

## **Water Conservation**

### **Article 1: General provisions**

#### **§ 53.200 SCOPE.**

The requirements of this subchapter are to establish the city's Water Conservation ordinances and drought contingency plan (the "plan"). Copies of the ordinances and Drought Contingency Plan will be available for inspection or reproduction in the office of the city secretary and on the city's website [www.pflugervilletx.gov](http://www.pflugervilletx.gov).

#### **§ 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 residential 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 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 this plan are considered to be nonessential and continuation of such uses are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in §53.219 of this plan.

(C) The city 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 this plan during the public hearing that was held prior to city council consideration of the ordinance adopting this plan.

#### **§ 53.203 PUBLIC EDUCATION.**

The city will educate the public about water conservation methods and drought conditions on the city's website.. As trigger conditions for drought restrictions approach, the public will notified by means of public service announcements or press releases to the local media, postings on the city's website and social media, and via utility billing inserts. **§ 53.204 COORDINATION WITH REGIONAL WATER PLANNING GROUPS AND COMPLIANCE WITH THE LCRA WATER MANAGEMENT PLAN.**

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

#### **§ 53.205 AUTHORIZATION.**

The city manager or 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 city manager may initiate or terminate drought or other water supply emergency response measures as described in this plan. (See section § 53.211 water conservation guidelines)

#### **§ 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 this plan includes individuals, corporations, partnerships, associations, and all other legal entities.

#### **§ 53.207 DEFINITIONS.**

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

- 1) AUTOMATIC IRRIGATION SYSTEM means an assembly of component parts used for the controlled delivery of water for landscape irrigation, dust reduction, or erosion control. Above ground water emitter are connected to, and are operated by, a programmable controller.
- 2) AUXILIARY WATER means a water supply from a source other than City of Pflugerville's Water Utilities potable water supply.

- 3) **NON-RESIDENTIAL WATER USE.** Water use that is integral to the operations of commercial and nonprofit establishments and governmental entities, including but not limited to establishments, hotels and motels, restaurants, and office buildings.
- 4) **NON-RESIDENTIAL FACILITY** means a municipal, business, or industrial building and the associated landscaping..
- 5) **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.
- 6) **CUSTOMER.** Any person, company, or organization using water supplied by the city.
- 7) **DESIGNATED OUTDOOR WATER USE DAY** means the day during which a person is permitted to irrigate outdoors as prescribed in section § 53.213 WATER CONSERVATION GUIDELINES.
- 8) **DIRECTOR** means the Director of City of Pflugerville Water Utilities.
- 9) **RESIDENTIAL WATER USE.** Water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning.
- 10) **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.
- 11) **DROUGHT CONTINGENCY PLAN** means a strategy or combination of strategies for temporary supply management and demand management responses to temporary and potentially recurring water supply shortages and other water supply emergencies required by Texas Administrative Code Title 30, Chapter 288, Subchapter B.
- 12) **DROUGHT OF RECORD** is a drought condition identified by LCRA in their Water Management Plan and is the worst hydrological drought for which records are available.
- 13) **DROUGHT WORSE THAN THE DROUGHT OF RECORD** is a drought condition identified by the LCRA Board of Directors where an ongoing drought has a real likelihood of becoming a new Drought of Record. Declaration of this condition would trigger mandatory pro rata curtailment.
- 14) **FOUNDATION WATERING** means an application of water to the soils directly abutting the foundation of a building, structure, or improvement on land
- 15) **HIGHLAND LAKES.** The primary drinking water supply for the City of Pflugerville that originates from Lakes Buchanan and Travis that are regulated by the Lower Colorado River Authority.
- 16) **INDUSTRIAL WATER USE.** The use of water in processes designed to convert materials of lower value into forms having greater usability and value.
- 17) **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.
- 18) **MANUAL IRRIGATION SYSTEM** means an irrigation system designed to require the manual operation of valves or the attachment of a quick-coupling device.
- 19) **MULTI-FAMILY PROPERTY** means property containing five or more dwelling units.
- 20) **NEW LANDSCAPE** means vegetation:
  - (a) installed at the time of the construction of a residential or commercial facility;
  - (b) installed as part of a governmental entity's capital improvement project;
  - (c) installed to stabilize an area disturbed by construction; or
  - (d) that alters more than 500 contiguous square feet of an existing landscape.
- 21) **ORNAMENTAL FOUNTAIN** means an artificially created structure from which a jet, stream, or flow of water emanates, and the water is not used for the preservation of aquatic life
- 22) **ORNAMENTAL LANDSCAPING** is irrigated turf grass and other landscaping that is not regularly used for active and programmed recreational purposes such as sports fields, golf course areas used directly for sport (greens, tees, fairways, and practice areas), areas used for food production, maintaining cemeteries, maintaining the integrity of foundations, and preserving trees.
- 23) **PERSON** means any natural person or legal entity such as an individual, business, partnership, association, firm, corporation, governmental, or other natural, business, or legal entity that receives, requests, manages, uses, maintains, or is responsible for water utility service at a service address, whether or not the person or entity is a customer or account holder of the City of Pflugerville Water Utilities.

