

DROUGHT CONTINGENCY PLAN

§ 53.200 SCOPE.

The requirements in §§[53.200](#) through [53.213](#) (“Subchapter”) are established as the city’s Drought Contingency Plan (the “Plan”). Copies of this Plan will be available for inspection or reproduction in the office of the City Secretary.

(Ord. 579-00-03-14, passed 3-14-00)

§ 53.201 DECLARATION OF POLICY, PURPOSE, AND INTENT.

(A) 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 Pflugerville hereby adopts the regulations and restrictions on the delivery and consumption of **potable** water set forth in this Subchapter.

(B) Water uses regulated or prohibited under 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 § 53.086 of this Plan.

(C) **The City of Pflugerville operates a reuse irrigation system that utilizes wastewater effluent to provide water for irrigation. The use of effluent irrigation water will not be affected by this plan.**

§ 53.202 PUBLIC INVOLVEMENT.

The public was able to provide input into the preparation of the Plan during a public hearing the city scheduled and for which it provided notice scheduling and providing public notice of a public meeting to accept input on the Plan.

§ 53.203 PUBLIC EDUCATION.

The city will educate the public about conservation and drought conditions by information distributed from the Water Conservation Information Center. During periods of drought conditions, Step I conditions will establish an information center and an information person, and require the utilization of the most effective methods developed for information distribution on a daily basis. Before the voluntary water conservation plan is scheduled to begin, the Plan will be communicated to the public through articles in the official city newspaper and the city’s internet website. As trigger conditions approach, the public will be notified through articles on the current conditions and water conservation methods in the official city newspaper and the city’s internet website.

§ 53.204 COORDINATION WITH REGIONAL WATER PLANNING GROUPS AND COMPLIANCE WITH THE LCRA WATER MANAGEMENT PLAN.

The service area of the City of Pflugerville is located within the Lower Colorado Regional Water Planning Area and the City of Pflugerville has provided a copy of this Plan to the regional water planning group. The City of Pflugerville will comply with firm water drought response requirements as required in the Lower Colorado River Authority Water Management Plan.

(Ord. 664-02-03-12, passed 3-12-02)

§ 53.205 AUTHORIZATION.

The City Manager is hereby authorized and directed to implement the applicable provisions of this Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The City Manager may initiate or terminate drought or other water supply emergency response measures as described in this Plan.

§ 53.206 APPLICATION.

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

§ 53.207 DEFINITIONS.

For the purposes of this Plan, the following definitions apply:

(A) **AESTHETIC WATER USE.** Water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.

(B) **COMMERCIAL AND INSTITUTIONAL WATER USE.** Water use that is integral to the operations of commercial and nonprofit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, and office buildings.

(C) **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.

(D) **CUSTOMER.** Any person, company, or organization using water supplied by the city.

(E) **DOMESTIC WATER USE.** Water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

(F) DRIP IRRIGATION SYSTEM. Small diameter pressurized lines directly buried in the soil to a nominal depth of six inches and containing pressure reducing emitters to restrict water flow to a very low rate.

(G) INDUSTRIAL WATER USE. The use of water in processes designed to convert materials of lower value into forms having greater usability and value.

(H) 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, athletic fields, parks, and rights-of-way and medians.

(I) NONESSENTIAL WATER USE. Water uses that are not essential nor required for the protection of public health, safety, and welfare, including:

(1) Landscape irrigation use, except as otherwise provided under this Plan;

(2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;

(3) Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;

(4) Use of water to wash down buildings or structures for purposes other than immediate fire protection;

(5) Flushing gutters or permitting water to run or accumulate in any gutter or street;

(6) Use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;

(7) Use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;

(8) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and

(9) Use of water from hydrants for construction purposes or any other purposes other than firefighting.

(J) HOUSEHOLD. Means the residential premises served by the customer's meter.

(K) PERSONS PER HOUSEHOLD. Includes only those persons currently physically residing at the premises and expected to reside there for the entire billing period.

