

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 2-13-24 OF THE CITY CODE RELATING TO WATER CONSERVATION PENALTIES, CHAPTER 6-4 OF THE CITY CODE RELATING TO WATER CONSERVATION AND DROUGHT STAGES, AND SECTION 15-9-191 OF THE CITY CODE RELATING TO ADMINISTRATIVE REVIEW USED FOR WATER CONSERVATION ACTIONS, POLICIES, AND DECISIONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. FINDINGS.

The City Council finds that:

1. Given the potential for severe and frequent drought conditions in Central Texas, it is essential that new water use policies to conserve water continue to be developed.
2. Water conservation efforts, including policies for responsible water conservation and regulations for cooling towers, help maximize limited resources as population grows while ensuring supply for critical public health and safety needs including adequate supplies necessary for emergency fire fighting, fire suppression, and natural disaster or other emergency management or disaster response.
3. As water is essential to public health and sanitation and the City's water supply is the sole or primary water supply for over a million people, water conservation and drought condition measures that help assure the maintenance of a sufficient City water supply for the City's customers are necessary to protect public health and for the purposes of sanitation.

PART 2. Subsections (E) and (F) of City Code Section 2-13-24 (*Water Conservation Penalty*) are amended to read:

(E) This subsection applies to a violation that occurs at a residential facility.

- (1) During Water Conservation Stage, the [The] penalty range that may be assessed against a violator found liable under this chapter for violating Section 6-4-15 (*Water Conservation Stage*) or Section 6-4-12 (*Water Waste Prohibited*) is:

- (a) not less than \$25.00 and not more than \$100.00 for a first violation;

- (b) not less than \$50.00 and not more than \$200.00 for a second violation;
- (c) not less than \$200.00 and not more than \$400.00 for a third violation; and
- (d) not less than \$300.00 and not more than \$600.00 for a fourth or subsequent violation.

(2) During Drought Response Stage One, the [The] penalty range that may be assessed against a violator found liable under this chapter for violating Section 6-4-16 (*Drought Response Stage One Regulations*) or Section 6-4-12 (*Water Waste Prohibited*) is:

- (a) not less than \$50.00 and not more than \$200.00 for a first violation;
- (b) not less than \$75.00 and not more than \$300.00 for a second violation;
- (c) not less than \$250.00 and not more than \$600.00 [~~500.00~~] for a third violation; and
- (d) not less than \$400.00 and not more than \$800.00 for a fourth or subsequent violation.

(3) During Drought Response Stage Two, the [The] penalty range that may be assessed against a violator found liable under this chapter for violating Section 6-4-17 (*Drought Response Stage Two Regulations*) or Section 6-4-12 (*Water Waste Prohibited*) is:

- (a) not less than \$100.00 [~~75.00~~] and not more than \$300.00 for a first violation;
- (b) not less than \$200.00 [~~150.00~~] and not more than \$500.00 [~~400.00~~] for a second violation;
- (c) not less than \$300.00 and not more than \$800.00 for a third violation; and
- (d) not less than \$500.00 and not more than \$1,000.00 for a fourth or subsequent violation.

- (4) During Drought Response Stage Three, the [The] penalty range that may be assessed against a violator found liable under this chapter for violating Section 6-4-18 (*Drought Response Stage Three Regulations*) or Section 6-4-12 (*Water Waste Prohibited*) is:
- (a) not less than \$150.00 and not more than \$400.00 for a first violation;
 - (b) not less than \$300.00 and not more than \$600.00 for a second violation;
 - (c) not less than \$450.00 and not more than \$800.00 for a third violation; and
 - (d) not less than \$600.00 and not more than \$1,000.00 for a fourth or subsequent violation.
- (5) During Drought Response Stage Four, the penalty range that may be assessed against a violator found liable under this chapter for violating Section 6-4-19 (*Drought Response Stage Four Regulations*) or Section 6-4-12 (*Water Waste Prohibited*) is:
- (a) not less than \$200.00 and not more than \$500.00 for a first violation;
 - (b) not less than \$325.00 and not more than \$700.00 for a second violation;
 - (c) not less than \$475.00 and not more than \$1,000.00 for a third violation; and
 - (d) not less than \$625.00 and not more than \$1,000.00 for a fourth or subsequent violation.
- (6[5]) During Emergency Stage Five, the [The] penalty range that may be assessed against a violator found liable under this chapter for violating Section 6-4-20 [49] (*Emergency Stage Five Regulations*) or Section 6-4-12 (*Water Waste Prohibited*) is:
- (a) not less than \$250.00 [~~200.00~~] and not more than \$650.00 [~~500.00~~] for a first violation;
 - (b) not less than \$500.00 [~~350.00~~] and not more than \$1,000.00 for a second violation;

