzle) or bucket of five gallons or less, but is prohibited between the hours of 10:00 a.m. and 8:00 p.m. every day. Use of commercial vehicle wash facility permitted any day. Citizens are encouraged to wash their cars no more than twice a

		month. Use of gray water, treated wastewater or recycled water is a defense to prosecution.
Pressure Washing	I, II, III	Washing sidewalks, walkways, driveways, parking lots, street, tennis courts, and other impervious surfaces is prohibited except in emergencies to remove spills of hazardous materials or to eliminate dangerous conditions which threaten the public health, safety, or welfare. Washing buildings, houses or structures with a pressure washer or garden hose is prohibited for aesthetic purposes but allowable for surface preparation of maintenance work to be performed. A variance from NBU must be obtained for any pressure washing performed during drought stage.
Landscape Irrigation: Established Plants	I	Landscape watering using sprinkler or irrigation systems is permitted only on designated landscape watering days and times (see section 130-225). The use of gray water, treated wastewater or reuse water is a defense to prosecution. Voluntary irrigation system audits encouraged. A user may file, in writing, with NBU a request for an exception to the designated days and times. The request must include: (1) a statement indicating compelling reasons why the user is unable to meet the specific designated watering times and days; and (2) a water conservation plan. The water conservation plan must also include proof of irrigation efficiency of 60 percent or greater and demonstrate specific measures to be taken to reduce consumption to meet the reduction goal established for stage I. NBU may, on a case by case basis, waive the requirements for irrigation efficiency and/or submission of a water conservation plan. Upon the approval of the water conservation plan as set forth herein, the user may be granted an exception.
	II, III	Landscape watering using sprinklers or irrigation systems is permitted only on designated landscape watering days and times (see section 130-225). The use of gray water, treated wastewater or reuse water is a defense to prosecution. Voluntary irrigation system audits encouraged. A user may file, in writing, with NBU a request for an exception to the designated days and times. The request must include: (1) a statement indicating compelling reasons why the user is unable to meet the specific designated watering times and days;

		and (2) a water conservation plan. The water conservation plan must also include proof of irrigation efficiency of 60 percent or greater and demonstrate specific measures to be taken to reduce consumption to meet the reduction goal established for stage II or III. NBU may, on a case by case basis, waive the requirements for irrigation efficiency and/or submission of a water conservation plan. Upon the approval of the water conservation plan as set forth herein, the user may be granted an exception.
Landscape Irrigation: New Landscaping Plants	I	Landscape watering permitted with variance confirmation letter to maintain adequate growth until established, generally three weeks. Prior to installation, property owners should submit by mail, facsimile, or e-mail to the NBU Conservation Coordinator their name, address where the new landscape is to be installed, receipt reflecting the type of landscaping installed, and the date of installation in order to receive a confirmation letter from NBU. Thereafter, landscape watering using sprinkler or irrigation systems for landscaping plants is permitted only on designated landscape watering days and times (see subsections 130-225(a) and (d)). Watering with hand-held hose, soaker hose (but not one that sprays water in the air), bucket of five gallons or less, or drip irrigation system is permitted at any time. The use of gray water, treated wastewater or reuse water is a defense to prosecution.
	II	New landscape installation restricted: during stage II drought restrictions, variance requests must be approved prior to new landscape installation. Prior to installation, property owners should submit by mail, facsimile, or e-mail to the NBU Conservation Coordinator their name and address where the new landscape is to be installed, receipt reflecting the type of landscaping installed, and the date of installation in order to receive a confirmation letter from NBU. Thereafter, landscape watering using sprinkler or irrigation systems for landscaping plants is permitted only on designated landscape watering days and times (see subsections 130-225(a) and (d)). Watering with hand-held hose, soaker hose (but not one that sprays water in the air), bucket of five gallons or less, or drip irrigation system is permitted at any time, but only until

		<p>adequate growth is established as set out in NBU's confirmation letter. Use of gray water, treated wastewater or reused water is a defense to prosecution. Voluntary irrigation system audits encouraged.</p> <p>Once variance letter has been received, landscape watering permitted, to maintain adequate growth until established, generally three weeks.</p>
	<p>III</p>	<p>New landscape installation restricted: during stage III drought restrictions variances requests must be approved prior to new landscape installation. Installation of new landscapes is permitted only if not more than 50 percent of the available landscape area is planted with turf and if proper horticultural practices are followed, including use of mulch and zonal irrigation systems if a permanent irrigation system is installed. A user may file with NBU a request to install more than 50 percent turf. The request must include:</p> <ul style="list-style-type: none"> <li>(1) a statement or plan describing the landscaping plan; and</li> <li>(2) a statement indicating how the landscaping plan will achieve the goals of this chapter. Upon the approval of the alternate landscaping plan as set forth herein, the user may be granted an exception. Landscape renovation is allowed only if proper horticultural practices are followed, including use of mulch. Additionally, if the newly renovated landscaped area is watered with an irrigation system, then a zonal irrigation system must be installed.</li> </ul> <p>Prior to installation, property owners should submit by mail, facsimile, or e-mail to the NBU Conservation Coordinator their name, address where the new landscape is to be installed, receipt reflecting the type of landscaping installed, and the date of installation in order to receive a confirmation letter from NBU. Thereafter, landscape watering using sprinkler or irrigation systems for landscaping plants is permitted only on designated landscape watering days and times (see subsections 130-225(a) and (d)). Watering with hand-held hose, soaker hose (but not one that sprays water in the air), bucket of five gallons or less, or drip irrigation system is permitted at any time, but only until adequate growth is established as set out in NBU's confirmation letter. Use of gray water, treated</p>

