

This document is for reference purposes only and is not intended to replace the original version of the ordinances (ordinances 2006-11-18 and 2007-3-10) as passed by the Plano City Council. Please contact the City Secretary's office for the official version of the Drought Contingency Plan

“DIVISION 4. DROUGHT CONTINGENCY PLAN

Sec. 21-53. Purpose and scope.

(a) The North Texas Municipal Water District (NTMWD) supplies treated water to the City of Plano, as well as other member cities and customers. A model drought contingency plan was developed by NTMWD in accordance with the regulations and requirements of the Texas Administration Code and the Texas Commission on Environmental Quality ("TCEQ") and consultation with its member cities. The NTMWD model plan calls for member cities and customers to adopt similar criteria and procedures for declaring a water emergency and implementing drought or emergency response stages as used by NTMWD. Member cities and customers may also adopt more stringent drought stages than NTMWD if conditions warrant. The following ordinance is written in accordance with TAC and the NTMWD's model drought contingency plan.

(b) There is hereby established a City of Plano Drought Contingency Plan (in this division called "the Plan") to provide procedures for:

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

(c) The plan applies to:

- (1) All persons and premises within the city using water from the city's water system ("the system");
- (2) All wholesale contract customers; and
- (3) All retail customers who live in unincorporated areas within the city's extraterritorial jurisdiction and are served by the system.

Sec. 21-54. Exemption.

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

Sec. 21-55. Definitions.

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

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

"Drip Irrigation" means any type of irrigation that does not spray into the air. Drip irrigation drips slowly into the soil without visible spray.

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

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

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

'Landscape' means natural plant materials around buildings or on grounds (i.e., trees, shrubbery, grasses and flowers).

'Landscape beds' means plants and shrubs that are separated from turf.

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

'Plan' refers to the City of Plano Drought Contingency Plan.

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

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

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

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

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

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

Sec. 21-56. Presumption

For purposes of enforcement of administrative remedies and criminal penalties under this ordinance, it shall be presumed that the person in actual control of the watering or irrigation devices for a premises is responsible for any violations of this ordinance.

Sec. 21-57. Authority to Declare Water Emergency.

Upon the occurrence of any one of the criteria listed below, the City Manager or an Executive Director in his absence is hereby authorized to declare a water emergency and to implement any of the drought or emergency response stages in accordance with the provisions of this Division:

- (a) General or geographical emergency;
- (b) Water system failures/emergencies (i.e., pressure zone deficiencies, chemical spills, broken water mains, power outages, electrical failure, failure of storage tanks or other equipment, treatment plant breakdown, and/or water contamination);

- (c) Supply failure from North Texas Municipal Water District or initiation of any stage in its drought contingency plan;
- (d) An inability to recover approximately ninety percent (90%) in all storage facilities within a twenty-four (24) hour period;
- (e) Notification by the North Texas Municipal Water District of a significant decrease in reservoir levels resulting in NTMWD's inability, presently or in the immediate future, to recover resources sufficient to provide services necessary for public health, safety, and welfare.

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

(a) Notification of Water Emergency – The public will be notified of a water emergency through one or more of the following methods: press release to local media, publication in a newspaper in general circulation in the City of Plano, publication on Plano Television Network ("PTN") and publication on the City's website. Wholesale customers will be notified first by telephone call or electronic mail and then by letter that provides detailed information regarding the reasons for the drought stage.

(b) Violations following Notification - No criminal citation or administrative fee for violating any of the water use restrictions set forth in Drought or Emergency Response Stages 2, 3 or 4 will be issued until the notice of a water emergency or notice of drought response stage has been published in at least one issue of a newspaper in general circulation in the City of Plano.

(c) Termination of Water Emergency – The water emergency shall remain in effect until the City Manager or an Executive Director in his absence determines that the condition(s) that triggered the water emergency have been alleviated or no longer exist. The public and wholesale customers will be informed of the termination of the water emergency in the same manner as provided in subsection (a) above.

Sec. 21-59. Provisions for Continuing Public Education and Information

The City will take steps to inform and educate the public about water emergencies and the drought contingency plan by the following means:

- (a) At any time that the drought contingency plan is activated or the drought or emergency response stage changes, the City will notify the local media of the implementation, issues, the drought response stage, and the specific actions required of the public;
- (b) The information will also be publicized on the city's web site;
- (c) Billing inserts and other communication devices will also be used as appropriate;

- (d) A copy of the plan will be available to the public at the City Secretary's office;
- (e) Local organizations, schools, churches, and civic groups will be notified that City staff is available to make presentations on the drought contingency plan (usually in conjunction with presentations on water conservation programs).

Sec. 21-60. Initiation and Termination of Drought or Emergency Response Stages

(a) Initiation of a Drought or Emergency Response Stage - The City Manager or an Executive Director in his absence is authorized to initiate a drought or emergency response stage when one or more of the criteria applicable to that stage are triggered.