(c) not less than \$700.00 [~~500.00~~] and not more than \$1,000.00 for a third violation; and

(d) not less than \$900.00 [~~650.00~~] and not more than \$1,000.00 for a fourth or subsequent violation.

(F) This subsection applies to a violation that occurs at a commercial facility.

(1) During Water Conservation Stage, the [The] penalty range that may be assessed against a violator found liable under this chapter for violating Section 6-4-15 (*Water Conservation Stage*) or Section 6-4-12 (*Water Waste Prohibited*) is:

(a) not less than \$150.00 and not more than \$300.00 for a first violation;

(b) not less than \$300.00 and not more than \$500.00 for a second violation;

(c) not less than \$450.00 and not more than \$700.00 for a third violation; and

(d) not less than \$500.00 and not more than \$800.00 for a fourth or subsequent violation.

(2) During Drought Response Stage One, the [The] penalty range that may be assessed against a violator found liable under this chapter for violating Section 6-4-16 (*Drought Response Stage One Regulations*) or Section 6-4-12 (*Water Waste Prohibited*) is:

(a) not less than \$200.00 and not more than \$400.00 for a first violation;

(b) not less than \$350.00 and not more than \$600.00 for a second violation;

(c) not less than \$500.00 and not more than \$800.00 for a third violation; and

(d) not less than \$550.00 and not more than \$1,000.00 for a fourth or subsequent violation.

(3) During Drought Response Stage Two, the [The] penalty range that may be assessed against a violator found liable under this chapter for violating Section 6-4-17 (*Drought Response Stage Two Regulations*) or Section 6-4-12 (*Water Waste Prohibited*) is:

- (a) not less than \$250.00 and not more than \$500.00 for a first violation;
- (b) not less than \$400.00 and not more than \$800.00 for a second violation;
- (c) not less than \$600.00 and not more than \$1,000.00 for a third; and
- (d) not less than \$650.00 and not more than \$1,000.00 for a fourth or subsequent violation.

(4) During Drought Response Stage Three, the [The] penalty range that may be assessed against a violator found liable under this chapter for violating Section 6-4-18 (*Drought Response Stage Three Regulations*) or Section 6-4-12 (*Water Waste Prohibited*) is:

- (a) not less than \$300.00 and not more than \$600.00 for a first violation;
- (b) not less than \$500.00 and not more than \$1,000.00 for a second or subsequent violation;
- (c) not less than \$650.00 and not more than \$1,000.00 for a third; and
- (d) not less than \$700.00 and not more than \$1,000.00 for a fourth or subsequent violation.

(5) During Drought Response Stage Four, the penalty range that may be assessed against a violator found liable under this chapter for violating Section 6-4-19 (*Drought Response Stage Four Regulations*) or Section 6-4-12 (*Water Waste Prohibited*) is:

- (a) not less than \$400.00 and not more than \$1,000.00 for a first violation;
- (b) not less than \$550.00 and not more than \$1,000.00 for a second or subsequent violation;
- (c) not less than \$700.00 and not more than \$1,000.00 for a third; and
- (d) not less than \$800.00 and not more than \$1,000.00 for a fourth or subsequent violation.

- (6) During Emergency Stage Five, the [The] penalty range that may be assessed against a violator found liable under this chapter for violating Section 6-4-20 [49] (Emergency Stage *Five Regulations*) or Section 6-4-12 (Water Waste Prohibited) is not less than \$500.00 and not more than \$1,000.00.

PART 3. City Code Section 2-13-24 (*Water Conservation Penalty*) is amended to delete Subsection (G) and to re-letter the remaining subsection accordingly.

