

ORDINANCE NO. 2019-4-7

An Ordinance of City of Plano, Texas, repealing and replacing Sections 21-53 through 21-60.2 of Article II, Division 4, Drought and Emergency Response Plan, of Chapter 21, Utilities of the Code of Ordinances of the City of Plano to identify the authority of the City to declare drought and emergency stages and applicable requirements, correct errors and inconsistencies, and providing a penalty clause, a savings clause, a severability clause, a repealer clause, a publication clause and an effective date.

WHEREAS, on October 26, 2009, the City Council of the City of Plano duly passed Ordinance No. 2009-10-18, adopting the Drought and Emergency Response Plan; and

WHEREAS, on August 22, 2011, the City Council of the City of Plano amended certain sections of the Drought and Emergency Response Plan by Ordinance No. 2011-8-15; and

WHEREAS, on April 23, 2012, the City Council of the City of Plano amended certain sections of the Drought and Emergency Response Plan by Ordinance No. 2012-4-13; and

WHEREAS, on April 28, 2014, the City Council of the City of Plano amended certain sections of the Drought and Emergency Response Plan by Ordinance No. 2014-4-28; and

WHEREAS, the Texas Commission on Environmental Quality requires that the Drought and Emergency Response Plan be updated every five years and the next update is due by May 1, 2019; and

WHEREAS, the City staff recommends that further amendments are necessary to the Drought and Emergency Response Plan to more accurately describe the plan, correct errors, and provide clarification; and

WHEREAS, the City staff further recommends that certain areas of the Drought and Emergency Response Plan be amended to provide options for the City Manager to impose certain requirements upon notification to the public; and

WHEREAS, the City Council of the City of Plano, after consideration of the recommendations of staff and all matters attendant and related thereto, is of the opinion that the recommended changes should be approved and adopted.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS THAT:

ORDINANCE NO. 2019-4-7

Section I. Division 4, Drought and Emergency Response Plan, Sections 21-53 through 21-60.2 of Article II, Water, Chapter 21, Utilities, of Plano Code of Ordinances is hereby repealed in its entirety and replaced with the following:

"DIVISION 4: DROUGHT AND EMERGENCY RESPONSE PLAN

Sec. 21-53. Purpose and Scope

(a) The North Texas Municipal Water District (NTMWD) supplies treated water to the City of Plano, as well as other member cities and customers. A Model Water Resource and Emergency Management Plan was developed by the NTMWD in accordance with the regulations and requirements of the Texas Administration Code ("TAC") and the Texas Commission on Environmental Quality ("TCEQ") and consultation with its member cities. The NTMWD Model Plan calls for member cities and customers to adopt similar criteria and procedures for declaring a water emergency and implementing drought and emergency response stages as used by NTMWD. Member cities and customers may also adopt more stringent drought and emergency stages than NTMWD if conditions warrant. There is hereby established a City of Plano Drought and Emergency Response Plan (in this division called "the Plan") to provide procedures for:

- (1) Conserving the available water supply in times of drought, water supply shortage and emergency;
- (2) Maintaining supplies for domestic water use, sanitation, and fire protection;
- (3) Protecting and preserving public health, safety, and welfare;
- (4) Minimizing the adverse impacts of water supply shortages; and
- (5) Minimizing the adverse impacts of emergency water supply conditions.

(b) The Plan applies to

- (1) All persons and premises using water from the city's water delivery system;
- (2) All wholesale contract customers;

(c) TCEQ's minimum requirements (30 Tex. Admin. Code § 288.20) for drought contingency plans are addressed in the following subsections of this Plan.

ORDINANCE NO. 2019-4-7

Sec. 21-54. Exemption

The governmental use of water for essential services such as police, fire, and emergency services which is necessary to preserve or protect the health, safety and welfare of the citizens of Plano is exempt from any and all restrictions or mandates set forth in the Plan.

Sec. 21-55. Definitions

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Athletic Field" means a public sports competition field, the essential feature of which is turf grass, used primarily for organized sports practice, competition or exhibition events for schools, professional sports, or sanctioned league play.

