

**ORDINANCE NO. 2019-16**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ROSENBERG, TEXAS, BY DELETING ALL OF ARTICLE II OF CHAPTER 10 THEREOF AND SUBSTITUTING THEREFOR A NEW ARTICLE II OF CHAPTER 10 ENTITLED, "EMERGENCY MANAGEMENT – DROUGHT CONTINGENCY REGULATIONS"; PROVIDING RULES AND REGULATIONS FOR INITIATION AND TERMINATION OF DROUGHT CONTINGENCY PLANS WITHIN THE CITY; PROVIDING FOR RESPONSE STAGES AND RESTRICTIONS ON CERTAIN WATER USES DURING DROUGHT CONDITIONS; PROVIDING FOR ENFORCEMENT OF SUCH RESTRICTIONS; PROVIDING FOR PROCEDURES FOR GRANTING OF VARIANCES; PROVIDING A PENALTY IN AN AMOUNT OF NOT MORE THAN \$500 FOR VIOLATION OF ANY PROVISION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY.**

**WHEREAS**, the City Council of the City of Rosenberg recognizes the amount of water available to the City and its water utility customers is limited and subject to depletion during periods of extended drought; and,

**WHEREAS**, Section 11.1272 of the Texas Water Code and applicable rules of the Texas Commission on Environmental Quality require all public water systems in Texas to prepare a drought contingency plan; and,

**WHEREAS**, as authorized under law and in the best interest of the residents, citizens and inhabitants of the City of Rosenberg, the City Council deems it expedient and necessary to establish certain rules and procedures for the orderly and efficient management of limited water supplies during drought conditions and other water-related emergencies; and,

**WHEREAS**, the City Council held a public hearing on Tuesday, April 2, 2019, to allow members of the public the right to provide input regarding the revised drought contingency plan regulations; and,

**WHEREAS**, after review of said drought contingency plan, the City Council has determined that revisions are needed to the current plan to adequately provide for comprehensive drought response measures; now, therefore,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ROSENBERG:**

Section 1. That the revised drought contingency plan, as attached hereto as Exhibit "A" and made a part hereof for all purposes, is hereby adopted.

Section 2. All ordinances or parts of inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 3. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Rosenberg, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional whether there be one or more parts.

**PASSED AND APPROVED** by a vote of 7 "ayes" in favor and 0 "noes" against on this first and final reading in full compliance with the provisions of Section 3.10 of the Charter of the City of Rosenberg on this, the 2 day of April 2019.

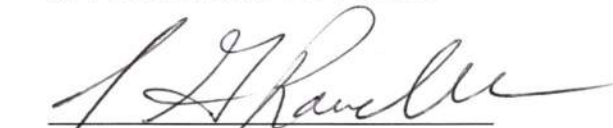
**ATTEST:**

**APPROVED:**

  
Danyel Swint, **CITY SECRETARY**

  
William Benton, **MAYOR**

**APPROVED AS TO FORM:**

  
**CITY ATTORNEY**  
Randle Law Office, Ltd., L.L.P.



## **ARTICLE II. – DROUGHT CONTINGENCY REGULATIONS**

### **Sec. 10-30. - Declaration of policy, purpose, and intent.**

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

Water uses regulated or prohibited under this Drought Contingency Plan (the Plan) are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply conditions are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in Section 10-39 of this Plan.

### **Sec. 10-31. – Statement of public involvement.**

Opportunity for the public to provide input into the preparation of the Plan was provided by the City by means of providing public notice in a newspaper of general circulation and a public hearing to accept input on these regulations.

### **Sec. 10-32. - Public education.**

The City will periodically provide the public with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated and the drought response measures to be implemented in each stage. This information will be provided by means of utility bill inserts.

### **Sec. 10-33. - Coordination with regional water planning groups.**

The service area of the City is located within the Region H Water Planning Group and the City has provided a copy of this Plan to Region H and will cooperate with governmental entities located within Region H.