- 24) PERSONS PER HOUSEHOLD includes only those persons currently physically residing at the premises and expected to reside there for the entire billing period.
- 25) POTABLE WATER means water that meets the standards for drinking, culinary, and domestic purposes established by the Texas Commission of Environmental Control.
- 26) PREMISE means the outdoor area of property not enclosed by fencing or walls or containing living areas, and not including areas for storing vehicles or other motorized equipment.
- 27) RESIDENTIAL FACILITY means a site with four or fewer dwelling units.
- 28) RECLAIMED WATER means reclaimed municipal wastewater that is under the direct control of the City of Pflugerville's wastewater treatment facilities.
- 29) SINGLE-FAMILY RESIDENTIAL CUSTOMER means any residential dwelling that is designed for, and inhabited by, a single person or family unit.
- 30) TEMPORARILY INSTALLED IRRIGATION SYSTEM means a universally applicable above ground irrigation system that uses a flexible hose or hardened pipe to deliver water to a moveable water distribution device.

### **§ 53.208 Compliance Required**

A person may not use or permit the use of water in a manner that conflicts with the requirements of this chapter or in an amount greater than permitted by this chapter.

### **§ 53.209 FEES AND CHARGES.**

(A) Fees and charges assessed pursuant to this chapter shall be set by City Council under a separate ordinance or, where permitted, by the director by rule.

(B) Fees and charges associated with enforcement of this chapter shall be clearly identified on the customer's utility billing invoice or on the order assessing the fee or charge, except as where otherwise provided by local ordinance or adopted rule.

### **§ 53.210 INSPECTIONS AND RIGHT OF ENTRY.**

(A) The Director or director's designee may:

- (1) conduct an inspection of any property, equipment or improvement to determine compliance with this chapter; and
- (2) require an owner, occupant, operator, manager, or user of a property, equipment, or improvement to correct a violation of this chapter.

(B) An inspection of a residential property shall be conducted from:

- (1) areas accessible to the general public; or
- (2) a restricted access area only after the Director or director's designee has presented official identification to the property manager, owner, occupant, or other representative, and obtained consent to enter a restricted access area.

(C) If consent for entry necessary to conduct an inspection to determine compliance with this chapter is required but denied, withdrawn, limited, or impaired, the Director or designee may seek any recourse available under applicable law to obtain entry and inspection.

(D) Conducting or failing to conduct an onsite inspection does not impose liability on the City, a City officer or employee, or a City representative for damage to a person or property.

## **Article 2: Drought Contingency Plan and Conservation Stages**

### **§ 53.211 WATER CONSERVATION GUIDELINES.**

(A) The director shall recommend, and the City Manager shall adopt water conservation guidelines that include:

- (1) policies for compliance by city or other governmental departments; and
- (2) the criteria for determining when a drought response stage takes effect or terminates.

(B) The City Manager shall update the guidelines if the city manager determines that changed conditions of the city's water supply system, regulatory obligations, or other environmental or situational factors warrant or necessitate guideline adjustment.

(C) The city manager may order that the water use restrictions of Drought Response Stage One Regulations, Drought Response Stage Two Regulations, Drought Response Stage Three Regulations, or Water Rationing take effect after determining that the order is necessary to protect the public health, safety, or welfare. The City Manager may base a conservation, drought, or emergency stage declaration or termination on any condition, occurrence, factor, or an assessment of all relevant circumstances that in the judgment of the City Manager support such action for any lawful purpose. The order is effective immediately following official public notice.

(D) Water use regulations of 53.216 (*Water Conservation Stage*) remain in effect at all times in accordance with Subsection (C) of 53.213 (*Water Conservation Guidelines*). Unless a drought or emergency stage is expressly declared by order of the city manager, water use regulations of the 53.216 (*Water Conservation Stage*) automatically resume by default immediately upon any ordered termination of any drought or emergency stage.

