

ORDINANCE NO. O-37-19

AN ORDINANCE OF THE CITY OF ATHENS, TEXAS, ADOPTING A DROUGHT CONTINGENCY PLAN; ESTABLISHING CRITERIA FOR THE INITIATION AND TERMINATION OF DROUGHT RESPONSE STAGES; ESTABLISHING RESTRICTIONS ON CERTAIN WATER USES; ESTABLISHING PENALTIES FOR THE VIOLATION OF, AND PROVISIONS FOR, ENFORCEMENT OF THESE RESTRICTIONS; ESTABLISHING PROCEDURES FOR GRANTING VARIANCES; AND PROVIDING SEVERABILITY AND AN EFFECTIVE DATE

WHEREAS, the City of Athens, Texas recognizes that the amount of water available to the city and its water utility customers is limited and subject to depletion during periods of extended drought.

WHEREAS, the City recognizes that natural limitations due to drought conditions and other acts of God cannot guarantee and uninterrupted water supply for all purposes;

WHEREAS, Section 12.1272 of the Texas Water Code and applicable rules of the Texas Commission on Environmental Quality require all public water supply systems in Texas to prepare a drought contingency plan; and

WHEREAS, as authorized under law, and in the best interests of the citizens of Athens, Texas, the City Council deems it expedient and necessary to establish certain rules and policies for the orderly and efficient management of limited water supplies during drought and other water supply emergencies;

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF ATHENS, TEXAS;

SECTION 1.

That the City of Athens, Texas Drought Contingency Plan attached hereto as Exhibit "A" and made part hereof for all purposes be, and the same is hereby, adopted as the official policy of the City.

SECTION 2.

That all ordinances that are in conflict with the provisions of this ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3.

Should any paragraph, sentence, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal, or unconstitutional.

SECTION 4.

The ordinance shall take effect immediately from and after its passage and the publication or the caption, as the law in such case provides.

First reading on March 25, 2019.

PASSED, APPROVED and ADOPTED this the **8th** day of **April, 2019** at a regular meeting of the City Council of the City of Athens, Texas, with the following record vote:

Monte Montgomery, Mayor	Aye
Ed McCain, Councilmember/Mayor Pro Tem	Aye
Aaron Smith, Councilmember	Aye
Toni Clay, Councilmember	Aye
Robert Gross, Councilmember	Aye

5 voted in favor of the motion and

0 voted against the motion.

Motion carried 5-0

Monte Montgomery, Mayor

ATTEST:

Bonnie Hambrick, City Secretary

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibit A

**DROUGHT CONTINGENCY PLAN
CITY OF ATHENS
MAY 2019**

Section I: 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 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 nonessential and continuation of such uses during times of water shortage and other emergency water supply conditions are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in Section XI of this plan.

Section II: Public Involvement

Opportunity for the public to provide input into the preparation of the plan was provided by the city by means of public notice of a public meeting.

Section III: 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 or terminated and the drought response measures to be implemented in each state. This information will be provided by means of press releases, website postings and social media.

Section IV: Coordination with Regional Water Planning Groups.

The service area of the city is located within both the Texas Water Development Board's Region C and Region I Water Planning Groups, and the city has provided a copy of this plan to the chairmen of both the Region C and Region I Water Planning Groups.

Section V: Authorization.

The City Administrator or his/her designee is hereby authorized and directed to implement the applicable provisions of the plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The City Administrator 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.

Section VI: 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.

Section VII: Definitions.

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

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

Commercial and institutional water use: water use which is integral to the operations of commercial and non-profit establishments and governmental entities such a 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 use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

Even number address: street addresses, box numbers, or rural postal route numbers ending in zero (0), two (2), four (4), six (6) or eight (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, and rights-of-way and medians.

Nonessential water use: water uses that are not essential or 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 firefighting.

Odd numbered address: street addresses, box numbers, or rural postal route numbers ending in one (1), three (3), five (5), seven (7), or nine (9).

Section VIII: Triggering Criteria for Initiation and Termination of Drought Response Stages.

The City Administrator 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. Public notification of the initiation or termination of drought response stages shall be by means of publication in a newspaper of general circulation, website postings and social media.

The triggering criteria described below are based on the pumping capacities of the water treatment plant and groundwater wells, as well as past experiences with drought conditions.

A. *Stage 1 - Mild Water Shortage Conditions.*

Requirements for Initiation. Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain water uses, defined in Section 7 - Definitions, when daily usage exceeds 4.5 million gallons per day (MGD).

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 seven (7) consecutive days.

B. *Stage 2 - Moderate Water Shortage Conditions.*

Requirements for Initiation. Customers shall be required to comply with the requirements and restrictions on certain nonessential water uses provided in Section 7 of this plan when daily

usage exceeds 4.5 MGD and the storage facilities do not refill above eighty (80) percent of full capacity overnight.