(L) OUTDOOR WATER USE DAY. The day that a Customer may use water outdoors for purposes permitted by this subchapter. Addresses, box numbers or rural postal route numbers ending in the following number are assigned the following days for outdoor water use:

Wednesday and Saturday	Residential homes with a street address ending in an odd number.
Thursday and Sunday	Residential homes with a street address ending in an even number.
Tuesday and Friday	Watering days for commercial facilities including apartments, condominiums, civic, commercial, industrial and institutional properties.
Monday	No watering.

(Ord. 588-00-06-27, passed 6-27-00; Am. Ord. 603-00-10-10, passed 10-10-00; Ord. 909-07-09-25, passed 9-25-07)

§ 53.208 TRIGGERING CRITERIA FOR INITIATION AND TERMINATION OF DROUGHT RESPONSE STAGES.

The City Manager will monitor water supply and/or demand conditions on a daily basis and will advise the Mayor and the City Council when conditions warrant initiation or termination of each stage of the Plan. The City Manager may order that the appropriate stage of water conservation be implemented or terminated in accordance with the applicable provisions of this Subchapter by public notification. Public notification of the initiation or termination of drought response stages will be by means of notice mailed had delivered [sic] to the service address of each water customer. The triggering criteria described below are based on the statistical analysis of the vulnerability of the city's water source under drought of record conditions.

The triggering criteria described below are based on the statistical analysis of the vulnerability of the city's water source under drought of record conditions.

(A) Stage 1 - Mild Water Shortage Conditions

Requirements for initiation - Customers will be requested to voluntarily conserve water and adhere to the prescribed restrictions on non-essential water uses, defined in § [53.209](#)(A) of this Plan, from May 1 to September 30 of each year.

(B) Stage 2 - Moderate Water Shortage Conditions

Requirements for initiation - Customers must comply with the requirements and restrictions on certain non-essential water uses, defined in § 53.209(A) of this Plan, when the average daily water consumption reaches 80% of production/distribution capacity for a period of three consecutive days, the aquifer level drops to 350 feet below ground level as measured at the well #6 monitoring well, or the City Manager determines that Stage 2 implementation is necessary under the city's wholesale water purchase contract with the Lower Colorado River Authority.

Requirements for termination - Stage 2 of the Plan may be rescinded by the City Manager when all of the conditions listed as triggering events have ceased to exist for a period of 3 consecutive days or by the City Council if any of the conditions listed as triggering events, other than requirements imposed by the city's wholesale water contract with the Lower Colorado River Authority, have ceased to exist and the City Council finds that termination of the Drought Response Stage 2 will not adversely affect the public health, safety or welfare. Upon termination of Stage 2, Stage 1 becomes operative for at least 30 days.

(C) Stage 3 - Severe Water Shortage Conditions

Requirements for initiation - Customers must comply with the requirements and restrictions on certain non-essential water uses for Stage 3 of this Plan when the average daily water consumption reaches 90% of production/distribution capacity for a period of 3 consecutive days, the aquifer drops to 380 feet below ground level as measured at the well #6 monitoring well, or the City Manager determines that Stage 3 implementation is necessary under the city's wholesale water purchase contract with the Lower Colorado River Authority.

Requirements for termination - Stage 3 of the Plan may be rescinded by the City Manager when all of the conditions listed as triggering events have ceased to exist for a period of 3 consecutive days or by the City Council if any of the conditions listed as triggering events, other than requirements imposed by the city's wholesale water contract with the Lower Colorado River Authority, have ceased to exist and the City Council finds that termination of the Drought Response Stage 3 will not adversely affect the public health, safety or welfare. Upon termination of Stage 3, Stage 2 becomes operative.

(D) Stage 4 - Emergency Water Shortage Conditions

Requirements for initiation - Customers must comply with the requirements and restrictions for Stage 4 of this Plan when the City Manager determines that a water supply emergency exists based on:

- (1) Major water line breaks, or pump or system failures occur, and cause unexpected loss of capability to provide water service;
- (2) System demand exceeds available high service pump capacity;

(3) There is detection of accidental or intentional contamination of the water system;

(4) There is detection of water systems failure from acts of God (e.g., tornados, hurricanes, etc.) or man;

(5) A mechanical failure of pumping equipment occurs during a moderate drought and will require more than 12 hours to repair; or

(6) Implementation is necessary under the city's wholesale water contract with the Lower Colorado River Authority.