PART 4. City Code Section 6-4-2 (*Definitions*) is amended to rename and amend the definition for “auxiliary water”; amend the definitions for “automatic irrigation system”, “hose-end sprinkler”, and “vehicle wash facility”; and add new definitions for “automatic bubbler”, “broken head”, “college/university”, “functional turf”, “nonfunctional turf”, “potable water”, and “public school”; and to renumber the remaining definitions accordingly.

§ 6-4-2 DEFINITIONS.

- (2[5]) ~~ALTERNATIVE WATER~~ ~~AUXILIARY WATER~~ means a water supply from a source other than Austin Water's potable water supply, also called auxiliary water.
- (4) AUTOMATIC BUBBLER means a type of automatic irrigation head designed to bubble over and flood the ground surface around the base of a tree. Also referred to as “tree bubbler” or “flood head”.
- (5[3]) AUTOMATIC IRRIGATION SYSTEM means any irrigation system connected to and being operated by a programmable controller, including a permanently or temporarily installed irrigation system, also called irrigation system.
- (10) BROKEN HEAD means a missing, damaged or malfunctioning emitter from an irrigation system, or drip line that is causing water use above what the component was designed to allow.
- (11) COLLEGE/UNIVERSITY means an educational institution of higher learning that is public and offers a course of study designed to culminate in the issuance of a degree in accordance with the Texas Education Code.
- (26) FUNCTIONAL TURF means turfgrass that is regularly used for community events, programmed recreational purposes, such as sports fields, golf course areas used directly for sport (greens, tees, fairways, and practice areas), maintaining the integrity of foundations, cemeteries, and areas designated to

be part of a water quality treatment solution required for compliance with federal, state, or local agency water quality permitting requirements.

(28[24])HOSE-END SPRINKLER means an above-ground water distribution device that may be attached to a garden hose, not designed to be held by a person while in operation.

(33) NONFUNCTIONAL TURF means turfgrass that is not regularly used for community events, programmed recreational activities, such as sports fields, golf course areas used directly for sport (greens, tees, fairways, and practice areas). This also includes but is not limited to turf located at a residential facility, in a street right-of-way, parking lot islands, medians, or transportation corridors.

(39) POTABLE WATER means water that is treated to drinking water quality and distributed by Austin Water.

(41) PUBLIC SCHOOL means a public school offering instruction at the elementary school level or the junior and senior high school levels and in the branches of learning and study required to be taught in the public schools of the state. The term includes an open enrollment charter school as defined under the Texas Education Code.

(44[41])VEHICLE WASH FACILITY means a permanently-located business that washes vehicles or other mobile equipment with water or water-based products as any part of their operations, including but not limited to self-service car washes, full service car washes, roll-over/in-bay style car washes, apartments with vehicle wash equipment as an amenity, and facilities managing vehicle fleets or vehicle inventory.

PART 5. Subsections (A) and (C) of City Code Section 6-4-3 (*Applicability of Regulations; Affirmative Defenses*) are amended to read:

§ 6-4-3 APPLICABILITY OF REGULATIONS; AFFIRMATIVE DEFENSES.

(A) This chapter applies to a person who uses, directs, manages, or allows the use of any potable water supplied by Austin Water whether the water is supplied by Austin Water on a retail basis or on a wholesale basis. This includes, but is not limited to, onsite alternative water systems that use potable water as a make-up, and ponds that are filled using potable water. This [The]chapter does not apply to a person when the person only uses, directs, manages, or allows the use of alternative [auxiliary]water or reclaimed water.

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

PART 6. City Code Chapter 6-4 (*Water Conservation*) is amended to add a new Section 6-4-8 to read:

§ 6-4-8 ADMINISTRATIVE REVIEW.

Except for an action described in Section 6-4-52 (*Enforcement*), an action, policy, decision, or invoice relating to this chapter may be disputed following the processes established in Article 12 (*Administrative Review and Hearing*) of Chapter 15-9 (*Utility Service Regulations*).

PART 7. City Code Section 6-4-10 (*Facilities Regulated*) is amended to add a new Subsection (E) to read:

§ 6-4-10 FACILITIES REGULATED.

(E) Non-Compliance Fees.