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 seven (7) consecutive days. Upon termination of Stage 2, Stage 1 becomes operative.

C. Stage 3 — Severe Water Shortage Conditions.

Requirements for Initiation. Customers shall be required to comply with the requirements and restrictions on certain nonessential water uses for Stage 3 of this plan when daily usage exceeds 4.5 MGD and the storage facilities do not refill above sixty-five (65) percent of full capacity overnight.

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 becomes operative.

D. Stage 4 — Critical Water Shortage Conditions.

Requirements for Initiation. Customers shall be required to comply with the requirements and restrictions on certain nonessential water uses for Stage 4 of this plan when daily usage exceeds 4.5 MGD and the storage facilities do not refill above fifty (50) percent of full capacity 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 seven (7) consecutive days. Upon termination of Stage 4, Stage 3 becomes operative.

E. Stage 5 — 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 Administrator or his/her designee determines that a water supply emergency exists based on:

- (a) The occurrence of major water line breaks or pump or system failures, which cause unprecedented loss of capability to provide water service; or
- (b) 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 seven (7) consecutive days.

F. Water Rationing

Requirements for Initiation. Customers shall be required to comply with the water allocation plan prescribed in Section X of this plan and comply with the requirements and restrictions for Stage 5 of this plan when daily usage exceeds 4.5 MGD and the storage facilities do not refill above thirty-five (35) percent of full capacity overnight.

Requirements for Termination. Water rationing may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 7 consecutive days.

Section IX: Drought Response Stages.

The City Administrator, 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 VIII of the plan, shall determine that a mild, moderate, severe, critical, or emergency condition exists and shall implement the following actions upon publication of notice in a newspaper of general circulation:

A. Stage 1 - Mild Water Shortage Conditions.

Goal: Achieve a voluntary ten (10) percent reduction in daily water use.

Voluntary Water Use Restrictions:

- (a) Water customers are requested to voluntarily limit the irrigation of landscaped areas to even numbered days for customers with a street address ending in an even number (zero (0), two (2), four (4), six (6) or eight (8)), and odd numbered days for water customers with a street address ending in an odd number (one (1), three (3), five (5), seven (7) or nine (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.
- (b) All operators of the city shall adhere to water use restrictions prescribed for Stage 2 of the Plan.
- (c) Water customers are requested to practice water conservation and to minimize or discontinue water use for nonessential purposes.

B. Stage 2 - Moderate Water Shortage Conditions

Goal: Reduce Daily Water Usage to 4.0 MGD.

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

- (a) Irrigation of landscaped areas shall be limited to even numbered days for customers with a street address ending in an even number (zero (0), two (2), four (4), six (6) or eight (8)), and odd numbered days for water customers with a street address ending in an odd number (one (1), three (3), five (5), seven (7), or nine (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. However, irrigation of landscaped areas is permitted at any time 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.
- (b) 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.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m., and between 8:00 p.m. and 12:00 midnight. However, if the golf course utilizes a water source other than that provided by the city, the facility shall not be subject to these regulations.
- (g) The following uses of water are defined as nonessential and are prohibited:
 - 1. Wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
 - 2. Use of water to wash down buildings or structures for purposes other than immediate fire protection;
 - 3. Use of water for dust control;

4. Flushing gutters or permitting water to run or accumulate in any gutter or street; and
5. Failure to repair a controllable leak(s) within 7 calendar period after having been given notice directing the repair of such leak(s).

Stage 3 - Severe Water Shortage Conditions.

Goal: Reduce Daily Water Usage to 4.0 MGD or Less.

Water Use Restrictions - All requirements of Stage 2 shall remain in effect during Stage 3 except:

- (a) Irrigation of landscaped areas shall be limited to odd-even watering days between the hours of 12:00 midnight and 10:00 a.m., and between 8:00 p.m. and 12:00 midnight.
- (b) The watering of golf course tees and greens is prohibited unless the golf course utilizes a water source other than provided by the city.
- (c) The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued.
- (d) All restaurants are prohibited from automatically serving water to their patrons, except when requested.

C. Stage 4 - Critical Water Shortage Conditions.

Goal: Reduce Daily Water Usage to 4.0 MGD or Less.

Water Use Restrictions - All requirements of Stage 2 and 3 shall remain in effect during Stage 4 except:

- (a) Irrigation of landscaped areas shall be limited to odd-even 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.
- (b) 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 or commercial service station 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 10:00 p.m.
- (c) The filling, refilling, or adding of water to swimming pools, wading pools, and Jacuzzi-type pools is prohibited.

- (d) 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.
- (e) No applications for new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities or any kind shall be allowed or approved.

D. Stage 5 - Emergency Water Shortage Conditions.

Goal: Reduce Daily Water Usage to 4.0 MGD or Less.