Requirements for termination – Stage 4 of the Plan may be rescinded by the City Manager when all of the conditions listed as triggering events have ceased to exist for a period of 3 consecutive days or the emergency condition no longer exists or by the City Council if any of the conditions listed as triggering events, other than requirements imposed by the city's wholesale water contract with the Lower Colorado River Authority, have ceased to exist and the City Council finds that termination of the Drought Response Stage 2 will not adversely affect the public health, safety or welfare.

(E) Water Rationing

Requirements for initiation - Customers must comply with the water allocation plan prescribed in § [53.210](#) of this Plan and comply with the requirements and restrictions for Stage 4 of this Plan when the City Manager determines that water rationing is necessary.

Requirements for termination - Water rationing may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 3 consecutive days.

(Ord. 579-00-03-14, passed 3-14-00; Am. Ord. 588-00-06-27, passed 6-27-00; Ord. 603-00-10-10, passed 10-10-00)

§ 53.209 DROUGHT RESPONSE STAGES.

The Utility Department will monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in § [53.208](#) of the Plan, will recommend to the City Manager the extent of the conservation required through the implementation or termination of particular conservation stages in order for the city to prudently plan for and supply water to its customers. The City Manager may order the appropriate stage of water conservation implemented or terminated in accordance with the applicable provisions of this Subchapter by public notification. The conservation stage will take effect immediately upon public notification:

(A) Stage 1 - Mild Water Shortage Conditions

(1) Goal. Achieve a voluntary 5% reduction in average daily water use (e.g., total water use, daily water demand, etc.).

(2) Supply Management Measures. The city must comply with the voluntary water use restrictions below from May 1 to September 30 of each year.

(3) Required Water Use Restrictions. Outdoor irrigation by a permanently installed automatic irrigation system is prohibited between the hours of 10:00 a.m. and 7:00 p.m. This prohibition does not apply to irrigation:

- (a) at a single family, duplex, triplex, or fourplex residence;
- (b) using treated wastewater effluent or raw water;
- (c) of a new landscape:
 - (i) during landscape installation; and
 - (ii) within the first seven days after installation is complete;
 - (iii) during repair or testing of a new or existing irrigation system; or
 - (iv) at a commercial plant nursery.

(4) Voluntary Water Use Restrictions.

(a) Customers whose use is not restricted by § [53.209\(A\)\(3\)](#) are requested to voluntarily comply with the restrictions in § [53.209\(B\)](#).

(b) All city operations will comply with the water use restrictions prescribed for Stage 1 of the Plan.

(c) Water Customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes.

(5) Prohibited Waste of Water. The following uses constitute a waste of water and are prohibited:

- (a) failing to repair a controllable leak, including a broken sprinkler head, a leaking valve, or a leaking faucet;
- (b) operating a permanently installed irrigation system with a broken head, with a head that is out of adjustment and spraying more than 10 percent of the spray on a street or parking lot, or that is misting;

(c) during irrigation:

(i) allowing a substantial amount of water to run off a property; or

(ii) allowing water to pond in the street or parking lot to a depth greater than 1/4 of an inch

(B) Stage 2 - Moderate Water Shortage Conditions

(1) Goal. Achieve a 10 percent reduction in average daily water use (e.g., total water use, daily water demand, etc.).

(2) Supply Management Measures. The city will reduce or discontinue flushing of water mains; reduce or discontinue irrigation of public landscaped areas; use an alternative water supply source, where possible; and use reclaimed water for non-potable purposes, where possible. The city will comply with the water use restrictions for Stage 2 when Stage 2 is implemented.

(3) Water Use Restrictions. The water use and waste restrictions in § [53.209\(A\)](#) and the following water use restrictions will apply to all Customers during Stage 2:

(a) Outdoor irrigation is permitted at anytime if it is by means of a hand-held hose, a faucet-filled bucket or watering can of five gallons or less.