- (1) When an evaluation is not submitted by the deadline established by the director and the director sends a notice related to the past-due evaluation, the owner or water account holder subject to Subsection (A) or (B) shall pay a non-compliance fee each month until the evaluation is submitted.
- (2) When an inspection is not submitted by the deadline established in Subsection (C) and the director sends a notice related to the past-due inspection, the owner or water account holder subject to Subsection (C) shall pay a non-compliance fee each month until the evaluation is submitted.
- (3) The fee described in this subsection shall be set by separate ordinance, included on utility invoice, and based on the City's costs related to the failure to comply with the evaluation and inspection requirements established in Subsections (A), (B), and (C).

PART 8. Subsections (C) and (E) of City Code Section 6-4-13 (*Water Conservation Guidelines*) are amended to read:

§ 6-4-13 WATER CONSERVATION GUIDELINES.

- (C) The city manager may order that the water use restrictions established in a drought response stage or emergency stage [~~of Drought Response Stage One Regulations, Drought Response Stage Two Regulations, Drought Response Stage Three~~]

~~Regulations, or Emergency Stage Four Regulations]~~ take effect after determining that the order is necessary to protect the public health, safety, or welfare. The city manager [~~City Manager~~] may base an order [~~conservation, drought, or emergency stage declaration or termination~~] on any condition, occurrence, factor, or an assessment of all relevant circumstances that, in the judgment of the city manager [~~City Manager~~], support the order [~~such action for any lawful purpose~~]. The city manager may terminate an order issued under this section at any time. The order is effective immediately following official public notice.

- (E) Any outdoor water use subject to ~~[the provisions of]~~ this chapter shall occur only on a day designated for the applicable water use activity, property/facility type, and street number address classification indicated in the following table. A person may not conduct, authorize, or permit outdoor water use except in accordance with the designation schedule set out in the following table. Except as provided in Section 6-4-14 (*Exemptions*) for hand-held hoses, a person irrigating using automatic or manual irrigation may not irrigate by hose-end in addition to operating their irrigation system on their designated day. In the following table, "EVEN" or "ODD" correspond to the street number of the physical property address where the outdoor water use occurs. The table below shall be referred to as "the Outdoor Water Use Schedule".

Conservation Stage and Drought Response Stage 1 Watering Schedule	
Property Type	Watering Day
Residential Property - Hose-end EVEN	Sunday and Thursday
Public Schools, <u>College/University, Home Owner Associations & Golf Course Fairways</u>	Monday
Commercial/Multi-family – [Automatic & Manual] EVEN	Tuesday
Residential - Automatic & Manual ODD	Wednesday
Residential - Automatic & Manual EVEN	Thursday
Commercial/Multi-Family - [Automatic & Manual] ODD	Friday
Residential Property - Hose-end ODD	Wednesday and Saturday

Drought Response Stage 2, and Stage 3, and Stage 4 Watering Schedule	
Property Type	Watering Day
Residential Property - Hose-end EVEN	Sunday
Public Schools, <u>College/University</u> , Home Owner <u>Associations & Golf Course Fairways</u>	Monday
Commercial/Multi-family - [Automatic & Manual] EVEN	Tuesday
Residential - Automatic & Manual ODD	Wednesday
Residential - Automatic & Manual EVEN	Thursday
Commercial/Multi-Family - [Automatic & Manual] ODD	Friday
Residential Property - Hose-end ODD	Saturday

PART 9. City Code Section 6-4-14 (*Exemptions*) is repealed and replaced to read:

§ 6-4-14 EXEMPTIONS.

(A) A person is not required to comply with Section 6-4-15 (*Water Conservation Stage*), Section 6-4-16 (*Drought Response Stage One Regulations*), Section 6-4-17 (*Drought Response Stage Two Regulations*), Section 6-4-18 (*Drought Response Stage Three Regulations*), Section 6-4-19 (*Drought Response Stage Four Regulations*), or Section 6-4-20 (*Emergency Stage Five Regulations*) when:

- (1) using water is necessary to protect the health, safety, or welfare of the public;
- (2) using reclaimed or alternative water that is not supplemented by or mixed with potable water supplied by Austin Water;

287 (3) using water is necessary:

288 (a) to make a lawful repair of a water distribution facility, flushing of
289 utility lines or residential or commercial plumbing lines;

290 (b) to perform a governmental function, including a capital improvement
291 construction project, but not including landscape irrigation;