"City" refers to the City of Plano.

"City Manager" refers to the City Manager of the City of Plano or any other City of Plano public official designated by the City Manager to act on behalf of the City Manager.

"Customer" means a person, company or other entity connected to the City's water system and contracting with the City of Plano to receive potable water service.

"Drip Irrigation" means micro-irrigation with low volume (measured in gallons per hour) and low pressure release of water to a specific root zone through point source emitters or pressure compensating in-line drippers. This does not include micro-sprayers or misters.

"Drought" means an extended period of time when an area receives insufficient amounts of rainfall to replenish the water supply, causing water supply sources to be depleted.

"Emergency" means a condition in which the existing or projected water supply available to the city is not anticipated to meet the normal water requirements of metered water users. This condition may be the result of factors including, but not limited to, natural emergency conditions (i.e., drought, etc.) and/or a failure of the city's or its supplier's water distribution systems"

"Even numbered address" refers to street addresses (e.g. 124 Plano Street) or box numbers ending in 0, 2, 4, 6, or 8.

ORDINANCE NO. 2019-4-7

"Foundation" means area that includes first 24" of soil from foundation slab.

"Fugitive water" refers to pumping, flow, release, escape, or leakage of any water from any pipe, valve, faucet, connection, diversion, well, from any water supply, transport, storage disposal or delivery system of a facility onto adjacent property or the public right-of-way.

"Irrigation System" means a site-specific system of delivering water, generally for landscape irrigation, via a system of pipes or other conduits installed below ground.

"Landscape" means natural plant materials around buildings or on grounds (i.e., trees, shrubbery, grasses and flowers) but excludes athletic fields and high use areas.

"New Landscape" mean (a) vegetation 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; or (c) installed to stabilize an area disturbed by construction.

"North Texas Municipal Water District" or "NTMWD" refers to the North Texas Municipal Water District.

"Odd numbered address" refers to street addresses (e.g. 123 Plano Street) or box numbers ending in 1, 3, 5, 7 or 9.

"Ornamental Fountains" means water features greater than 5 feet in diameter used for aesthetic or cosmetic purposes only that must use, or be refilled with, potable water. This shall not include pond aerifiers and other water recycling devices used to mitigate stagnant conditions in lakes, ponds, or other natural bodies of water.

"Person" means owner, occupant, or person in control of the premises or a person authorized by the owner, occupant, or person in control of the premises.

"Plan" refers to the City of Plano's Drought and Emergency Response Plan, individually and/or collectively

"Plano" refers to the City of Plano or the City.

"Potable water" means any public water supply which has been investigated and approved by the TCEQ as satisfactory for drinking, culinary and domestic purposes.

"Public health, Safety and welfare" means such amount of water as necessary to sustain human life, reasonable standards of hygiene and sanitation, and fire suppression.

ORDINANCE NO. 2019-4-7

"Greens" means the ground that is specially prepared for putting. The putting green is typically defined by a fine bladed grass that requires an extremely high level of maintenance to provide a smooth surface for rolling the ball when putting.

"Soaker Hose" means a perforated or permeable garden-type hose that is laid above ground and provides irrigation at a slow and constant rate.

"Sprinkler" means an above ground irrigation device that may be attached to a garden hose or in-ground irrigation system. This includes spray heads, rotor heads, and oscillating devices.

"Swimming Pool" or "pool" means any structure, basin, chamber, or tank, containing an artificial body of water for swimming, diving, or recreational bathing, and having a depth of two (2) feet or more at any point. Hot tubs, greater than five feet in width at any point are included in this definition.

"Plano's water supply system" or "water delivery system" means the City of Plano water works system and shall include, but not be limited to, storage tanks, elevated tanks, pipelines, pumps, hydrants, meters, valves, connections, engines, and all other property and machinery used in connection with the City's water works system.

"Tee Box" means the rectangular area considered the starting place for the hole to be played in the game of golf. The tee box is typically defined by a grass that requires a very high level of maintenance and mowed at a low height to provide a consistent surface to begin play on the hole.

"TCEQ" means the Texas Commission on Environmental Quality.