(b) Outdoor irrigation is permitted by a hose end sprinkler, a soaker hose, or drip irrigation, from 12:00 midnight to 10:00 a.m. and 7:00 p.m. to 12:00 midnight on an outdoor water use day as designated by the City Manager.

(c) Outdoor irrigation is permitted by a permanently installed automatic irrigation system from 12:00 midnight to 10:00 a.m. on an outdoor water use day as designated by the City Manager.

(d) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days from 12:00 midnight to 10:00 a.m. and 7:00 p.m. to 12:00 midnight. Such washing, when allowed, must be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle. This restriction does not apply to a commercial carwash or a commercial service station or if washing is necessary to protect the health, safety, and welfare of the public. Charity car washes are prohibited.

(e) Watering the ground around a foundation to prevent foundation cracking is prohibited except on a designated outdoor water use day from 12:00 midnight to 10:00 a.m.

(f) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or jacuzzi-type pools is prohibited. This prohibition does not apply to a public swimming or wading pool if the water is taken from the city's water distribution system and it does not leak.

(g) 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.

(h) Use of water from hydrants will be limited to fire-fighting and 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 a permit for construction water from the city.

(i) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight. However, if the golf course utilizes an irrigation water source other than potable water obtained from wells in the Edwards Aquifer, the facility will not be subject to these regulations.

(j) All restaurants are prohibited from serving water to their customers except upon the customer's request.

(k) The following uses of water are non-essential and prohibited except to alleviate an immediate health or safety hazard:

(l) Wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, patios or other hard-surfaced areas;

(i) use of water to wash down buildings or structures for purposes other than immediate fire protection.

(ii) use of water for dust control;

(iii) flushing gutters or permitting water to run or accumulate in any gutter or street; and

(iv) failure to repair a controllable leak within a reasonable period after being given notice to repair such leak.

(4) Notwithstanding the prohibitions in this section, irrigation of new landscape installation is permitted if the City Manager determines that the installation cannot be postponed. In that event, irrigation may only occur during the hours permitted under § [53.209\(B\)\(3\)\(ii\)](#) and (iii) and in accordance with the following 30 day irrigation schedule:

(a) for the first ten days after installation, once a day;

(b) for day 11 through 20 after installation, once every other day; and

(c) for day 21 through 30 after installation, once every third day.

(5) The Stage 2 restrictions do not apply to the following:

(a) the necessary use of water other than for landscape irrigation, by a governmental entity in pursuit of a governmental function for the benefit of the public, including for a capital improvement construction project;

(b) the necessary use of water, other than for landscape irrigation, for land development including roadway base preparation, flushing utility lines, dust control, concrete or asphalt work and building construction;

(c) the necessary use of water for repair of a water distribution facility, residential and commercial plumbing, or a permanently installed landscape irrigation system; and

(d) the use of water under a variance granted by the Review Board in accordance with § [53.212](#).

(C) Stage 3 - Severe Water Shortage Conditions

(1) Goal. Achieve a 25 percent reduction in average daily water usage (e.g., total water use, daily water demand, etc.).

(2) Supply Management Measures. The city will reduce or discontinue flushing of water mains; reduce or discontinue irrigation of public landscaped areas; use an alternative water supply source, where possible; and use reclaimed water for non-potable purposes, where possible. The city must comply with the water use restrictions for Stage 3 when Stage 3 is implemented.

(3) Water Use Restrictions. All requirements of Stage 2 will remain in effect during Stage 3 except:

(a) Irrigation of landscaped areas is limited to the designated watering days and hours specified in § [53.209\(B\)\(3\)\(ii\)](#) and must be by means of hand-held hoses or hand-held buckets of five gallons or less only. The use of hose-end sprinklers, drip-irrigation systems, or permanently installed automatic sprinkler systems is prohibited at all times.

(b) The watering of golf course fairways is prohibited unless golf course utilizes an irrigation water source other than potable water obtained from wells in the Edwards Aquifer.