(E) Any outdoor water use subject to the provisions of this chapter shall occur only on a day designated for the applicable water use activity, property/facility type, and street number address classification indicated in the following tables. A person may not conduct, authorize, or permit outdoor water use except in accordance with the designation schedule set out in the following tables. In the following tables, "EVEN" or "ODD" correspond to the street number of the physical property address where the outdoor water use occurs. Outdoor Water Use Schedule: Conservation Stage	
Property type	Watering day
Residential Property - EVEN	Thursday and Sunday
Residential Property - ODD	Wednesday and Saturday
Commercial/Multifamily facilities	Tuesday and Friday
Public/private Schools	Monday and Friday

Outdoor Water Use Schedule :Drought Response Stage 1	
Property type	Watering day
Residential Property – addresses ending in 0 or 1	Monday
Residential Property - addresses ending in 2 or 3	Tuesday
Residential Property – addresses ending in 4 or 5	Wednesday
Residential Property – addresses ending in 6 or 7	Thursday
Residential Property - addresses ending in 8 or 9	Friday
Commercial/Multifamily Facilities	Saturday
Public/private Schools	Sunday

(F) The director may order temporary modification or adjustment to the Outdoor Water Use Schedule in the event of an unusual water system operational event, catastrophic occurrence, severe weather event, or other emergency, disaster situation, or occurrence necessitating the adjustment. A temporary modification or adjustment to the Outdoor Water Use Schedule shall be effective immediately upon official public notice and shall continue in effect for a period not to exceed fifteen (15) consecutive days. The director shall provide official public notice of the date upon which any temporary modification or adjustment to the Outdoor Water Use Schedule expires and the standard Outdoor Water Use Schedule resumes.

(G) The director shall monitor the daily supply and demand for water and make recommendations to the city manager about whether or when to implement or terminate water use restrictions in accordance with the Drought Contingency Plan in effect and kept on file with the City of Pflugerville's Water Utilities or when relevant to any other circumstances affecting continuity of service or public health, safety, or welfare.

### **§ 53.212 Exemptions.**

(A) Exemptions under this subsection apply to 53.216 Drought response stages and are:

- (1) The use of water necessary to protect the health, safety, or welfare of the public;
- (2) The use of reclaimed or auxiliary water that is not supplemented by or mixed with potable water supplied by the City of Pflugerville's Water Utility;
- (3) Necessary use of water for lawful repair of a water distribution facility, flushing of utility lines or residential or commercial plumbing lines;
- (4) Necessary use of water, other than for ornamental landscape irrigation, for a governmental entity performing a governmental function, including a capital improvement construction project;
- (5) Use of water, other than for ornamental landscape irrigation, necessary to meet express requirements of federal, state, or local permits related to land development that include but are not limited to roadway base preparation, dust control, maintenance of trees subject to preservation restrictions or requirements, concrete or asphalt work, or modification or construction of improvements;
- (6) Necessary washing or sanitizing to prevent public health or disease transmission risk associated with liquid, solid, or particulate residue in or on vehicles, containers, or equipment lawfully used to maintain, process, or transport food, perishables, garbage, liquid or solid waste, organic materials, or recyclables; or
- (7) Water use immediately necessary for or related to fire fighting, fire prevention, or fire suppression activity or operations conducted because of actual risk to public or environmental health, safety, or welfare, life, or property associated with the presence of an uncontrolled fire on or approaching any person or property.
- (8) Watering the ground around a foundation footprint to prevent foundation cracking. The foundation footprint is the area of the structure that includes the house or facility and garage area, but does not include driveways, sidewalks, or unenclosed porches, decks, ramps, patios, carports, or other unenclosed parking areas.

(B) The following activities shall be exempt from the application of 53.216 *Water Conservation Stage, Drought Response Stage 1 Regulations, and Drought Response Stage 2 Regulations*

- (1) Outdoor irrigation:
  - (a) using drip irrigation;
  - (b) of vegetable gardens by means of a handheld hose equipped with a positive shutoff nozzle;
  - (c) of turfgrass that is regularly used for active and programmed recreational purposes such as athletic fields used for organized sports practice, competition, or exhibition events when the irrigation is necessary to protect the health and safety of the players, staff, or officials present for the athletic event;
  - (d) immediately following a commercial lawn treatment application by an applicator who possesses required licensure as applicable for use of such substances including fertilizer, pesticides, and herbicides, provided receipts documenting such application and the applicator's credentials are provided upon request to a designee of the director; or
  - (e) of plant material at a commercial nursery.