292 (c) to meet express requirements of a federal, state, or local permit related
293 to land development, including but not limited to roadway base
294 preparation, dust control, maintenance of trees subject to preservation
295 restrictions or requirements, concrete or asphalt work, or modification
296 or construction of improvements, but not including landscape
297 irrigation;

298 (d) to wash or sanitize to prevent public health or disease transmission
299 risk associated with liquid, solid, or particulate residue in or on
300 vehicles, containers, or equipment lawfully used to maintain, process,
301 or transport food, perishables, garbage, liquid or solid waste, organic
302 materials, or recyclables; or

303 (e) to conduct firefighting, fire prevention, or fire suppression related
304 activities or operations due to actual risk to public or environmental
305 health, safety, or welfare, life, or property associated with the
306 presence of an uncontrolled fire on or approaching any person or
307 property.

308 (B) A person is not required to comply with Section 6-4-19 (*Drought Response Stage*
309 *Four Regulations*) when:

310 (1) using a hand-held hose or refillable watering vessel to apply water within the
311 drip-line of the tree canopy, planting beds, vegetable gardens, and along
312 building foundations;

313 (2) using a hand-held hose or refillable watering vessel;

314 (3) using a soaker hose placed within the drip-line of the tree canopy;

315 (4) using a soaker hose for a vegetable garden;

316 (5) irrigating plant material at a commercial nursery; or
317

(6) irrigating immediately after the application of a commercial lawn treatment such as fertilizer, pesticides, and herbicides by an applicator who possesses an appropriate license and complies with a request from the director to provide:

(a) receipts that document the application; and

(b) the applicator's credentials.

(C) A person is not required to comply with Section 6-4-15 (*Water Conservation Stage*), Section 6-4-16 (*Drought Response Stage One Regulations*), Section 6-4-17 (*Drought Response Stage Two Regulations*), or Section 6-4-18 (*Drought Response Stage Three Regulations*) when:

(1) using a hand-held hose or refillable watering vessel to apply water within the drip-line of the tree canopy, planting beds, vegetable gardens, and along building foundations;

(2) using a hand-held hose or refillable watering vessel;

(3) using a soaker hose placed within the drip-line of the tree canopy;

(4) using a soaker hose for a vegetable garden;

(5) irrigating plant material at a commercial nursery; or

(6) irrigating immediately after the application of a commercial lawn treatment such as fertilizer, pesticides, and herbicides by an applicator who possesses an appropriate license and complies with a request from the director to provide:

(a) receipts that document the application; and

(b) the applicator's credentials; or

(7) using water is necessary to test, repair, or install:

(a) a permanent or temporary landscape irrigation system and the person performing the irrigation work is present in the area of irrigation; or

(b) an ornamental fountain and the person testing, repairing, or installing the fountain is present.

(D) A person is not required to comply with Section 6-4-15 (*Water Conservation Stage*) or Section 6-4-16 (*Drought Response Stage One Regulations*) when:

- (1) watering is necessary to comply with federal, state, or local land development permits requiring the establishment of new landscaping if the watering occurs between the hours of 7:00 p.m. to 10:00 a.m.; or
- (2) irrigating areas documented on a City approved and released site plan as golf course fairways, greens, or tees.

(E) During Water Conservation Stage, Drought Stage One, and Drought Stage Two, a person may irrigate athletic fields used for organized sports practice, competition, or exhibition events if necessary to protect the health and safety of the players, staff, or officials present for the athletic event and necessary to occur at a time or day not in accordance with the watering schedule established in this chapter.

PART 10. Subsections (B) and (C) of City Code Sections 6-4-15 (*Water Conservation Stage*) are amended to read:

§ 6-4-15 WATER CONSERVATION STAGE.

- (B) A person may not irrigate outdoors [~~at a residential facility or a commercial facility~~] except on a designated outdoor water use day for the location.
- (C) A person may not irrigate outdoors [~~at a residential facility or a commercial facility~~] between the hours of 10:00 a.m. and 7:00 p.m., even if the irrigation occurs on a designated outdoor water use day for the location.