(c) The washing of automobiles, trucks, trailers, boats, airplanes, and other types of mobile equipment not occurring on the immediate premises of a commercial carwash or a commercial service station and not necessary to protect the public health, safety, and welfare are prohibited.

(d) The washing of automobiles, trucks, trailers, boats, airplanes, or other types of mobile equipment on the immediate premises of a commercial carwash or a commercial service station not necessary to protect the public health, safety, and welfare, may occur between 12:00 noon and 5:00 p.m.

(e) Commercial plant nurseries may use only hand-held hoses, hand-held watering cans, or drip irrigation.

(f) The filling, refilling, or adding of potable water to public swimming or wading pools is prohibited.

(g) No new landscapes of any type may be established.

(h) Irrigation of new landscape installation under § [53.209\(B\)\(4\)](#) is prohibited.

(i) The city may not approve any applications for the following until 14 days after the application is filed and provided that the city has not entered Stage 4 of its drought response conditions:

(i) building permits for new buildings, pools or irrigation facilities, or

(ii) new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind.

(D) Stage 4 - Emergency Water Shortage Conditions

(1) Goal. Achieve a 75 percent reduction in average daily water use (e.g., total water use, daily water demand, etc.).

(2) Supply Management Measures. The city must reduce or discontinue flushing of water mains; reduce or discontinue irrigation of public landscaped areas; use an alternative water supply source, where possible; and use reclaimed water for non-potable purposes, where possible. The city must comply with the water use restrictions for Stage 4 when the restrictions are implemented.

(3) Water Use Restrictions. All requirements of Stage 2 and 3 will remain in effect during Stage 4 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.
- (c) No applications for the following will be allowed or approved:
 - (i) building permits for new buildings, pools or irrigation facilities, or
 - (ii) new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind.

(Ord. 579-00-03-14, passed 3-14-00; Am. Ord. 588-00-06-27, passed 6-27-00; Am. Ord. 603-00-10-10; passed 10-10-00)

§ 53.210 WATER RATIONING.

If water shortage conditions threaten public health, safety, and welfare, the City Manager may ration water according to the following water allocation plan:

(A) Single-Family Residential Customers

The allocation to residential water customers residing in a single-family dwelling will be as follows:

Persons per Household	Gallons per Month
1 or 2	6,000
3 or 4	7,000
5 or 6	8,000
7 or 8	9,000
9 or 10	10,000
11 or more	12,000

It will be assumed that a particular customer's household is comprised of two persons unless the customer notifies the City of Pflugerville of a greater number of persons per household on a form prescribed by the City Manager. The City Manager will use best

efforts to see that the forms are mailed, otherwise provided, or made available to every residential customer. If, however, a customer does not receive such a form, it will be the customer's responsibility to go to the City of Pflugerville offices to complete and sign the form claiming more than two 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 City Manager. 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 Manager 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 must notify the City Manager in writing within two days. In prescribing the method for claiming more than two persons per household, the City Manager will 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 Manager of a reduction in the number of person in a household may be fined not less than \$50.00. Residential water customers will pay the following surcharges:

\$25.00 for the first 1,000 gallons over allocation.

\$50.00 for the second 1,000 gallons over allocation.

\$75.00 for the third 1,000 gallons over allocation.

\$100.00 for each additional 1,000 gallons over allocation.

Surcharges will be cumulative.

(B) Master-Metered Multi-Family Residential Customers

A customer billed from a master meter that jointly measures water to multiple permanent residential dwelling units (e.g., apartments, mobile homes) will be allocated 6,000 gallons per month for each dwelling unit. It will 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 City Manager. The City Manager will use best efforts to see that the forms are mailed, otherwise provided, or made available to every customer. If, however, a customer does not receive a form, it will be the customer's responsibility to go to the city offices to complete and sign the form claiming more than two dwelling units. 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 City Manager. If the number of dwelling units served by a master meter is reduced, the customer must notify the City Manager in writing within two days. In prescribing the method for claiming more than two dwelling units, the City Manager will 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 Manager of a reduction in the number of persons in a household may be fined not less than \$500.00. Customers

billed from a master meter under this provision must pay the following monthly surcharges:

\$25.00 for 1,000 gallons over allocation up through 1,000 gallons for each dwelling unit.