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

- (a) Irrigation of landscaped areas is absolutely prohibited.
- (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.

Section X: Water Rationing

In the event that water shortage conditions threaten public health, safety, and welfare, the City Administrator is hereby authorized to ration water according to the following water allocation plan:

Single-Family Residential Customers: The allocation to residential water customers residing in a single-family dwelling shall be as follows:

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

"Household" means the residential premises served by the customer's meter. "Persons per household" includes only those persons currently physically residing at the premises and expected to reside there for the entire billing period. It shall be assumed that a particular customer's household is comprised of two (2) persons unless the customer notifies the City of a greater number of persons per household on a form prescribed by the City Administrator. The City Administrator shall give his/her best effort to see that such forms are mailed, otherwise provided, or made available to every residential customer. If, however, a customer does not receive such a form, it shall be the customer's responsibility to go to the city offices to complete and sign the form claiming more than two (2) 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. 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 shall notify the city in writing within two (2) days. In prescribing the method for claiming more than two (2) persons per household, the City Administrator shall adopt methods to insure the accuracy of the claim. Any person who knowingly, recklessly, or with criminal negligence falsely reports the number of persons in a household or fails to timely notify the city of a reduction in the number of people in a household shall be fined not less than one hundred dollars (\$100.00). Residential water customers shall pay the following surcharges:

- (a) Five dollars (\$5.00) for the first one thousand (1,000) gallons over allocation
- (b) Fifteen dollars (\$15.00) for the third one thousand (1,000) gallons over allocation.
- (c) Twenty dollars (\$20.00) for each additional one thousand (1,000) gallons over allocation.
- (d) Surcharges shall be cumulative.

Master-metered Multi-family Residential Customers. The allocation to a customer billed from a master meter which jointly measures water to multiple permanent residential dwelling units (e.g., apartments, mobile homes) shall be allocated six thousand (6,000) gallons per month for each dwelling unit. It shall be assumed that such a customer's meter serves two (2) dwelling units unless the customer notifies the city of a greater number on a form prescribed by the City Administrator. The City Administrator shall give his/her best effort to see that such forms are mailed, otherwise provided, or made available to every such customer. If, however, a customer does not receive such a form, it shall be the customer's responsibility to go to the city offices to complete and sign the form claiming more than two (2) dwellings. 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 Administrator. If the number of dwelling units served by a master meter is reduced, the customer shall notify the city in writing within two (2) days. In prescribing the method for claiming more than two (2) dwelling units, the City Administrator shall adopt methods to insure the accuracy of the claim. Any person who knowingly, recklessly, or with criminal negligence falsely reports the number of dwelling units served by a master meter or fails to timely notify the city of a reduction in the number of persons in a household shall be fined not less than one hundred dollars

(\$100.00). Customers billed from a master meter under this provision shall pay the following monthly surcharges:

- (a) Five dollars (\$5.00) for one thousand (1,000) gallons over allocation up through one thousand (1,000) gallons for each dwelling unit.
- (b) Ten dollars (\$10.00), thereafter, for each additional one thousand (1,000) gallons over allocation up through a second one thousand (1,000) gallons for each dwelling unit.
- (c) Fifteen dollars (\$15.00), thereafter, for each additional one thousand (1,000) gallons over allocation up through a third one thousand (1,000) gallons for each dwelling unit.
- (d) Twenty dollars (\$20.00), thereafter, for each additional one thousand (1,000) gallons over allocation.
- (e) Surcharges shall be cumulative.

Commercial Customers. A monthly water usage allocation shall be established by the City Administrator, or his/her designee, for each nonresidential commercial customer other than an industrial customer who uses water for processing purposes. The nonresidential customer's allocation shall be approximately seventy-five (75) percent of the customer's usage for corresponding month's billing period for the previous twelve (12) months. If the customer's billing history is shorter than twelve (12) months, the monthly average for the period for which there is a record shall be used for any monthly period for which no history exists. Provided, however, a customer, seventy-five (75) percent of whose monthly usage is less than fifty thousand (50,000) gallons, shall be allocated thirty-seven thousand five hundred (37,500) gallons. The City Administrator shall give his/her best effort to see that notice of each nonresidential customer's allocation is mailed to such customer. If, however, a customer does not receive such notice, it shall be the customer's responsibility to contact the City Administrator to determine the allocation. Upon request of the customer or at the initiative of the City Administrator, the allocation may be reduced or increased if, (1) the designated period does not accurately reflect the customer's normal water usage, (2) one nonresidential customer agrees to transfer part of its allocation to another nonresidential customer, or (3) other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the City Administrator. Nonresidential commercial customers shall pay the following surcharges:

- (a) Customers whose allocation is thirty thousand (30,000) gallons through fifty thousand (50,000) gallons per month:
 - a. Five dollars (\$5.00) per thousand gallons for the first one thousand (1,000) gallons over allocation.
 - b. Ten dollars (\$10.00) per thousand gallons for the second one thousand (1,000) gallons over allocation.
 - c. Fifteen dollars (\$15.00) per thousand gallons for the third one thousand (1,000) gallons over allocation.