(2) Water use:

- (a) necessary for repair or installation of a permanently or temporarily installed landscape irrigation system when the person performing the irrigation work is present in the area of irrigation; or
- (b) necessary for the repair, testing, or installation of an ornamental fountain when the person performing the testing, repair or installation is present.

(C) Irrigation of a new landscape installation shall be exempt from the Outdoor Water Use Schedule for 30 days, immediately following the completion of installation, during the application of 53.216 *Water Conservation Stage and Drought Response Stage 1 Regulations* requirements:

(1) Irrigation shall only occur during the hours permitted under subsection 53.216 (A)(3), and in accordance with the following schedule:

- (a) For day 1 through 10 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.

### **§ 53.213 Waste of Water Prohibited**

This section prohibits the waste of water year round

(A) A person may not:

- 1) Fail to repair a controllable leak, including from irrigation system components such as a broken pipe or a leaking valve.
- 2) Allow water flow during irrigation that:
  - a) Runs, flows, or streams in a way that extends into a street, parking area, or other impervious surface for a distance of 15 feet or greater; or
  - b) Allows water to pond to a depth greater than 0.25 inch in a street, parking area, or on other impervious surface.

(B) It is an affirmative defense to a charge of a violation of Subsection (A) that the act or omission charged in the complaint occurred during necessary repair, testing, or calibration of a new or existing irrigation or plumbing system, that the person performing the system testing, repair, or calibration was present at the site at the time of the act or omission charged in the complaint, and that the irrigation or plumbing system and its testing, repair, or calibration work at issue complied at the time with all applicable regulations, permit and development approval requirements.

(C) It is an affirmative defense to a charge of a violation of Subsection (A)(1) that the property where the leak occurred has been officially accepted into a government-assisted housing repair program, the condition is within the scope of repairs the government has agreed to fund or repair, and the person charged with the violation or the property where the violation occurs is not in default of any obligation of the government-assistance housing repair program at the time of the violation charged.

### **§ 53.214 APPLICABILITY OF REGULATIONS; AFFIRMATIVE DEFENSES.**

(A) This chapter applies to a person who uses, directs, manages, or allows the use of potable water supplied by the City of Pflugerville. The chapter does not apply to a person when the person only uses, directs, manages, or allows the use of auxiliary water or reclaimed water.

(B) It is an affirmative defense to a violation of this chapter that the use of water that gave rise to the violation was consistent with the agreed upon terms and conditions of a water service contract with a wholesale water customer and that the use did not constitute a waste of water.

(C) It is an affirmative defense to a violation of this chapter that the use of water that gave rise to the violation properly utilized solely auxiliary water, and did not endanger public health, safety, or property.

(D) It is an affirmative defense to a violation of this chapter that the use of water that gave rise to the violation properly utilized solely reclaimed water, did not endanger public health, safety, or property, and did not constitute a waste of water in accordance with (53.213 Waste of Water Prohibited).

(E) It is an affirmative defense to a violation of this chapter that the act or omission that gave rise to the violation occurred solely because a documented emergency that prevented strict compliance, and that the act or omission did not disrupt the availability of adequate water for other public emergency response or fire fighting or fire suppression purposes.

## **§ 53.215 TRIGGERING CRITERIA FOR INITIATION AND TERMINATION OF DROUGHT RESPONSE STAGES.**

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) Water Conservation Stage -Year round**

(1) Requirements for initiation. Customers shall comply with the requirements and restrictions defined in 53.216 (A) year-round when the combined storage of the Highland Lakes is greater than 1,200,000 acre-feet.

### **(B) Stage 1 - moderate water shortage conditions.**

(1) Requirements for initiation. Customers shall comply with the requirements and restrictions defined in §53.216 (B) of this plan, when the average daily water consumption reaches 80% of production distribution capacity for a period of three consecutive days, or the combined storage of the Highland Lakes falls below 1,200,000 acre-feet or Lake Pflugerville is down to its 633 elevation or the city manager determines that Stage 1 implementation is necessary to protect the city's water supply for essential usages..

(2) Requirements for termination. Stage 1 of this plan may be rescinded by the city manager when the combined storage of the Highland Lakes is above 1,200,00 acre-feet for three consecutive days 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 1, Water Conservation Stage becomes operative.