\$50.00, thereafter, for each additional 1,000 gallons over allocation up through a second 1,000 gallons for each dwelling unit.

\$75.00, thereafter, for each additional 1,000 gallons over allocation up through a third 1,000 gallons for each dwelling unit.

\$100.00, thereafter for each additional 1,000 gallons over allocation.

Surcharges will be cumulative.

(C) Commercial Customers

A monthly water usage allocation will be established by the City Manager, or a designee, for each nonresidential commercial customer other than an industrial customer who uses water for processing purposes. The non-residential customer's allocation will be approximately 75% 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 will be used for any monthly period for which no history exists. Provided, however, a customer, 75% of whose monthly usage is less than 6,000 gallons, will be allocated 6,000 gallons. The City Manager will use best efforts to see that notice of each non-residential customer's allocation is mailed to each customer. If, however, a customer does not receive the notice, it will be the customer's responsibility to contact the City of Pflugerville to determine the allocation. Upon request of the customer or at the initiative of the City Manager, the allocation may be reduced or increased if: (1) the designated period does not accurately reflect the customer's normal water usage; (2) one nonresidential customer agrees to transfer part of its allocation to another nonresidential customer in a binding agreement satisfactory to the city; 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 City Council. Nonresidential commercial customers must pay the following surcharges:

Customers whose allocation is 0 gallons through 10,000 gallons per month:

\$25.00 per thousand gallons for the first 1,000 gallons over allocation.

\$50.00 per thousand gallons for the second 1,000 gallons over allocation.

\$75.00 per thousand gallons for the third 1,000 gallons over allocation.

\$100.00 per thousand gallons for each additional 1,000 gallons over allocation.

Customers whose allocation is 10,001 gallons per month or more:

\$50.00 per 1,000 gallons in excess of the allocation up through 5 percent above allocation.

\$100.00 per 1,000 gallons from 5 percent through 10 percent above allocation.

\$150.00 per 1,000 gallons from 10 percent through 15 percent above allocation.

\$200.00 per 1,000 gallons more than 15 percent above allocation.

The surcharges will be cumulative.

(D) Industrial Customers

A monthly water usage allocation will be established by the City Manager, or a designee, for each industrial customer, that uses water for processing purposes. The industrial customer's allocation will be approximately 90% of the customer's water usage baseline as defined below. Ninety days after the initial imposition of the allocation for industrial customers, the industrial customer's allocation will be further reduced to 80% of the customer's water usage baseline. The industrial customer's water usage baseline will be computed on the average water usage for the 12 month period ending before 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 will be used for any monthly period for which no billing history exists. The City Manager will use best efforts to see that notice of each industrial customers allocation is mailed to each customer. If, however, a customer does not receive the notice, it will be the customer's responsibility to contact the city to determine the allocation, and the allocation will be fully effective notwithstanding the lack of receipt of written notice. Upon request of the customer or at the initiative of the City Manager, the allocation may be reduced or increased if: (1) the designated period does not accurately reflect the customer's normal water usage 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 usage is limited; (5) the customer agrees to transfer part of its allocation to another industrial customer in a binding document satisfactory to the city; 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 City Council. Industrial customers must pay the following surcharges:

Customers whose allocation is 0 gallons through 20,000 gallons per month:

\$25.00 per thousand gallons for the first 1,000 gallons over allocation.

\$50.00 per thousand gallons for the second 1,000 gallons over allocation.

\$75.00 per thousand gallons for the third 1,000 gallons over allocation.

\$100.00 per thousand gallons for each additional 1,000 gallons over allocation.

Customers whose allocation is 20,001 gallons per month or more:

\$50.00 per 1,000 gallons in excess of the allocation up through 5 percent above allocation.

\$100.00 per ,1000 gallons from 5 percent through 10 percent above allocation.

\$150.00 per 1,000 gallons from 10 percent through 15 percent above allocation.

\$200.00 per 1,000 gallons more than 15 percent above allocation.

The surcharges will be cumulative.