PART 11. Subsections (B), (C), and (D) of City Code Sections 6-4-16 (*Drought Response Stage One Regulations*), 6-4-17 (*Drought Response Stage Two Regulations*), and 6-4-18 (*Drought Response Stage Three Regulations*) are amended to read:

§ 6-4-16 DROUGHT RESPONSE STAGE ONE REGULATIONS.

- (B) A person may not irrigate outdoors [~~at a residential facility or a commercial facility~~] except on a designated outdoor water use day for the location.
- (C) A person may not irrigate outdoors [~~at a residential facility or a commercial facility~~] with an automatic irrigation system between the hours of 8:00 a.m. and 7:00 p.m., even if the irrigation occurs on the designated outdoor water use day for the location.

- 378 (D) A person may not irrigate outdoors [~~at a residential facility or a commercial~~
379 ~~facility~~] with a hose-end or manual sprinkler system between the hours of 10:00
380 a.m. and 7:00 p.m., even if the irrigation occurs on the designated outdoor water
381 use day for the location.

382 **§ 6-4-17 DROUGHT RESPONSE STAGE TWO REGULATIONS.**

- 383 (B) A person may not irrigate outdoors [~~at a residential facility or a commercial~~
384 ~~facility~~] except on the designated outdoor water use day for the location.
- 385 (C) A person may not irrigate outdoors [~~at a residential facility or a commercial~~
386 ~~facility~~] with an automatic irrigation system between the hours of 5:00 a.m. and
387 7:00 p.m. even if the irrigation occurs on the designated outdoor water use day for
388 the location.
- 389 (D) A person may not irrigate outdoors [~~at a residential facility or a commercial~~
390 ~~facility~~] with a hose-end or manual sprinkler system between the hours of 10:00
391 a.m. and 7:00 p.m. even if the irrigation occurs on the designated outdoor water
392 use day for the location

393 **§ 6-4-18 DROUGHT RESPONSE STAGE THREE REGULATIONS.**

- 394 (B) A person may not irrigate outdoors [~~at a residential facility or a commercial~~
395 ~~facility~~] except on a designated outdoor water use day for the location.
- 396 (C) A person may not irrigate outdoors [~~at a residential facility or a commercial~~
397 ~~facility~~] with an automatic irrigation system between the hours of 6:00 a.m. and
398 midnight even if the irrigation occurs on the designated outdoor water use day for
399 the location.
- 400 (D) A person may not irrigate outdoors [~~at a residential facility or a commercial~~
401 ~~facility~~] with a hose-end or manual sprinkler system except between the hours of
402 7:00 a.m. and 10:00 a.m. or between the hours of 7:00 p.m. and 10:00 p.m. even if
403 the irrigation occurs on the designated outdoor water use day for the location.

404 **PART 12.** City Code Sections 6-4-19 (*Emergency Stage Four Regulations*) and 6-4-20
405 (*Director's Authority to Impose Additional Restrictions*) are repealed and replaced to
406 read:

407 **§ 6-4-19 DROUGHT RESPONSE STAGE FOUR REGULATIONS.**

- 408 (A) This section prescribes Drought Response Stage Four Regulations and applies
409 during a period ordered by the city manager in accordance with Section 6-4-13(C)
410 (*Water Conservation Guidelines*).

- 411 (B) A person may not irrigate outdoors except on a designated outdoor water use day
412 for the location.
- 413 (C) A person may not irrigate nonfunctional turf with automatic or manual irrigation
414 system, drip irrigation, or hose-end sprinkler.
- 415 (D) A person may not irrigate outdoors with an automatic irrigation system between the
416 hours of 6:00 a.m. and midnight even if the irrigation occurs on the designated
417 outdoor water use day for the location.
- 418 (E) A person may not irrigate outdoors with a hose-end sprinkler except between the
419 hours of 7:00 a.m. and 10:00 a.m. or between the hours of 7:00 p.m. and 10:00
420 p.m. even if the irrigation occurs on the designated outdoor water use day for the
421 location.
- 422 (F) A person may not operate a charity car wash. It is not a defense to a violation of
423 this section that the charity car wash occurred on a designated outdoor water use
424 day for the location.
- 425 (G) A person may not use or allow the use of water to wash or rinse an automobile,
426 truck, trailer, boat, airplane, motorcycle, or other mobile equipment or vehicle,
427 unless using a single, refillable vessel with water. A person commits a separate
428 offense for each vehicle or piece of equipment washed in violation of this
429 subsection. It is an affirmative defense to a violation of this subsection that the
430 water use occurred at a vehicle wash facility for the water use charged in the
431 complaint.
- 432 (H) A person may not fill a spa.
- 433 (I) A person may not operate a splash pad except during the hours and subject to the
434 restrictions set forth in a rule adopted pursuant this chapter.
- 435 (J) A person may not operate a patio mister at a commercial facility except between
436 the hours of 4:00 p.m. and 8:00 p.m.
- 437 (K) A person may not operate an ornamental fountain with an aerial emission of water
438 or aerial fall of water greater than four inches in distance other than for aeration
439 necessary to preserve habitat for aquatic life.
- 440
- 441