### **Sec. 10-34. – Authorization.**

The City Manager or his/her 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, or his/her designee, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

### **Sec. 10-35. – Application.**

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

The beneficial use of treated wastewater (reuse or recycled water), condensate water, or cooling tower blow down, without waste, is exempt from the provisions of this article and a defense to prosecution. The use of alternate on-site reclaimed sources may be approved through variance from the city manager, or his/her designee on a case by case basis.

All references herein to materials contained in this article shall be deemed to refer to "the plan" and any modifications and/or changes thereof as shall be approved from time to time by the city council as an amendment to the terms and provision of this article.

**Sec. 10-36. – Definitions.**

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

Aesthetic water use: water used for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.

Beneficial use shall mean the use of treated wastewater (reuse or recycled water), condensate water, or cooling tower blown down for a purpose not otherwise prohibited by city, state, or federal law or regulation, when such use is a reasonable viable alternative offering efficiency of use and economic benefits.

Commercial and institutional water use: water used which is integral to the operations of commercial and non-profit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, and office buildings.

Conservation: those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

Customer: any person, company, or organization using water supplied by the city.

Domestic water use: water used for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

Even number address: street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.

Industrial water use: the use of water in processes designed to convert materials of lower value into forms having greater usability and value.

Landscape irrigation use: water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, rights-of-way, and medians.

Non-essential water use: water uses that are not essential nor required for the protection of public, health, safety, and welfare, including:

- (1) irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this Plan;
- (2) use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- (3) use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- (4) use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (5) flushing gutters or permitting water to run or accumulate in any gutter or street;
- (6) use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;
- (7) use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- (8) failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
- (9) use of water from hydrants for construction purposes or any other purposes other than fire fighting.

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

Reuse or recycled water: shall mean domestic or municipal wastewater which has been treated to a quality suitable for a beneficial use in accordance with applicable law.

Waste: shall mean the use of water without obtaining maximum beneficial use thereof. Waste shall also include, but not be limited to, causing, suffering, or permitting a flow of water used for landscape watering to run into any river, creek, stream, or other natural water course or drain, superficial or underground channel, bayou, or unto any sanitary or storm sewer, any street, road or highway or other impervious surface area, or upon the

lands of another person or upon public lands. Waste shall also include, but not be limited to, failure to repair any controllable leak on property owned by any registered water meter holder.

**Sec. 10-37. – Criteria for initiation and termination of drought response stages.**

The City Manager or his/her designee shall monitor water supply and/or demand conditions on a daily basis and shall determine when conditions warrant initiation or termination of each stage of the Plan, that is, when the specified “triggers” are reached. Public notification of the initiation or termination of drought response stages shall be by means of publication in a newspaper of general circulation and/or by notification via electronic media depending upon the severity of conditions.

The triggering criteria described below are based on:

Water supply and/or water demand, the City Manager or his representative will have the authority to declare an emergency water demand condition of mild, moderate or severe under the following conditions:

1. Supply-related problems, such as reductions in supply due to drought and water rights permits or water contracts constraints;
2. System-related problems, such as equipment failures and line breaks; and
3. Other conditions that may affect or otherwise limit the City’s ability to meet the demand for water.

**Utilization of alternative water sources and/or alternative delivery mechanisms:**

Alternative water source(s) for the City is/are: Purchased surface water, use of reuse/reclaimed water for non-potable purposes.

**(a) Stage 1 Triggers -- MILD Water Shortage Conditions**

Requirements for initiation —Customers shall be requested to voluntarily conserve water and adhere to the prescribed conditions on certain water uses as defined in this Plan when any of the following conditions exist:

- Condition 1: Pursuant to the requirements specified in the City wholesale water purchase contract with Brazosport Water Authority, notification is received requesting initiation of Stage 1 of the Drought Contingency Plan; or
- Condition 2: At the request of the Brazosport Water Authority due to limitations on water supply availability or unable to supply the City of Rosenberg due to equipment failures and/or catastrophic events.

Condition 3: When total daily water demand equals or exceeds 8 million gallons for five (5) consecutive days or 10 million gallons on a single day.