		<p>wastewater or reused water is a defense to prosecution. Voluntary irrigation system audits encouraged.</p> <p>Once variance letter has been received, landscape watering permitted, to maintain adequate growth until established, generally three weeks.</p>
Parks/Athletic Fields	I, II, III	<p>Park and athletic field owner/operators shall be required to submit a water conservation plan and shall be defined as "conforming" or "non-conforming". An athletic field or park will be deemed "conforming" if there is a CCIS in place and the owner/operator is utilizing the system to achieve maximum conservation and the goals of this division. Conforming facilities should have a conservation plan approved and on file with NBU. A park or athletic field that is not conforming is deemed "non-conforming" for the purposes of this division. Owners/operators of athletic fields or parks shall reduce water usage under the following terms:</p>
	I, II, III	<p>Use of gray water, treated wastewater or recycled water is a defense to prosecution.</p>
	I	<p>A. A conforming park/athletic fields shall implement a ten percent reduction in the replacement of daily evapotranspiration rate ("ET rate") or daily soil-holding capacity, achieved by use of an existing and properly operating CCIS (as defined) capable of achieving such water conservation goals.</p>
		<p>B. A non-conforming park/athletic fields shall not use more than 1.8 times the base usage for a park/athletic field not equipped with a CCIS. If not separately metered an irrigation audit showing precipitation rates and run times along with a conservation plan shall be submitted and approved by NBU for the purpose of establishing acceptable irrigation run times and days as approved by NBU.</p>
	II	<p>A. A conforming park/athletic field shall implement a 20 percent reduction in replacement of daily ET rate or daily soil holding capacity, achieved by use of an existing and properly operating CCIS (as defined) capable of achieving such water conservation goals;</p>
		<p>B. A non-conforming park/athletic field shall not use more than 1.6 times the base usage for a park/athletic field not equipped with a CCIS. If not separately metered an irrigation audit showing precipitation rates</p>



		and run times along with a conservation plan shall be submitted and approved by NBU for the purpose of establishing acceptable irrigation run times and days as approved by NBU.
	III	A. A conforming park/athletic field shall implement a 30 percent reduction in replacement of daily ET rate or daily soil holding capacity, achieved by use of an existing and properly operating CCIS (as defined) capable of achieving such water conservation goals;
		B. A non-conforming park/athletic field shall not use more than 1.4 times the base usage for a park/athletic field not equipped with a CCIS. If not separately metered an irrigation audit showing precipitation rates and run times along with a conservation plan shall be submitted and approved by NBU for the purpose of establishing acceptable irrigation run times and days as approved by NBU.
Construction	I, II, III	Construction operations receiving water from a construction meter, fire hydrant meter or water truck shall not use water unnecessarily for any purpose other than those required by regulatory agencies. Construction projects requiring watering for new landscaping materials shall adhere to the designated irrigation requirements set forth herein.
Hotels, Motels, Bed and Breakfasts	I, II	Hotels, motels and B&B's must offer and clearly notify guests of a "no linen/towel change" program.
	III	Hotels, motels, B&B's must limit linen/towel changes to once every three nights or for the entire stay, whichever is shorter, except for health and safety.
Leaks	Year Round	Repair all water leaks within 72 hours of notification from NBU unless other arrangements are made with the conservation coordinator.
	I, II	Repair all leaks within 48 hours of notification from NBU unless other arrangements are made with the conservation coordinator.
	III	Repair all water leaks within 24 hours of notification from NBU unless other arrangements are made with the conservation coordinator.

### SECTION 3.

**THAT**, this ordinance shall be and is hereby declared to be cumulative to all other ordinances of the City of New Braunfels relating to specific water use reduction measures, and same shall not operate to repeal or affect any such ordinance or ordinances except insofar as the provisions of such ordinance or ordinances are inconsistent or in conflict with the provisions of this ordinance, in which instance or instances those provisions shall be and they are hereby repealed.

#### **SECTION 4.**

**THAT**, if any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

#### **SECTION 5.**

**THAT**, this ordinance shall be effective on \_\_\_\_\_, 2023.

**SECTION 6.**

**PASSED AND APPROVED:** First Reading this \_\_\_th day of April, 2023.

**PASSED AND APPROVED:** Second Reading this \_\_\_\_th day of April, 2023.

**CITY OF NEW BRAUNFELS**

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**RUSTY BROCKMAN, Mayor**

**ATTEST:**

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**GAYLE WILKINSON, City Secretary**

**APPROVED AS TO FORM:**

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**VALERIA M. ACEVEDO, City Attorney**