(L) A person may not use or allow the use of water to wash, rinse, or treat any outdoor surface, including but not limited to a sidewalk, driveway, parking area, street, tennis court, patio, or other paved area or outdoor building surface, unless using a hose with a positive shutoff valve or a single, refillable vessel with water. A person commits a separate offense for each outdoor surface washed in violation of this subsection.

(M) On or after the city manager orders that Drought Response Stage Four Regulations are in effect, the director of Development Services may not approve new permits to install:

(1) irrigation systems, or

(2) swimming pools, or spas at single-family residential properties.

§ 6-4-20 EMERGENCY STAGE FIVE REGULATIONS.

This section prescribes Emergency Stage Five Regulations and applies during a time period ordered by the city manager in accordance with Section 6-4-13(C) (*Water Conservation Guidelines*).

(A) A person may not use or allow the use of water to irrigate vegetation outdoors.

(B) A person may not use or allow the use of water to test or repair a permanently or temporarily installed irrigation system or drip irrigation system.

(C) A person may not use or allow the use of water to wash or rinse an automobile, truck, trailer, boat, airplane, or other mobile equipment.

(D) A person may not use or allow the use of water to operate an ornamental fountain or structure making similar use of water, other than the aeration necessary to preserve habitat for aquatic life.

(E) A person may not use or allow the use of water to fill, clean, rinse, supplement, operate or maintain a tub, spa, fountain, pond, pool, or other container, feature, or improvement used, designed, maintained, or intended for aesthetic, athletic, or recreational purpose. This does not apply to the filling of non-aerating birdbaths or animal watering containers.

(F) A person may not operate a splash pad or other similar aesthetic or recreational use of water.

- (G) A person may not use or allow the use of water to wash, rinse, or treat any outdoor surface including but not limited to a sidewalk, driveway, parking area, street, tennis court, patio, or other paved area or outdoor building surface.
- (H) A person may not use or allow the use of water to operate a patio mister.
- (I) A person may not use or allow the use of water in or related to a chemical lawn treatment unless specifically authorized in accordance with Section 6-4-30 (*Variance*).
- (J) A person may not use or allow the use of water for watering the ground around a building foundation to prevent or address foundation cracking except as specifically authorized in accordance with Section 6-4-30 (*Variance*).
- (K) On or after the city manager orders that Emergency Stage Five Regulations are in effect, the director of Development Services may not approve new permits to install:
- (1) irrigation systems; or
 - (2) swimming pools, or spas at single-family residential properties.

PART 13. Article 3 (*Drought Contingency Plan and Conservation Stage*) of City Code Chapter 6-4 (*Water Conservation*) is amended to add a new Section 6-4-21 to read:

§ 6-4-21 DIRECTOR'S AUTHORITY TO IMPOSE ADDITIONAL RESTRICTIONS.

- (A) The director may implement mandatory water restrictions in addition to those prescribed by Division 1 (*Regulated Activities*) of Article 2 to protect public health, safety, welfare, infrastructure or available resources in the event of an unusual water system operational event, catastrophic occurrence, severe weather event, or other emergency, disaster situation, or occurrence necessitating additional restrictions.
- (B) The director may implement additional mandatory water use restrictions that are effective immediately upon official public notice.

PART 14. City Code Section 6-4-30 (*Variance*) is amended to amend Subsections (A), (B), (C), and (E) and to add a new Subsection (I) to read:

§ 6-4-30 VARIANCE.