Requirements for termination

Stage 1 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days.

**(b) Stage 2 Triggers – MODERATE Water Shortage Conditions**

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses provided in Section 10-38 of this Plan when any of the following conditions exist:

- Condition 1: Pursuant to requirements specified in the City wholesale water purchase contract with Brazosport Water Authority, notification is received requesting initiation of Stage 2 of the Drought Contingency Plan; or
- Condition 2: At the request of the Brazosport Water Authority due to limitations on water supply availability or unable to supply the City due to equipment failures and/or catastrophic events.
- Condition 3: When total daily water demand equals or exceeds 10 million gallons for five (5) consecutive days or 12 million gallons on a single day.

Requirements for termination

Stage 2 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of five (5) consecutive days. Upon termination of Stage 2, Stage 1, or the applicable drought response stage based on the triggering criteria becomes operative.

**(c) Stage 3 Triggers – SEVERE Water Shortage Conditions**

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 3 of this Plan when any of the following conditions exist:

- Condition 1: Pursuant to requirements specified in the City wholesale water purchase contract with Brazosport Water Authority, notification is received requesting initiation of Stage 3 of the Drought Contingency Plan; or
- Condition 2: At the request of the Brazosport Water Authority due to limitations on water supply availability or unable to supply the City due to equipment failures and/or catastrophic events.

Condition 3: The failure or threatening failure of a major system component will result in an immediate public health or safety hazard; or

Condition 4: When total daily water demand reaches the system limits, stressing the system to failure.

Requirements for termination

Stage 3 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of seven (7) consecutive days. Upon termination of Stage 3, Stage 2, or the applicable drought response stage based on the triggering criteria, becomes operative.

**(d) Stage 4 Triggers – CRITICAL Water Shortage Conditions**

Requirements for initiation

Customers shall be required to comply with requirements and restrictions on certain non-essential water uses for Stage 4 of this Plan when any of the following conditions exist:

Condition 1: Pursuant to requirements specified in the City wholesale water purchase contract with Brazosport Water Authority, notification is received requesting initiation of Stage 4 of the Drought Contingency Plan; or

Condition 2: At the request of the Brazosport Water Authority due to limitations on water supply availability or unable to supply the City due to equipment failures and/or catastrophic events.

Condition 3: Treated water storage levels do not replenish overnight.

Requirements for termination

Stage 4 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of Stage 4, Stage 3, or the applicable drought response stage based on the triggering criteria, becomes operative.

**(e) Stage 5 Triggers – EMERGENCY Water Shortage Conditions**

Requirements for initiation

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

Condition 1: Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capacity to provide water service; or

Condition 2: Natural or man-made contamination of the water supply source(s).

Requirements for termination

Stage 5 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of two (2) consecutive days.

**Sec. 10-38. - Drought response stages.**

The City Manager, or his/her designee, shall monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in Section 10-37 of this Plan, shall determine that a mild, moderate, severe, critical, emergency, or water shortage condition exists and shall implement the following notification procedures:

(a) **Notification of the public.** The City Manager or his/ her designee shall notify the public by means of:

- publication in a newspaper of general circulation,
- public service announcements,

Additional Notification:

The City Manager or his/ her designee shall notify directly, or cause to be notified directly, the following individuals and entities:

- Mayor / members of the City Council
- Fire Chief(s)
- City and/or County Emergency Management Coordinator(s)
- TCEQ (required when mandatory restrictions are imposed)
- Major water users
- Critical water users, i.e. hospitals

**(b) Stage 1 Response – MILD Water Shortage Conditions**

**Target: Achieve a voluntary 5 percent (5%) reduction in daily water demand.**

Best Management Practices for Supply Management:

To manage limited water supplies and/or reduce water demand, the City shall implement the following measures; reduce flushing of water mains and increase use of alternative supply source (s) if available.