### **(C) Stage 2 - severe water shortage conditions.**

(1) Requirements for initiation. Customers shall comply with the requirements and restrictions defined in §53.216 (C) of this plan when the average daily water consumption reaches 90% of production/distribution capacity for a period of 3 consecutive days; or the combined storage of the Highland Lakes falls to 750,000 acre-feet or Lake Pflugerville is down to its 630 elevation or the city manager determines that stage 2 implementation is necessary to protect the city's water supply for essential usages. (2) Requirements for termination. Stage 2 of this plan may be rescinded by the city manager when the combined storage of the Highland Lakes increases to 825,000 acre-feet 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 2, the city will determine what stage will become operative, based on current lake levels. No variances will be granted during stage 2 severe water shortage conditions.

### **(D) Stage 3 - emergency water shortage conditions.**

(1) Requirements for initiation. Customers shall comply with the requirements and restrictions defined in §53.216 (D) of this plan when the city manager determines that a water supply emergency exists based on:

- (a) The combined storage of the Highland Lakes falls to 600,000 acre-feet or Lake Pflugerville is down to its 625 elevation;
- (b) the Lower Colorado River Authority Board of Directors declares a Drought Worse than the Drought of Record consistent with the Lower Colorado River Authority Water Management Plan;
- (b) Major water line breaks, or pump or system failures occur, and cause unexpected loss of capability to provide water service;
- (c) System demand exceeds available water system firm capacity;
- (d) There is detection of accidental or intentional contamination of the water system;

- (e) There is detection of water systems failure from acts of God (e.g., tornados, hurricanes, etc.) or man;
- (f) A mechanical failure of pumping equipment occurs during a moderate drought and will require more than 12 hours to repair; or
- (g) Implementation is necessary under the city's wholesale water contract with the Lower Colorado River Authority.

(2) Requirements for termination. Stage 3 of this plan may be rescinded by the city manager when the Lower Colorado River Authority Board of Directors ends or eases pro rata curtailment, or when all of the conditions listed as triggering events have ceased to exist for a period of 3 consecutive days, or when 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 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.

(E) Water rationing.

- (1) Requirements for initiation. Customers must comply with the water allocation plan prescribed in §53.217 of this plan and comply with the requirements and restrictions for stage 3 of this plan when the city manager determines that water rationing is necessary.
- (2) Requirements for termination. Water rationing may be rescinded when all of the conditions listed warranting water rationing have ceased to exist for a period of 3 consecutive days.

**§ 53.216 DROUGHT RESPONSE STAGES.**

The public works department will monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in §53.215 of this 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) Conservation Stage

- (1) Goal. Achieve long term water use reduction.
- (2) Supply management measures The city shall comply with the conservation water use regulations year-round.
- (3) Required water use restrictions
  - (a) This section prescribes water conservation regulations and applies during the periods prescribed by section § 53.211 (*Water Conservation Guidelines*).
  - (b) A person may not operate a manual or automatic irrigation system for the purposes of irrigating an ornamental landscape except on a designated outdoor water use day..
  - (c) Outdoor water use is permitted if it is by means of a handheld hose equipped with a positive shutoff nozzle, a faucet-filled bucket or watering can of five gallons or less
  - (d) A person may not operate a manual or automatic irrigation system for the purposes of irrigating an ornamental landscape between the hours of 10:00 a.m. and 7:00 p.m., even if the irrigation occurs on a designated outdoor water use day for the location.
  - (e)
  - (f) A person may not use or allow the use of water to wash or rinse an automobile, truck, trailer, boat, airplane, motorcycle, or other mobile equipment or vehicle, unless using a hose with a positive shutoff valve or a single, refillable vessel with water. (g) A person may not use or allow the use of water to wash, rinse, or treat any outdoor surface, including but not limited to a sidewalk, driveway, parking area, street, tennis court, patio, or other paved area or outdoor building surface, unless using a hose with a positive shutoff valve or a single, refillable vessel with water.



(B) Stage 1 – Once per week Irrigation.