"Wholesale Customer" means entities to whom the City of Plano provides wholesale water at a discounted rate. The Colony is a wholesale customer of the City of Plano.

Sec. 21-56. Presumption

For purposes of enforcement of administrative remedies and criminal penalties under this ordinance, it shall be presumed that the person in actual control of the watering or irrigation devices for a premise is responsible for any violations of this ordinance. The requirement of a culpable mental state is expressly waived for any administrative or criminal penalty or remedy.

ORDINANCE NO. 2019-4-7

Sec. 21-57. Authority to Declare Water Emergency

(a) The City Manager may order the implementation of a drought and emergency response stage when one or more of the trigger conditions for that stage are met. The following actions will be taken when a drought and emergency response stage is initiated:

- (1) The public will be notified in accordance with Sec. 21-58.
- (2) NTMWD will be notified by e-mail with a follow-up letter that provides details of the reasons for initiation of the drought and emergency response stage.
- (3) If any mandatory provisions of the drought and emergency response plan are activated, the City will notify the Executive Director of the TCEQ and the Executive Director of the NTMWD within five (5) business days.

(b) Drought and emergency response stages imposed by NTMWD action may be initiated by the City. The City Manager may decide not to order the implementation of a drought and emergency response stage even though one or more of the trigger criteria for the stage are met. Factors which could influence such a decision include, but are not limited to, the time of the year, weather conditions, the anticipation of replenished water supplies, or the anticipation that additional facilities will become available to meet needs. The reason for the decision should be documented.

(c) In the event of a city-wide emergency, the order shall be made by public announcement in the City within twenty-four (24) hours of implementation. In the event of an emergency of limited geographical extent, door-to-door notification shall be made by door hangers and/or in person.

Sec. 21-58. Notification and Termination of Water Emergency

(a) Notification of Water Emergency - The City will inform and educate the public about the drought and emergency response plan by the following means:

- (1) Preparing a press release describing the Plan and sharing it through media outlets.
- (2) Making the Plan available to the public through the City's website.

ORDINANCE NO. 2019-4-7

- (3) Notifying local organizations, schools, and civic groups that staff are available to make presentations on the Plan (usually in conjunction with presentations on water conservation programs).
- (4) At any time that the Plan is activated or the drought and emergency response stage changes, the City will notify local media of the issues, the drought and emergency response stage (if applicable), and the specific actions required of the public including all imposed mandatory requirements that have been implemented. The information will also be publicized on the City's website and through social media outlets. Utility Bill inserts and direct mail to each utility customer will also be used as appropriate.

Sec. 21-59. Initiation and Termination of Drought and Emergency Response Stages

A drought is defined as an extended period of time when an area receives insufficient amounts of rainfall to replenish the water supply, causing water supply sources, in this case reservoirs, to be depleted. In the absence of drought response measures, water demands tend to increase during a drought due to the need for additional outdoor irrigation. The severity of a drought depends on the degree of depletion of supplies and on the relationship of demand to available supplies. The NTMWD considers a drought to end when all of its supply reservoirs refill to the conservation storage pool.

(a) Initiation of a Drought and Emergency Response Stage – The City Manager is authorized to initiate a drought and emergency response stage when one or more of the criteria applicable to that stage is triggered.

(b) Notification to Public – The following actions will be taken to notify the public when a drought and emergency response stage is initiated or raised.

- (1) The public will be notified of the implementation or amendment of a drought and emergency response stage in the manner set forth in Sec. 21-58 above;
- (2) Wholesale customers and the NTMWD will be notified by telephone with a follow-up letter, e-mail or facsimile transmission;
- (3) If any mandatory provisions of the Plan are activated, notification will be sent to the Executive Director of the TCEQ within five (5) business days.

ORDINANCE NO. 2019-4-7

(c) Drought and Emergency Response Stages Imposed by NTMWD – The City Manager may elect not to implement a drought and emergency response stage imposed by NTMWD depending on all relevant factors. Factors which could influence such a decision include, but are not limited to, the time of the year, weather conditions, the anticipation of replenished water supplies, or the anticipation that additional facilities will become available to meet needs. The reason for the decision should be documented.