Voluntary Water Use Restrictions for Reducing Demand:

1. Water customers are requested to voluntarily limit the irrigation of landscaped areas to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and to irrigate landscapes only between the hours of midnight and 10:00 a.m., and 8:00 p.m. to midnight on designated watering days.
2. All operations of the City and its employees shall adhere to water use restrictions prescribed for Stage 1 of the Plan.
3. Water customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes.

**(c) Stage 2 Response – MODERATE Water Shortage Conditions**

**Target: Achieve a 10 percent (10%) reduction in daily water demand.**

**Best Management Practices for Supply Management:**

In order to manage limited water supplies and/or reduce water demand, the City shall implement the following measure; reduce flushing of water mains, reduce irrigation of public landscaped areas; increase use of an alternative supply source if available.

**Water Use Restrictions for Demand Reduction:**

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

1. Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and irrigation of landscaped areas is further limited to the hours of 12:00 (midnight) until 10:00 a.m., and between 8:00 p.m. and 12:00 (midnight) on designated watering days. However, irrigation of landscaped areas is permitted at anytime if it is by means of a hand-held hose, a faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system.
2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days between the hours of 12:00 (midnight) and 10:00 a.m., and between 8:00 p.m. and 12:00 (midnight). Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of

the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.

3. Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited except on designated watering days between the hours of 12:00 (midnight) and 10:00 a.m., and between 8:00 p.m. and 12:00 (midnight).
4. 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.
5. Use of water from hydrants shall be limited to fire fighting, related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under special permit from the City.
6. Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours 12:00 (midnight) and 10:00 a.m. and between 8 p.m. and 12:00 midnight. However, if the golf course utilizes a water source other than that provided by the City, the facility shall not be subject to these regulations.
7. All restaurants are prohibited from serving water to patrons except upon request of the patron.
8. The following uses of water are defined as non-essential and are prohibited:
  - (a) Wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
  - (b) Use of water to wash down buildings or structures for purposes other than immediate fire protection;
  - (c) Use of water for dust control;
  - (d) Flushing gutters or permitting water to run or accumulate in any gutter or street; and
  - (e) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

**(d) Stage 3 Response – SEVERE Water Shortage Conditions**

**Target: Achieve a 15 percent (15%) reduction in daily water demand.**

**Best Management Practices for Supply Management:**

In order to manage limited water supplies and/or reduce water demand, the City shall implement the following measure; reduce flushing of water mains, minimize irrigation of public landscaped areas to avoid vegetation loss; increase use of an alternative supply source if available.

**Water Use Restrictions for Demand Reduction:**

All requirements of Stage 2 shall remain in effect during Stage 3 except:

1. Irrigation of landscaped areas shall be limited to designated watering days between the hours of 12:00 (midnight) and 10:00 a.m., and between 8:00 p.m. and 12:00 (midnight) and shall be by means of hand-held hoses, hand-held buckets, drip irrigation, or permanently installed automatic sprinkler system only. The use of hose-end sprinklers is prohibited at all times.
2. The watering of golf course tees is prohibited unless the golf course utilizes a water source other than that provided by the City.
3. The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued.

**(e) Stage 4 Response – CRITICAL Water Shortage Conditions**

**Target: Achieve a 20 percent (20%) reduction in daily water demand.**

**Best Management Practices for Supply Management:**

In order to manage limited water supplies and/or reduce water demand, the City shall implement the following measure; reduce or discontinue flushing of water mains except emergencies, reduce or discontinue irrigation of public landscaped areas; increase use of an alternative supply source if available.

**Water Use Restrictions for Reducing Demand:**

All requirements of Stage 2 and 3 shall remain in effect during Stage 4 except:

1. Irrigation of landscaped areas shall be limited to designated watering days between the hours of 6:00 a.m. and 10:00 a.m., and between 8:00 p.m. and 12:00 (midnight) and shall be by means of hand-held hoses, hand-held buckets, or drip irrigation only. The use of hose-end sprinklers or permanently installed automatic sprinkler systems are prohibited at all times.