§ 53.211 ENFORCEMENT.

(A) No person may knowingly or intentionally allow the use of water from the city 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 the City Manager, or a designee, in accordance with provisions of this Plan.

(B) Proof of a culpable mental state is not required for a conviction of an offense under this Subchapter. Any person, including a person classified as a water customer of the city, in apparent control of the property where a violation occurs or originates, is presumed to be the violator, and proof that the violation occurred on the person's property constitutes a rebuttable presumption that the person in apparent control of the property committed the violation, but any person may show that he/she did not commit the violation. Parents are 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 is a rebuttable presumption that the parent committed the violation, but any such parent may be excused if the parent 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.

(C) Any person who violates this Plan is guilty of a class C misdemeanor punishable by a fine not to exceed \$2,000.00 per day. Prosecution of an offense under Subsection (A) of this section does not preclude other remedies. The enforcement of

other remedies does not prevent prosecution for a violation of this Subchapter under Subsection (A) of this section.

(D) Each day that one or more of the provisions in this Plan is violated is a separate offense. If a person is convicted of three or more distinct violations of this Plan, the city may, upon due notice to the customer, discontinue or restrict water service to the premises where such violations occur.

(E) A city police officer or any employee of the city designated by the City Manager may issue a citation to a person reasonably believed to be in violation of this ordinance. The citation will be prepared in duplicate and will contain the name and address of the alleged violator, if known, the offense charged, and will direct the person to appear in the municipal court on the date shown on the citation. The date will not be less than 3 days from the date the citation was issued. The alleged violator will be served a copy of the citation. Service of the citation will 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 must appear in 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 municipal court, a warrant for the person's arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant. These cases must be expedited and given preferential setting in municipal court before all other cases.

§ 53.212 VARIANCES.

(A) A Review Board consisting of the City Manager, the Public Works Director, the Water Superintendent, the City Engineer, and the Mayor will be established on February 1 of each year in which the City Manager anticipates that Stage 2 restrictions may be enacted. The Review Board will review hardship and special cases that cannot strictly comply with this Subchapter to determine whether the cases warrant a variance, permit, or compliance agreement (collectively, "Variance").

(B) The Review Board will make its determination no later than the 15th working day after receipt of a properly completed "Application for Variance/Permit/Compliance Agreement" form. A variance may be granted only for reasons of economic hardship or health conditions substantiated by a licensed physician. In this section, "economic hardship" means a threat to a person's or entity's primary source of income. Inconvenience or the potential for damage to landscaping does not constitute an economic hardship under this section. All applications for a variance must be reviewed by the Review Board and must include the following:

- (1) Name and address of the petitioner(s);
- (2) Purpose of water use;

(3) Specific provision(s) of the Plan from which the petitioner is requesting relief;

(4) 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;

(5) Description of the relief requested;

(6) Period of time for which the variance is sought;

(7) 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; and

(8) Other pertinent information.

(C) Until the Review Board has acted on an application, the applicant must comply with all provisions of this Subchapter. The Review Board may not approve a variance if the terms and conditions do not meet or exceed the purpose and intent of this Subchapter.

(D) If the Review Board determines there is an economic hardship, it may authorize the implementation of alternative water use restrictions that further the purposes of the Plan. The alternative water use restrictions must be set forth on the face of the variance and the customer must keep a copy of the variance in a location that is accessible by and visible to the public.

(E) The Review Board may, in writing, grant temporary variance for existing water uses otherwise prohibited under this Plan if it determines 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 either of the following conditions are met:

(1) 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; or

(2) Alternative methods can be implemented that will achieve the same level of reduction in water use.

(F) A fee of \$200.00 will be collected for each application for a variance under this section to defray administrative costs.

(G) Variances granted by the City of Pflugerville are subject to the following conditions, unless waived or modified by the Review Board:

(1) Variances must include a timetable for compliance; and

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

(H) A variance may not be retroactive or otherwise justify any violation of this Plan occurring before the variance is issued.

§ 53.213 WHOLESALE CUSTOMERS IMPLEMENTATION OF PLAN.