(d) Termination of a Drought and Emergency Response Stage – The drought and emergency response stage shall remain in effect until the City Manager determines that the conditions that triggered the drought and emergency response stage have been alleviated or no longer exist or lake levels established by NTMWD for termination are met.

(e) Notification of Public – The following actions will be taken to notify the public when a drought and emergency response stage is terminated or lowered:

- (1) The public will be notified of the termination or lowering of a drought and emergency response stage in the manner provided in Sec. 21-58 herein;
- (2) Wholesale customers, including The Colony, and the NTMWD will be notified by telephone with a follow-up letter, e-mail, or facsimile transmission;
- (3) If any mandatory provisions of the Plan are terminated, the Executive Director of the TCEQ will be notified within five (5) business days.

Sec. 21-59.1 Initiation and Termination Conditions for Stage 1

(a) The City Manager has initiated Stage 1, which may be initiated due to one or more of the following:

- (1) The NTMWD Executive Director, with the concurrence of the NTMWD Board of Directors, finds that conditions warrant the declaration of Stage 1.
- (2) Plano's water demand exceeds ninety-five (95) percent of the amount that can be delivered to customers for three consecutive days.
- (3) Plano's water demand for all or part of the water delivery system equals delivery capacity because delivery capacity is inadequate.

ORDINANCE NO. 2019-4-7

- (4) Plano's supply source becomes contaminated.
- (5) Plano's water supply system is unable to deliver water due to the failure or damage of major water system components.
- (6) Other criteria as determined by the City.

(b) Stage 1 may terminate when NTMWD terminates Stage 1 or when the City Manager determines circumstances that caused the initiation of Stage 1 no longer exist. Factors which could influence such a decision include, but are not limited to, the time of the year, the weather conditions, or the anticipation of potential changed conditions that warrant the continuation of the drought and emergency stage. The reason for the decision should be documented.

Sec. 21-59.2 Goals for Use Reduction and Actions Available Under Stage 1

(a) The goal for water use reduction under Stage 1 is a five (5) percent reduction in the amount of water delivered to Plano by NTMWD from the previous corresponding annual payment period (October 1 through September 30) prior to institution of drought restrictions. If circumstances warrant, or if required by NTMWD, the City Manager can set a goal for greater water use reduction.

(b) The City Manager may order the implementation of any of the actions listed below.

- (1) Continue or initiate any actions available under the Water Management Plan.
- (2) Notify wholesale customers, including The Colony, of actions being taken and encourage them to implement similar procedures.
- (3) Initiate engineering studies to evaluate alternatives should conditions worsen.
- (4) Accelerate public education efforts on ways to reduce water use.
- (5) Halt non-essential city government water use. Examples may include street cleaning, vehicle washing and operation of ornamental fountains.

ORDINANCE NO. 2019-4-7

(c) The City Manager may also implement the following mandatory requirements on customers. If any of the following requirements are implemented, the City must notify the public as set forth in Sec. 21-58, and TCEQ and NTMWD within five (5) business days.

- (1) Landscape watering with sprinklers or irrigation systems is limited to no more than two (2) days per week between April 1 and October 31; and no more than one (1) day per week between November 1 and March 31. Designated days are determined by the even or odd numbered service address for the property. All Homeowners Associates must follow the even address schedule.

Street Address	Days permitted for watering (April 1 – October 31)	Days permitted for watering (November 1 – March 31)
Even numbered Addresses	Mondays and Thursdays	Thursdays
Odd numbered Addresses	Tuesdays and Fridays	Tuesdays

Exceptions are as follows:

- (i) Hand watering with a shutoff nozzle or soaker hose, or a dedicated zone using drip irrigation is allowed up to two (2) hours per day provided no runoff occurs.
- (ii) New construction landscaped areas may be watered for no more than thirty (30) consecutive days from the date a variance is granted.
- (iii) Newly seeded, hydro seeded, hydro mulched, sprigged areas in open space, common areas, right-of-ways and turf renovation at athletic fields may be watered for no more than thirty (30) consecutive days from the date a variance is granted.
- (iv) Locations using on-site well water or properly permitted creek withdrawals.