2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial car wash and commercial service stations and not in the immediate interest of public health, safety, and welfare is prohibited. Further, such vehicle washing at commercial car washes and commercial service stations shall occur only between the hours of 6:00 a.m. and 10:00 a.m., and between 6:00 p.m. and 10 p.m.
3. The filling, refilling, or adding of water to swimming pools, wading pools, and Jacuzzi-type pools is prohibited.
4. 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.
5. No application for new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be approved, and time limits for approval of such applications are hereby suspended for such time as this drought response stage or a higher-numbered stage shall be in effect.

**(f) Stage 5 Response – EMERGENCY Water Shortage Conditions**

**Target: Achieve a 25 percent (25%) reduction in daily water demand.**

**Best Management Practices for Supply Management:**

The City shall discontinue flushing of water mains, discontinue irrigation of public landscaped areas; identify and use of an alternative supply.

**Water Use Restrictions for Reducing Demand:**

All requirements of Stage 2, 3, and 4 shall remain in effect during Stage 5 except:

1. Irrigation of landscaped areas is absolutely prohibited.
2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.

**(g) Stage 6 Response – WATER ALLOCATION**

In the event that water shortage conditions threaten public health, safety, and welfare, the City Manager is hereby authorized to allocate water at his discretion.

**Sec. 10-39. - Enforcement**

- (a) No person shall knowingly or intentionally allow the use of water from the City for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to any provision of this Plan, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by the City Manager or his/her designee, in accordance with provisions of this Plan.
- (b) Any person who shall violate this Plan is guilty of a misdemeanor and, upon conviction, shall be punished by a fine in an amount not to exceed five hundred dollars (\$500.00). Each day that one (1) or more of the provisions in this Plan is violated shall constitute a separate offense. If a person is convicted of three (3) or more distinct violations of this Plan, the City Manager, shall be authorized, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a reconnection charge hereby established at \$25.00, and any other costs incurred by the City in discontinuing service. In addition, suitable assurance must be given to the City Manager that the same actions shall not be repeated while the Plan is in effect. Compliance with this Plan may also be sought through injunctive relief in the district court.
- (c) Any person, including a person classified as a water customer of the City, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof that violation, committed by a child, occurred on property within the parents' control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this Plan and the parent could not have reasonably known of the violation.
- (d) Any police officer, code enforcement officer, or other City employee designated by the City Manager may issue a citation to a person he/she reasonably believes to be in violation of this Ordinance. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, the offense charged, and shall direct him/her to appear in the Municipal Court on the date shown on the citation for which the date shall not be less than three (3) days nor more than five (5) days from the date the citation was issued. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over 16 years of age who is a member of the violator's immediate family or is a resident

of the violator's residence. The alleged violator shall appear in Municipal Court to enter a plea of guilty or not guilty for the violation of this Plan. If the alleged violator fails to appear in Municipal Court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant. These cases shall be expedited and given preferential setting in the City Municipal Court before all other cases.

**Sec. 10-40. – Variances.**

The City Manager or his/her designee, may, in writing, grant temporary variance for existing water uses otherwise prohibited under this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if one (1) or more of the following conditions are met:

- (a) Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.
- (b) Alternative methods can be implemented which will achieve the same level of reduction in water use.

Persons requesting an exemption from the provisions of this Ordinance shall file a petition for variance with the City within five (5) days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the City Manager or his/her designee, and shall include the following:

- (a) Name and address of the petitioner(s).
- (b) Purpose of water use.
- (c) Specific provision(s) of the Plan from which the petitioner is requesting relief.
- (d) Detailed statement as to how the specific provision of the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Ordinance.
- (e) Description of the relief requested.
- (f) Period of time for which the variance is sought.
- (g) Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.
- (h) Other pertinent information.

Variances granted by the City shall be subject to the following conditions, unless waived or modified by the City Manager or his/her designee:

- (a) Variances granted shall include a timetable for compliance.
- (b) Variances granted shall expire when the Regulations are no longer in effect, unless the petitioner has failed to meet specified requirements.

No variance shall be retroactive or otherwise justify any violation of these Regulations prior to the issuance of the variance.

**Secs. 10-41 – 10-49. – Reserved.**