(A) Authority.

(1) The director may grant a variance from a requirement of this chapter if the director determines that special circumstances exist and that:

- (a) ~~[(1)]~~strict compliance with the provisions at issue adversely affects the health, safety, welfare or sanitation of the public, the applicant, or the environment; or
- (b) ~~[(2)]~~strict compliance with the provisions at issue substantially threatens the applicant's primary source of income, the applicant is employing all reasonable water conservation measures, and approval of the variance will not result in water waste in accordance with Section 6-4-12 (Water Waste Prohibited).

(2) ~~[(B)]~~ The director may not grant a variance from a requirement of this chapter based on an alleged adverse impact to the environment unless the applicant submits an environmental impact study, hydrological analysis, and additional data or documentation as required by the director to establish that the specific variance requested is necessary to avoid or mitigate a significant adverse impact on an endangered or listed protected plant, animal, or aquatic species or critical environmental feature present on the property or to maintain the traditional and natural character of a critical environmental feature.

~~(B)~~(C)The director may grant a variance from a requirement of Section 6-4-15 (*Water Conservation Stage*), Section 6-4-16 (*Drought Response Stage One Regulations*), Section 6-4-17 (*Drought Response Stage Two Regulations*), ~~[\u00d7]~~ Section 6-4-18 (*Drought Response Stage Three Regulations*), or Section 6-4-19 (*Drought Response Stage Four Regulations*) only if the applicant establishes at least one of the following:

- (1) an AWU Authorized Irrigation Inspector has determined that, due to its site-specific conditions, a site cannot be watered with an average coverage of 0.5 inches within the time limits prescribed by this chapter; and as applicable, a current irrigation system evaluation required pursuant to Section 6-4-10(A) (*Facilities Regulated*) is on file with Austin Water Utility; ~~[\u00d7]~~

(2) the property owner or operator has a documented medical hardship or qualifying disability that prevents the person's strict adherence to a requirement of this chapter; or

(3) watering in a manner or at a time inconsistent with a requirement of this chapter is necessary for treatment of tree diseases or for pest control prescribed by a licensed arborist or pest control professional.

(C) During Stage Three and Stage Four, the director may grant an applicant a variance to irrigate athletic fields used for organized sports practice, competition, or exhibition events if the applicant establishes that irrigating is necessary to protect the health and safety of the players, staff, or officials present for the athletic event and necessary to occur at a time or day not in accordance with the watering schedule established in this chapter.

(E) The director may grant a variance to Section 6-4-20[19] (*Emergency Stage Five [~~Four~~] Regulations*) when:

(1) watering [Watering] is required to prevent or address foundation cracking; ~~or [A variance approved pursuant to this subsection will specify a designated day for foundation watering and shall require the foundation watering to occur before 7:00 a.m. or after 7:00 p.m.]~~

(2) watering [Watering] is necessary for the prescribed treatment of tree diseases or for pest control. ~~[(3) — Irrigation of athletic fields when irrigation is necessary to protect the health and safety of players and game officials.]~~

(I) A variance approved pursuant to Subsection (E) will specify a designated day for foundation watering and shall require the foundation watering to occur before 7:00 a.m. or after 7:00 p.m.

PART 15. Subsection (D) of City Code Section 15-9-191 (*Administrative Review*) is amended to read as follows:

(D) ~~[A customer who disputes an action, policy, or decision related to compliance with Chapter 6-4 (*Water Conservation*) of the Code shall follow the procedures prescribed in Article 3 of that chapter.]~~ A customer who disputes an action, policy, or decision related to compliance with Chapter 15-5 (*On-Site Sewage Facilities*) of the Code shall follow the procedures prescribed in that chapter. A customer who disputes an action, policy, or decision related to compliance with Chapter 15-11 (*Private Lateral Sewer Lines*) of the Code shall follow the procedures prescribed in that chapter.

PART 16. Part 2 of this ordinance only applies to a violation that occurs on or after the effective date of this ordinance.

PART 17. This ordinance takes effect on _____, 2024.

PASSED AND APPROVED

_____, 2024

§

§

§

Kirk Watson
Mayor

APPROVED: _____
Anne L. Morgan
City Attorney

ATTEST: _____
Myrna Rios
City Clerk