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

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

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

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

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

- (1) The public will be notified of the termination or lowering of a drought or emergency response stage in the manner provided in Sec. 21-58 herein;
- (2) Wholesale customers and the NTMWD will be notified by telephone with a follow-up letter, e-mail, or facsimile transmission;

- (3) If any mandatory provisions of the drought response contingency plan are terminated, the Executive Director of the TCEQ will be notified within five (5) business days.

Sec. 21-60.1 Drought or Emergency Response Stages

(a) **Triggers for Stage 1, Mild (Voluntary) Drought or Emergency Response Stage (hereinafter referred to as “Stage 1”)** - the City Manager or an Executive Director in his absence may implement Stage 1 when one or more of the following criteria are met:

- (1) The NTMWD initiates Stage 1 drought or emergency response stage;
- (2) The water level in Lake Lavon falls below an elevation of 484.0 msl (8 feet below the top of conservation storage);
- (3) The water level in Lake Chapman falls below an elevation of 432.0 msl (8 feet below top of conservation storage);
- (4) Regional water use is projected to approach the limit of the permitted supply;
- (5) NTMWD determines that Lake Texoma or some other NTMWD water supply source may have limited availability in the next 6 months;
- (6) NTMWD demand exceeds ninety percent (90%) of the amount that can be delivered to customers for seven (7) consecutive days;
- (7) Water demand for all or part of NTMWD’s delivery system approaches delivery capacity because delivery capacity is inadequate;
- (8) NTMWD’s supply source becomes contaminated;
- (9) NTMWD’s water supply system is unable to deliver water due to the failure or damage of major water system components;
- (10) Demand on the City’s system exceeds ninety percent (90%) of the amount that can be delivered to customers for three (3) consecutive days;
- (11) Demand on the City’s system exceeds the system’s ability to recover approximately ninety percent (90%) in all storage facilities within a 24-hour period;

- (12) Water demand on all or part of the City's delivery system approaches delivery capacity because delivery capacity is inadequate;
- (13) The City's supply source becomes contaminated;
- (14) The City's water supply system is unable to deliver water due to the failure or damage of major water system components.

(b) **Goal for Use Reduction and Actions Available under Stage 1** - The goal under Stage 1 is to raise public awareness of potential drought or water supply problems. The City Manager or an Executive Director in his absence may implement any or all of the actions or programs listed below:

- (1) Request voluntary reductions in water use by the public and by wholesale customers;
- (2) Increase public education on ways to reduce water usage;
- (3) Notify major water users and work with them to achieve voluntary water use reductions;
- (4) Review non-essential city government water use and reduce when possible;
- (5) Reduce city government water use for landscape irrigation;
- (6) Recommend to all City of Plano water users:
 - i. Use drip irrigation system or soaker hoses to maintain foundation moisture;
 - ii. Irrigate landscaping with a hand operated hose equipped with a positive shut off nozzle;
 - iii. Operate sprinkler system only two times per week and only if necessary, avoid irrigating between the hours of 10:00 am to 6:00 pm to prevent evaporation of irrigation water;
 - iv. Notify wholesale customers of actions being taken and require implementation of similar procedures.

(c) **Stage 1** may be terminated when the level of Lake Lavon rises above an elevation of 488.0 msl and/or when Lake Chapman rises above an elevation of 435.0 msl and/or when the circumstances that caused the implementation of Stage 1 no longer prevail.

(d) **Triggers for Stage 2, Moderate (Mandatory) Drought or Emergency Response Stage (hereinafter referred to as “Stage 2”)** - the City Manager or an Executive Director in his absence may implement Stage 2 when one or more of the following criteria are met:

- (1) NTMWD implements Stage 2 drought or emergency response stage;
- (2) The water level in Lake Lavon falls below an elevation of 481.0 msl (11 feet below the top of conservation storage);
- (3) The water level in Lake Chapman falls below an elevation of 430.0 msl (10 feet below top of conservation storage);
- (4) Regional water use is projected to approach the limit of the permitted supply;
- (5) NTMWD determines that Lake Texoma or some other NTMWD water supply source may have limited availability in the next three (3) months;
- (6) NTMWD demand exceeds ninety five percent (95%) of the amount that can be delivered to customers for five consecutive days;
- (7) NTMWD demand for all or part of the delivery system equals delivery capacity because delivery capacity is inadequate;
- (8) NTMWD’s supply source becomes contaminated;
- (9) NTMWD’s water supply system is unable to deliver water due to the failure or damage of major water system components;
- (10) Demand on the City's system exceeds ninety-five percent (95%) of the amount that can be delivered to customers for three consecutive days;
- (11) Demand on the City's system exceeds the system’s ability to recover approximately ninety percent (90%) in all storage facilities within a 48-hour period;
- (12) Water demand on all or part of the City's delivery system equals delivery capacity because delivery capacity is inadequate;
- (13) The City's supply source becomes contaminated;
- (14) The City's water supply system is unable to deliver water due to the failure or damage of major water system components.