- (1) Goal. Achieve a 20 percent reduction in average daily water use (e.g., total water use, daily water demand, etc.).
- (2) Supply management measures. The city will reduce the volume of water used for flushing of water mains; reduce or discontinue irrigation of public ornamental landscape 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 1 when stage 1 is implemented.
- (3) Water use restrictions.
  - (a) A person may not operate a manual or automatic irrigation system for the purposes of irrigating an ornamental landscape except on a designated outdoor water use day for the location.
  - (b) Automatic irrigation via a permanently installed, or temporarily installed, irrigation system shall be before 8:00 a.m. and after 7:00 p.m. on a designated outdoor water use day..
  - (c) Outdoor water use is permitted if it is by means of a handheld hose equipped with a positive shutoff nozzle, a faucet-filled bucket or watering can of five gallons or less on a designated outdoor water use day before 10:00 a.m. or after 7:00 p.m.
  - (d) Manual irrigation by a hose end sprinkler, or a soaker hose, shall be before 8:00 a.m. and after 7:00 p.m. on a designated outdoor water use day..
  - (e) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days before 10:00 a.m. and after 7:00 p.m. Such washing, when allowed, must be done with a handheld bucket or a handheld 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 carwashes are prohibited without a permit approved by the city. Watering the ground around a foundation to prevent foundation cracking is permitted.
  - (f) 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.
  - (g) Use of water from hydrants will be limited to firefighting 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.
  - (h) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is permitted.
  - (i) A person may not use or allow the use of water to wash, rinse, or treat any outdoor surface, including but not limited to a sidewalk, driveway, parking area, street, tennis court, patio, or other paved area or outdoor building surface, unless using a hose with a positive shutoff valve or a single, refillable vessel with water on the person's designated watering day.

(C) Stage 2 – Automatic and Manual Irrigation Prohibited.

- (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; discontinue irrigation of public ornamental landscape area; 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 2 when stage 2 is implemented.
- (3) Water use restrictions.
  - (a) Operation of an automatic or manual irrigation system is prohibited for the purposes of irrigating an ornamental landscape.
  - (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle is prohibited. 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.

- (c) Charity carwashes are prohibited without a permit approved by the city.
  - (d) Watering the ground around a foundation footprint to prevent foundation cracking is only permitted on a customers designated outdoor water use day before 10:00 a.m. or after 7:00 p.m..
  - (e) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited.
  - (f) 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.
  - (g) Operation of a patio mister at a non-residential facility is prohibited.
  - (h) Use of water from hydrants will be limited to firefighting 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) All restaurants are prohibited from serving water to their customers except upon the customer's request.
  - (j) A person may not use or allow the use of water to wash, rinse, or treat any outdoor surface, including but not limited to a sidewalk, driveway, parking area, street, tennis court, patio, or other paved area or outdoor building surface, unless using a hose with a positive shutoff valve or a single, refillable vessel with water. A person commits a separate offense for each outdoor surface washed in violation of this subsection.
- (4) New ornamental landscape installation that requires irrigation is prohibited without prior authorization via a variance request. .

(D) Stage 3 - emergency water shortage conditions.

- (1) Goal. Achieve a 30 percent reduction in average daily water use (e.g., total water use, daily water demand, etc.) from a rolling 12-month period.
- (2) Supply management measures. The city must discontinue flushing of water mains; discontinue irrigation of all public landscaped area; 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 the restrictions are implemented.
- (3) Water use restrictions.
  - (a) All outdoor irrigation is prohibited.
  - (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited. 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.
  - (c) Charity carwashes are prohibited.
  - (d) Watering the ground around a foundation footprint to prevent foundation cracking is prohibited.
  - (e) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited.
  - (f) 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.
  - (g) A person may not operate a patio mister at a non-residential facility
  - (h) Use of water from hydrants will be limited to firefighting 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) All restaurants are prohibited from serving water to their customers except upon the customer's request.

(j) A person may not use or allow the use of water to wash, rinse, or treat any outdoor surface, including but not limited to a sidewalk, driveway, parking area, street, tennis court, patio, or other paved area or outdoor building surface. A person commits a separate offense for each outdoor surface washed in violation of this subsection.

(k) No applications for building permits for new pools or irrigation facilities will be allowed or approved.

(4) New landscape installations that require irrigation are prohibited.

#### **§ 53.217 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.

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

<u>Persons per Household</u>	<u>Gallons per Month</u>
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

F(2) It will be assumed that a particular customer's household is comprised of two persons unless the customer notifies the city 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 utility billing 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 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 in writing within two days.

(3) Any person who falsely reports the number of persons in a household or fails to timely notify the city of a reduction in the number of person in a household commits a class C misdemeanor offense and may be fined not less than \$50.00 and more than \$500.00. No culpable mental state is required to prove this offense. However, if it is shown on the trial of the offense that the offense was committed intentionally, knowingly, recklessly, or with criminal negligence then the person may be fined not more than \$2,000.00.