Each wholesale customer of the city must develop and implement a water conservation plan or water conservation measures using the applicable elements in this Plan. If the wholesale customer intends to resell the water, then the contract between the city and the wholesale customer must provide that the contract for the resale of the water must have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures in accordance with applicable provision of this Plan.

(Ord. 677-02-09-10, passed 9-10-02)

§ 53.214 PRO RATA WATER ALLOCATION (WHOLESALE CUSTOMERS).

(A) In the event that the triggering criteria specified in § [53.208](#) of this chapter have been met, the City Manager is hereby authorized initiate allocation of water supplies on a pro rata basis in accordance with Texas Water Code § 11.039 and according to the following water allocation policies and procedures:

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

(2) A monthly water usage allocation shall be established by the City Manager, or his/her designee, for each wholesale customer. The wholesale customer's water usage baseline will be computed on the average water usage by month for the 36 month period immediately prior to the implementation of the computation. If the wholesale water customer's billing history is less than 36 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.

(3) The City Manager shall provide notice, by certified mail, to each wholesale customer informing them of their monthly water usage allocations and shall

notify the news media and the executive director of the Texas Commission on Environmental Quality upon initiation of pro rata water allocation.

(4) Upon request of the customer or at the initiative of the City Manager, the allocation may be reduced or increased if, (1) the designated period does not accurately reflect the wholesale customer's normal water usage; (2) the customer agrees to transfer part of its allocation to another wholesale 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 City Council of the city.

(B) The requirements of this section must be included in any contract that is entered into, renewed or amended after the effective date of this section.

(Ord. 681-02-10-22, passed 10-22-02)

§ 53.215 SEVERABILITY.

If any provision of this Plan is illegal, invalid, or unenforceable under present or future laws, the remainder of this Plan will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Plan.

(Ord. 558-99-09-14, passed 09-14-99; Am. Ord. 677-02-09-10, passed 9-10-02; Am. Ord. 681-02-10-22, passed 10-22-02)

§ 53.999 PENALTY.

(A) Any person, firm, or corporation who violates any provision of §§ [53.001](#) or [53.104](#) shall be guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed \$2,000. Each day of such violation shall constitute a separate offense. Such penalty shall be cumulative and not exclusive of any other rights or remedies the city may have.

(Ord. 54-7-15-74, passed 7-15-74; Am. Ord. 206-85-7-30, passed 7-30-85; Am. Ord. 219-85-12-3, passed 12-3-85; Am. Ord. 260-87-08-11, passed 8-11-87; Am. Ord. 325-90-09-11, passed 9-11-90)

(B) Any person who violates any of the provisions of §§ [53.015](#) through [53.026](#) is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not exceeding \$2,000 for each offense. Each day of violation constitutes a separate offense. It shall be a valid affirmative defense to any prosecution hereunder if either of the following matters are shown to exist:

(1) That the facts constituting a violation are not known to the defendant and could not have been known by him by the exercise of reasonable diligence, or

(2) That despite good faith, reasonable and diligent effort on the part of the defendant to avoid and not commit or suffer the acts, conduct or conditions charged as constituting the violation, it was not reasonably possible for one in the defendant's position to in any way avoid committing or suffering the violation, and such impossibility did not arise from any wrongful or negligent conduct or inaction on the defendant's part. Provided further, that the mere inconvenience, effort or expense to defendant to avoid a violation will not constitute a defense.

(Ord. 68-75-5-19, passed 5-19-75; Am. Ord. 172-83-11-7, passed 11-7-83; Am. Ord. 260-87-08-11, passed 8-11-87)

(C) A person who continues prohibited discharges in violation of §§ [53.040](#) through [53.061](#) is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$500 for each act of violation and for each day of violation. In addition to proceeding under authority of this division (B), the city is entitled to pursue all other criminal and civil remedies to which it is entitled under authority of statutes or other ordinances against a person continuing prohibited discharges.

(Ord. 113-2-1-21-80, passed 1-21-80; Am. Ord. 260-87-08-11, passed 8-11-87; Am. Ord. 772-05-01-25, passed 1-25-05)