ORDINANCE NO. 2019-4-7

- (v) Government agencies watering athletic fields or any other public grounds that are heavily used by the public during evening or morning hours. Public irrigation systems must be programmed to meet overall water use reduction goals of the stage.
 - (vi) Maintenance, testing, and calibration of an irrigation system, provided there is a person on-site and visible while each zone of the system is running.
- (2) Watering between 6:00 p.m. and 10:00 a.m. from November 1 through March 31 is prohibited.

Sec. 21-59.3 Initiation and Termination Conditions for Stage 2

(a) The City Manager has initiated Stage 2, which may be initiated due to one or more of the following:

- (1) The NTMWD Executive Director, with the concurrence of the NTMWD Board of Directors, finds that conditions warrant the declaration of Stage 2.
- (2) Plano's water demand exceeds ninety-eight (98) percent of the amount that can be delivered to customers for three (3) consecutive days.
- (3) Plano's water demand for all or part of the water delivery system exceeds delivery capacity because delivery capacity is inadequate.
- (4) Plano's supply source becomes contaminated.
- (5) Plano's water supply system is unable to deliver water due to the failure or damage of major water system components.
- (6) Other criteria as determined by the City Manager.

(b) Stage 2 may terminate when NTMWD terminates Stage 2 or when the City Manager determines circumstances that caused the initiation of Stage 2 no longer prevail.

Sec. 21-59.4 Goals for Use Reduction and Actions Available Under Stage 2

(a) The goal for water use reduction under Stage 2 is a ten (10) percent reduction in the amount of water delivered to Plano from NTMWD from the previous corresponding annual payment period (October 1 through September 30)

ORDINANCE NO. 2019-4-7

prior to the institution of drought restrictions. If circumstances warrant or if required by NTMWD, the City Manager can set a goal for a greater water use reduction.

(b) The City Manager may order the implementation of any of the actions listed below.

- (1) Continue or initiate any actions available under the Water Management Plan and Stage 1.
- (2) Notify wholesale customers of actions being taken and encourage them to implement similar procedures.
- (3) Implement viable alternative water supply strategies.

(c) The City Manager may also implement the following mandatory requirements on customers. If any of the following are implemented, the City must notify the public as set forth in Sec. 21-58, and TCEQ and NTMWD within five (5) business days.

- (1) Initiate water use restrictions as follows:
 - (i) Prohibit hosing of paved areas, buildings, or windows (pressure washing of impervious surfaces is allowed) except for outdoor public restrooms, pavilions and shelters, where public health, safety, and welfare may be compromised by unsanitary conditions if the facilities cannot be cleaned.
 - (ii) Prohibit operation of all ornamental fountains or other amenity impoundments to the extent they use treated water. Ornamental fountains or other amenity impoundments supporting aquatic life may apply for a variance to operate during Stage 2.
 - (iii) Prohibit washing or rinsing of vehicles by hose except with a hose end cutoff nozzle.
- (2) Landscape watering with sprinklers or irrigation systems is limited to no more than once per week between April 1 and October 31; and no more than once every other week between November 1 and March 31. Designated days are determined by the even or odd numbered service address for the property. All Homeowners Associations must follow the even address schedule.

ORDINANCE NO. 2019-4-7

Street Address	Days permitted for watering (April 1 – October 31)	Days permitted for watering (November 1 – March 31)
Even numbered addresses	Thursdays	Every other Thursday
Odd numbered addresses	Tuesdays	Every other Tuesday

Exceptions are as follows:

- (i) Hand watering with a shutoff nozzle or soaker hose, or a dedicated zone using drip irrigation is allowed up to two (2) hours per day provided no runoff occurs.
 - (ii) Public athletic fields may be watered as needed to maintain safe playing conditions.
 - (iii) Where feasible, irrigation systems on public property must comply with watering schedules and comply with the water reduction goals of the stage.
 - (iv) Maintenance, testing, and calibration of an irrigation system, provided there is a maintenance technician on-site and visible while each zone of the system is running.
 - (v) Locations using other sources of water supply for irrigation. Other sources of water supply may not include imported water.
- (3) Watering between 6:00 p.m. and 10:00 a.m. from November 1 through March 31 is prohibited.
 - (4) Golf courses are expected to meet the same reduction goals and measures as outlined in this stage. Greens and tee boxes maybe watered by hand as needed to keep turf alive.
 - (5) Hydro seeding, hydro mulching, and springing is prohibited.
 - (6) Existing pools may add water to maintain pool levels but may not be drained and refilled. A variance may be requested to repair a leak or for health or safety issues.