- d. Twenty dollars (\$20.00) per thousand gallons for each additional one thousand (1,000) gallons over allocation.
- (b) Customers whose allocation is fifty thousand (50,000) gallons per month or more:
 - a. Two (2) times the block rate for each one thousand (1,000) gallons in excess of the allocation up through five (5) percent above allocation.
 - b. Three (3) times the block rate for each one thousand (1,000) gallons from five (5) percent through ten (10) percent above allocation.
 - c. Four (4) times the block rate for each one thousand (1,000) gallons from ten (10) percent through fifteen (15) percent above allocation.
 - d. Five (5) times the block rate for each one thousand (1,000) gallons more than fifteen (15) percent above allocation.
- (c) The surcharges shall be cumulative. As used herein, "block rate" means the charge to the customer per one thousand (1,000) gallons at the regular water rate schedule at the level of the customer's allocation.

Industrial Customers. A monthly water usage allocation shall be established by the City Administrator, or his/her designee, for each industrial customer, which uses water for processing purposes. The industrial customer's allocation shall be approximately ninety (90) percent of the customer's water usage baseline. Thirty (30) days after the initial imposition of the allocation for industrial customers, the industrial customer's allocation shall be further reduced to eighty-five (85) percent of the customer's water usage baseline. The industrial customer's water usage baseline will be computed on the average water usage for the twelve (12) month period ending prior to the date of implementation of Stage 2 of the plan. If the industrial water customer's billing history is shorter than twelve (12) 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. The City Administrator shall give his/her best effort to see that notice of each industrial customer's allocation is mailed to such customer. If, however, a customer does not receive such notice, it shall be the customer's responsibility to contact the city to determine the allocation, and the allocation shall be fully effective notwithstanding the lack of receipt of written notice. Upon request of the customer or at the initiative of the City Administrator, the allocation may be reduced or increased, (1) if the designated period does not accurately reflect the customer's normal water usage because the customer had shutdown a major processing unit for repair or overhaul during the period, (2) the customer has added or is in the process of adding significant additional processing capacity, (3) the customer has shutdown or significantly reduced the production of a major processing unit, (4) the customer has previously implemented significant permanent water conservation measures such that the ability to further reduce usage is limited, (5) the customer agrees to transfer part of its allocation to another industrial customer, or (6) if other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the City Administrator. Industrial customers shall pay the following surcharges:

- (a) Customers whose allocation is fifty thousand (50,000) gallons through one hundred thousand (100,000) gallons per month:

- a. Five dollars (\$5.00) per thousand gallons for the first one thousand (1,000) gallons over allocation.
 - b. Ten dollars (\$10.00) per thousand gallons for the second one thousand (1,000) gallons over allocation.
 - c. Fifteen dollars (\$15.00) per thousand gallons for the third one thousand (1,000) gallons over allocation.
 - d. Twenty dollars (\$20.00) per thousand gallons for each additional one thousand (1,000) gallons over allocation.
- (b) Customers whose allocation is one hundred thousand (100,000) gallons per month or more:
- a. Two (2) times the block rate for each one thousand (1,000) gallons in excess of the allocation up through five (5) percent above allocation.
 - b. Three (3) times the block rate for each one thousand (1,000) gallons from five (5) percent through ten (10) percent above allocation.
 - c. Four (4) times the block rate for each one thousand (1,000) gallons from 10 percent through fifteen (15) percent above allocation.
 - d. Five (5) times the block rate for each one thousand (1,000) gallons more than fifteen (15) percent above allocation.
- (c) The surcharges shall be cumulative. As used herein, "block rate" means the charge to the customer per one thousand (1,000) gallons at the regular water rate schedule at the level of the customer's allocation.

Section XI: 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 City Administrator, or his/her designee, in accordance with provisions of this plan.

B. Any person who violates this plan is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than two hundred and fifty dollars (\$250.00). Each day that one 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 Administrator shall, 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 two hundred and fifty dollars (\$250.00), and any other costs incurred by the city in discontinuing service. In addition, suitable assurance must be given to the City Administrator that the same action 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 refutable 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 a violation, committed by a child, occurred on property within the parents' control shall constitute a refutable 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 that the parent could not have reasonably known of the violation.

D. Any employee of the city or police officer designated by the city 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 Athens 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 fourteen (14) years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in Athens 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 Athens 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 Athens Municipal Court before all other cases.

Section XII: Variances

The City Administrator, 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 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 Administrator, 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.

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

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

No variance shall be retroactive or otherwise justify any violation of this plan occurring prior to the issuance of the variance.