(4) Residential water customers who exceed their monthly allocation of water will pay the following surcharges:

(a) For every 100 gallons used over the monthly water allocation, customers will pay 150% of the normal volume charge for 25,001 gallons and up

(5) Surcharges shall be cumulative, added to the monthly utility bill, and subject to late payment penalties including suspension of services.

(B) Master-metered multifamily residential customers.

(1) 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. All master meter customers shall notify the city of the number of dwelling units served from the master meter on a form prescribed by the city manager. The city 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 utility billing offices to complete and sign the form claiming the number of 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 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.

(2) Any person who 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 commits a class C misdemeanor offense and may be fined not less than \$500.00. No culpable mental state is required to prove this offense. However, if it is shown on the trial of the offense that the offense was committed intentionally, knowingly, recklessly, or with criminal negligence then the person may be fined not more than \$2,000.00.

(3) Customers billed from a master meter under this provision who exceed their monthly allocations must pay the following monthly surcharges:

(a) For every 100 gallons used over the monthly water allocation, customers will pay 150% of the normal volume charge for 25,001 gallons and up for each dwelling unit.

(4) Surcharges shall be cumulative, added to the monthly utility bill, and subject to late payment penalties including suspension of services.

(C) Commercial customers.

(1) A monthly water usage allocation will be established by the city for each nonresidential commercial customer other than an industrial customer who uses water for processing purposes. The nonresidential customer's allocation will be 75% of the customer's usage for corresponding month's billing period for the immediately preceding 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 will use best efforts to see that notice of each nonresidential 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 utility billing offices to determine the allocation. Upon request of the customer or at the initiative of the city, the allocation may be reduced or increased if: (a) the designated period does not accurately reflect the customer's normal water usage; (b) one nonresidential customer agrees to transfer part of its allocation to another nonresidential customer in a binding agreement satisfactory to the city; or (c) other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal the request for allocation decision to the city manager.

(2) Nonresidential commercial customers who exceed monthly allocation must pay the following surcharges:

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

(i) For every 100 gallons used over the monthly water allocation, customers will pay 150% of the normal volume charge for 25,001 gallons and up

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

(i) For every 100 gallons used over the monthly water allocation, customers will pay 200%

of the normal volume charge for 25,001 gallons and up

(3) Surcharges shall be cumulative, added to the monthly utility bill, and subject to late payment penalties including suspension of services.

(D) Industrial customers.

(1) A monthly water usage allocation will be established by the city for each industrial customer. 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 immediately preceding 12-month period. 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 will use best efforts to see that notice of each industrial 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 utility billing offices 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, the allocation may be reduced or increased if: (a) 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; (b) the customer has added or is in the process of adding significant additional processing capacity; (c) the customer has shutdown or significantly reduced the production of a major processing unit; (d) the customer has previously implemented significant permanent water conservation measures such that the ability to further reduce usage is limited; (e) the customer agrees to transfer part of its allocation to another industrial customer in a binding document satisfactory to the city; or (f) 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 manager.

(2) Industrial customers who exceed monthly allocation must pay the following surcharges:

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

(i) For every 100 gallons used over the monthly water allocation, customers will pay 200% of the normal volume charge for 25,001 gallons and up

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

(i) For every 100 gallons used over the monthly water allocation, customers will pay 250% of the normal volume charge for 25,001 gallons and up

(3) Surcharges shall be cumulative, added to the monthly utility bill, and subject to late payment penalties including suspension of services.

**§ 53.218 OFFENSE**

(A) A person commits an offense if the person:

(1) directs, performs, authorizes, requests, allows, assists, facilitates, or permits an act prohibited by this chapter;

(2) fails to perform an act required by this chapter; or

(3) uses water in a manner contrary to any provision of this chapter

(B) Each day or part of the day during which the violation is committed or continued is a separate offense.

(C) An offense under this chapter is punishable by a fine not to exceed \$2,000.00.

**§ 53.219 ENFORCEMENT.**

(A) For purposes of this article, the person or customer in whose name the utility billing office last billed or who is receiving the economic benefit of the water supply is presumed to have knowingly made, caused, used or permitted the use of water received from the city for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to any provision of this article and proof that the violation occurred on the person's or customer's property shall constitute a rebuttal presumption that the person or customer committed the violation.