ORDINANCE NO. 2019-4-7

- (7) Initiate a rate surcharge for all water use over a certain level, if necessary to meet goal reduction.
- (8) If NTMWD has imposed a reduction in water available to Member Cities and Customers, impose the same percent reduction on wholesale customers.

Sec. 21-59.5 Initiation and Termination Conditions for Stage 3

(a) The City Manager has initiated Stage 3, which may be initiated due to one or more of the following:

- (1) The NTMWD Executive Director, with the concurrence of the NTMWD Board of Directors, finds that conditions warrant the declaration of Stage 3.
- (2) Plano's water demand exceeds the amount that can be delivered to customers.
- (3) Plano's water demand for all or part of the water delivery system seriously exceeds delivery capacity because the delivery capacity is inadequate.
- (4) Plano's supply source becomes contaminated.
- (5) Plano's water supply system is unable to deliver water due to the failure or damage of major water system components.
- (6) Plano is unable to recover water storage of one hundred (100) percent in all storage facilities within a twenty-four (24) hour period.
- (7) Plano's individual Plan may be implemented if other criteria dictate.

(b) Stage 3 may terminate when NTMWD terminates Stage 3 or when the City Manager determines circumstances that caused the initiation of Stage 3 no longer exist.

Sec. 21-59.6 Goals for Use Reduction and Actions Available Under Stage 3

(a) The goal for water use reduction under Stage 3 is a reduction of whatever amount is designated by NTMWD in the amount of water provided to Plano by NTMWD from the corresponding previous annual payment period prior to institution of drought restrictions. If circumstances warrant or if required by NTMWD, the City Manager can set a goal for a greater water use reduction.

ORDINANCE NO. 2019-4-7

(b) The City Manager may order the implementation of any of the actions listed below, as deemed necessary.

- (1) Continue or initiate any actions available under the Water Management Plan and Stages 1 and 2.
- (2) Notify wholesale customers, including The Colony, of actions being taken and require them to implement similar procedures.
- (3) Implement viable alternative water supply strategies.
- (4) Water meter data for an account may be accessed to verify the property is following water restrictions and provide feedback on water consumption.

(c) The City Manager may also implement the following mandatory requirements on customers. If any actions are implemented, the City must notify the public as set forth in Sec. 21-58, and TCEQ and NTMWD within five (5) business days.

- (1) Prohibit the irrigation of landscaping using treated water.
- (2) Prohibit washing of vehicles except as necessary for health, sanitation, or safety reasons.
- (3) Foundations and trees may be watered for up to two (2) hours a day with a shutoff nozzle or a soaker hose, or a dedicated zone using drip irrigation. Drip irrigation systems are not exempt from this requirement. Water may not be trucked or otherwise transported into the City for irrigation purposes.
- (4) Prohibit the permitting of pools. Filling of pools will be evaluated based upon the reduction requirement. Existing pools may add water to maintain pool levels but may not be drained and refilled. A variance should be submitted for pool repairs that require refilling.
- (5) If NTMWD has imposed a reduction in water available to Member Cities and Customers, impose the same percent reduction on wholesale customers.

ORDINANCE NO. 2019-4-7

Sec. 21-60. Procedures for Granting Variances to the Plan

(a) The Public Works Director or his/her designee may grant temporary variances for water uses otherwise prohibited under this drought and emergency response plan.

(b) Variances shall be granted or denied at the discretion of the Public Works Director or his/her designee. All petitions for variances should be in writing (through letter or e-mail) and include the following information or placed online at plano.gov/water.

- (1) Name and address of the petitioners
- (2) Contact email address and/or telephone number
- (3) Purpose of water use
- (4) Specific provisions from which relief is requested
- (5) Detailed statement of the adverse effect of the provision from which relief is requested
- (6) Description of the relief requested
- (7) Period of time for which the variance is sought
- (8) Other pertinent information.

(c) Variances will be processed within five (5) business days once received.

(d) Variances are considered temporary and must be re-submitted for reconsideration should the Drought and Emergency Response Stage elevate from the stage in which the temporary variance was approved to any higher stage of response.

Sec. 21-60.1. Criminal Penalty

Any person, firm or corporation who violates any term or provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine in accordance with Section 1-4(b) of the City Code of Ordinances for each offense. These criminal penalties may be imposed in addition to any Administrative or Civil Remedy listed herein. Each day a violation continues shall constitute a separate offense. The requirement of a culpable mental state is expressly waived for criminal prosecution purposes.

ORDINANCE NO. 2019-4-7

Sec. 21-60.2. Administrative Remedies for Violations

The following administrative remedies are available to the City in cases of noncompliance with the provisions of this ordinance. These administrative remedies may be assessed in addition to any criminal penalty assessed for a violation of this ordinance. Each day a violation continues shall constitute a separate violation for purposes of assessing administrative remedies. The requirement of a culpable mental state is expressly waived for administrative remedies.

In the event that any person violates the provisions of this ordinance, the Director of Public Works or his/her designee shall give notice to such person setting forth the evidence of noncompliance with the restrictions outlined in Stages 1, 2 and 3.

(a) In-Ground Irrigation Systems Violations

(1) Notification of Violation

- (i) The City may shut off the person's double check valve to the irrigation system; and
- (ii) Notice shall be sent by letter delivered by United States Postal Service addressed to the person recorded in the city's customer and utility billing records advising that the irrigation system has been turned off. The letter shall also advise the person of the assessment of administrative remedies and fees. The letter shall also advise the person of procedures for payment of the administrative fees and the procedure for requesting a hearing to contest the assessment of the administrative remedies.

(2) Remedy

- (i) The administrative penalty is one hundred fifty dollars (\$150) per occurrence when paid at Customer and Utility Services. The administrative penalty increases by fifty dollars (\$50) for each additional violation received within a rolling 12 month period, except that in no event shall the penalty exceed five hundred dollars (\$500) for a violation.

ORDINANCE NO. 2019-4-7

- (ii) In lieu of the administrative penalty, the person recorded in the city's customer and utility billing records for the property can have a licensed irrigator install a properly functioning rain and freeze sensor. The person must provide a copy of the receipt that includes the purchase of the rain and freeze sensor, the installation of the device, and the licensed irrigator's name and Landscape Irrigator license number as issued by the TCEQ. This alternative remedy can only be applied once every three (3) years and is not eligible for a water conservation rebate from the City.

(b) Violations for Systems without Double-Check Valves or In-Ground Irrigation Systems.

(1) Violation Notification

- (i) Notice shall be sent by letter delivered by United States Postal Service addressed to the person recorded in the city's customer and utility billing records advising the person of the violation. The letter shall also advise the person of the assessment of administrative fees. The letter shall also advise the person of procedures for payment of the administrative fees and the procedure for requesting a hearing to contest the assessment of the administrative remedies.

(2) Remedy

- (i) The administrative penalty is one hundred fifty dollars (\$150.00) per occurrence when paid at Customer & Utility Services. The administrative penalty increases by fifty dollars (\$50) for each additional violation received within a rolling 12 month period, except that in no event shall the penalty exceed five hundred dollars (\$500) for a violation.

(c) Procedures for Paying Administrative Penalties or Requesting a Hearing on the Fees.

- (1) Personal appearance by the person listed on the city's Customer & Utility Services billing records is required to re-establish service to the irrigation system. Government issued photo identification must be provided by the person at time of payment or upon request for a hearing.