(B) Each act of city water use in violation of this article shall constitute and be punishable as a separate offense. Each day that any violation continues shall constitute and be punishable as a separate offense. Unless another penalty is specifically provided by this code or by state law, the penalty for violation of any provision of this article shall be as follows:

- (1) For violations of 53.216 (A) Conservation Stage, the City of Pflugerville's Water Utility may issue a fine up to \$500.00.
  - (2) For violations of 53.216 (B) Stage 1 Restrictions, the City of Pflugerville's Water Utility may issue a fine of \$500.00 to \$1000.00
  - (3) For violations of 53.216 (C) Stage 2 Restrictions, the City of Pflugerville's Water Utility may issue a fine of \$1000.00 to \$1500.00.
  - (4) For violations of 53.216 (D) Stage 3 Restrictions, the City of Pflugerville's Water Utility may issue a fine of \$1500.00 to \$2000.00
- (D) If a person is convicted for three or more violations of this article within a 12-month period, water service may be disconnected or restricted.
- (E) If the violation constitutes a waste of water and the waste of water is not and will not become a hazard to public safety, a city worker shall leave a notice of the violation at the customers residence and attempt to contact the customer by phone, email, or at their residence. If the waste of water continues for more than 24 hours after the waste of water violation notice has been delivered, a city worker may enter the customers property to turn off the customers' water. A notice that the water has been turned off shall be left at the customers residence.
- (F) If the violation constitutes a waste of water, a city worker shall attempt to contact the customers by phone, email, or at their residence. If the waste of water is or soon will be a hazard to public safety a city employee may enter the customers property to turn off the customers' water. A notice that the water has been turned off shall be left at the customers residence.
- (G) Proof of a culpable mental state is not required for a conviction of an offense under this article.

#### **§ 53.220 VARIANCES.**

- (A) A review board consisting of the city staff members appointed by the city manager will be established on May 1 of each year. 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) All applications for a variance must be submitted to the review board on an "application for variance/permit/compliance agreement" form and must include a non-refundable fee of \$200.00 and the following:
- (1) Name and address of the petitioner(s);
  - (2) Purpose of water use;
  - (3) Specific provision(s) of this plan from which the petitioner is requesting relief;
  - (4) Detailed statement as to how the specific provision of this plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this subchapter;
  - (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) The review board will make a determination no later than the 5th working day after receipt of a properly completed "application for variance/permit/compliance agreement" form and the non-refundable administrative fee of \$200.00 is received by the review board.
- (D) 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.
- (E) 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 an imminent threat to a person's or entities primary source of income. 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 this 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. Inconvenience or the potential for damage to landscaping does not constitute an economic hardship under this section. NO VARIANCES MAY BE GRANTED WHILE

THE CITY IS IN STAGE 2 OF THIS PLAN OR HIGHER.

(F) The review board may, in writing, grant a 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 this plan is in effect; or
- (2) Alternative methods can be implemented that will achieve the same level of reduction in water use.

(G) Variances granted by the city 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 this 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.

#### **§ 53.221 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.

#### **§ 53.222 PRO RATA WATER ALLOCATION (WHOLESALE CUSTOMERS).**

(A) In the event that the triggering criteria specified in §53.215 of this subchapter 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's 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 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, the allocation may be reduced or increased if: (a) the designated period does not accurately reflect the wholesale customer's normal water usage; (b) the customer agrees to transfer part of its allocation to another wholesale customer; or (c) 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.

(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.

#### **§ 53.223 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; Ord. 579-00-03-14, passed 3-14-00; Ord. 588-00-06-27, passed 6-27-00; Ord. 603-00-10-10, passed 10-10-00; Ord. 664-02-03-12, passed 3-12-02; Ord. 677-02-09-10, passed 9-10-02; Ord. 681-02-10-22, passed 10-22-02; Ord. 909-07-09-25, passed 9-25-07; Ord. 1074-11-04-26, passed 4-26-11; Ord. 1147-13-06-25, passed 6-25-13; Ord. 1162-13-10-22, passed 10-22-13; Ord. 1393-19-04-23, passed 4-23-19)

(Ord. 54-7-15-74, passed 7-15-74; Am. Ord. 68-75-5-19, passed 5-19-75; Ord. 113-2-1-21-80, passed 1-21-80; Ord. 172-83-11-7, passed 11-7-83; Ord. 206-85-7-30, passed 7-30-85; Ord. 219-85-12-3, passed 12-3-85; Ord. 260-87-08-11, passed 8-11-87; Ord. 325-90-09-11, passed 9-11-90; Ord. 772-05-01-25, passed 1-25-05; Ord. 1074-11-04-26, passed 4-26-11)