ORDINANCE NO. 2019-4-7

- (2) A person may request a hearing to protest the assessment of any administrative penalty. To request a hearing, the person must make the request in person to the City Public Works Department within fifteen (15) business days from the date on the written notice of violation.
- (3) The Public Works Operations Manager or his/her designee shall conduct the hearing. The Manager shall evaluate all information offered by the petitioner at the hearing. The person making the request for a hearing shall bear the burden of proof to show why, by a preponderance of the evidence, the administrative remedy should not be assessed. The Manager will provide a decision at the time of the hearing or within three (3) business days following the conclusion of the hearing.
- (4) Payment of any penalty assessed at the hearing must be made within seven (7) business days of the decision from the hearing. Any penalty not paid within this time limit shall be added to the person's next water billing cycle.
- (5) A person may appeal the decision from the hearing to the office of the Director of Public Works or his/her designee. The Director or his/her designee shall hear the appeal.
- (6) The request for an appeal must be filed in writing with the office of the Director of Public Works within three (3) business days of the date that notice of the denial was given by the Manager.
- (7) The Director or his/her designee shall render a decision at the time of the appeal or within three (3) business days from the conclusion of the appeal.
- (8) A person may elect to pay the administrative penalty without requesting a hearing. Any penalty not paid within fifteen (15) business days from the date on the written notice shall be added to the person's next water billing cycle.
- (9) Unpaid penalties related to the Drought and Emergency Response Plan can result in the termination of the domestic water services in accordance with City Code Chapter 21, Article IV, Service Charges Generally, Section 21-131 (d) and the established policies and procedures of the Customer and Utility Services Department.

ORDINANCE NO. 2019-4-7

(d) Administrative remedy for customers outside city. The Director of Public Works shall advise wholesale water customers outside the city limits receiving water service from the city of actions taken under the Plan by telephone and/or by letter. Noncompliance with any requirement in any stage may result in termination of service and removal of meter. Prior to such termination, the wholesale water customer shall be given notice of the city's intent to terminate service and shall have five (5) business days from the mailing of such notice to appeal the decision to the Director. Notice shall be sufficient if sent by certified mail to the last known address of the customer. If service is terminated, customer shall be liable for all costs of reinstallation. Termination of service to a wholesale water customer under this provision is subject also to the terms of any written contract between the city and the customer.

Section II. Any person, firm or corporation found to be violating any term or provision of this Ordinance shall be subject to a fine in accordance with Section 1-4(b) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section III. This Plan shall be submitted to the Region C Water Planning Group and to North Texas Municipal Water District, as required by TCEQ, to insure consistency with the appropriate approved regional water plan.

Section IV. All provisions of the ordinances of the City, codified or uncodified, in conflict with the provisions of this Ordinance are hereby repealed upon the effective date of this Ordinance, and all other provisions of the ordinances of the City, codified or uncodified, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

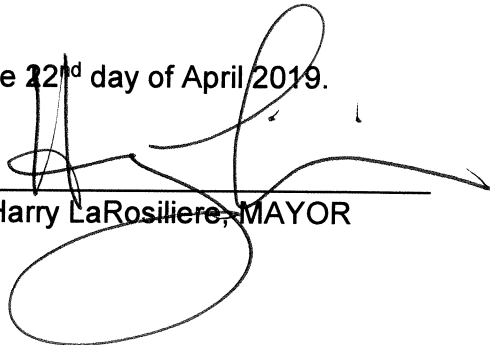
Section V. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this Ordinance shall not affect the validity or constitutionality of any other portion of this Ordinance.

Section VI. The repeal of any ordinance or part of any ordinance effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as affecting any rights of the municipality under any section or provision of any ordinance at the time of passage this Ordinance.

ORDINANCE NO. 2019-4-7


Section VII. This Ordinance shall become effective from and after its passage and publication as required by law.

DULY PASSED AND APPROVED this the 22nd day of April 2019.



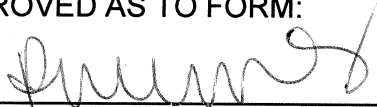
Harry LaRosiliere, MAYOR

ATTEST:



Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:



Paige Mims, CITY ATTORNEY