(e) **Goal for Use Reduction and Actions Available Under Stage 2, Moderate (Mandatory)** - The goal for water use reduction under Stage 2 is a two percent (2 %) reduction in the amount of water produced by NTMWD. The City Manager, or an Executive Director in his absence, may implement any or all of the following actions or programs under Stage 2:

- (1) Continue with water conservation actions and programs provided under Stage 1;
- (2) Encourage the public to wait until the current drought or water emergency has passed before establishing new landscaping. New landscaping installed during any drought response stage will be subject to any additional water use restrictions implemented under drought response Stages 3 or 4. Financial loss will not constitute justification for a variance;
- (3) Reduce non-essential city government water use. (Example: operation of ornamental fountains, etc.). Initiate studies to evaluate alternatives should conditions worsen;
- (4) Notify wholesale customers of actions being taken and require them to implement similar procedures.

(f) **Water Use Restrictions Under Stage 2** – Upon implementation of Stage 2 and notification of the public as provided herein, the following water use restrictions shall apply to all customers, users and other persons connected to the City of Plano Water System:

- (1) Commercial business or contracted services for washing or hosing of buildings, sidewalks, driveways, patios, porches, parking areas is prohibited; Any and all of the above will be allowed if a portable water tank is utilized as its source of water to power wash wood, metal, and concrete surfaces.
- (2) Excessive water run-off from any landscaped area onto streets, alleys, parking lots or other paved surfaces is prohibited. Water run-off is excessive when it extends for a distance greater than ten (10) feet from the property's boundary lines; onto an adjacent property; or, ten (10) feet past the targeted irrigation area for commercial sites;
- (3) Outdoor watering or irrigation is prohibited between the hours of 10:00 am to 6:00 pm.

(g) **Stage 2** may be terminated when the level of Lake Lavon rises above an elevation of 485.0 msl and/or when Lake Chapman rises above an elevation of 433.0 msl and/or when the circumstances that caused the implementation of Stage 2 no longer prevail.

(h) **Triggers for Stage 3, Severe (Mandatory) Drought or Emergency Response Stage (hereinafter referred to as “Stage 3”)** – The City Manager, or an Executive Director in his absence, may implement Stage 3 when one or more of the following criteria are met:

- (1) NTMWD implements Stage 3 drought or emergency response stage;
- (2) The water level in Lake Lavon falls below an elevation of 478.0 msl (14 feet below the top of conservation storage);
- (3) The water level in Lake Chapman falls below an elevation of 426.0 msl (14 feet below the top of conservation storage);
- (4) Regional water use is approaching or exceeding the limit of permitted supply;
- (5) The supply from Lake Texoma or some other NTMWD water supply source has become limited in availability;
- (6) NTMWD demand exceeds ninety eight percent (98%) of the amount that can be delivered to customers for three consecutive days;
- (7) NTMWD demand for all or part of the delivery system exceeds delivery capacity because delivery capacity is inadequate;
- (8) NTMWD’s supply source becomes contaminated;
- (9) NTMWD’s water supply system is unable to deliver water due to the failure or damage of major water system components;
- (10) Demand on the City's system exceeds ninety-eight percent (98%) of the amount that can be delivered to customers for three consecutive days;
- (11) Demand on City's system exceeds the system’s ability to recover approximately ninety percent (90%) in all storage facilities within a 72-hour period;
- (12) Demand on all or part of the delivery system exceeds City's delivery capacity because delivery capacity from NTMWD is inadequate;
- (13) The City's supply source becomes contaminated;
- (14) The City's water supply system is unable to deliver water due to the failure or damage to major water system components.

(i) **Goal for Water Use Reduction and Actions Available Under Stage 3** - The goal for water use reduction under Stage 3 is a reduction of five percent (5%) in the amount of water produced by NTMWD. The City Manager or an Executive Director in his absence may implement any or all of the following actions or programs under Stage 3:

- (1) Continue with water conservation actions or programs implemented under Stages 1 and 2;
- (2) Drastically reduce city government water use for landscape irrigation, except as needed to prevent foundation damage, maintain plant root viability, keep golf course greens and tee boxes alive, and preserve new plantings;
- (3) Require city landscape irrigation to adhere to watering restrictions based on a percent reduction;
- (4) Notify wholesale customers of actions being taken and require them to implement similar procedures;

(j) **Water Use Restrictions Under Stage 3** – Upon implementation of Stage 3 and notification of the public as provided herein, the following water use restrictions shall apply to all customers, users and other persons connected to the City of Plano Water System:

- (1) All of the water use restrictions implemented during Stages 1 and 2 shall continue in force except as amended or replaced by the restrictions set out herein;
- (2) Swimming pools may be filled to maintain operational levels;
- (3) The use of potable water to refill ponds and lakes is prohibited;
- (4) Landscape watering is limited to two days per week at each service address located within the City of Plano. Landscape watering is prohibited between the hours of 10:00 am to 6:00 pm and 10:00 pm to 2:00 am. Landscape watering shall comply with the following mandatory watering schedule. Watering shall take place on the days indicated based upon the location of the service address as indicated on the Watering Zone Map attached hereto as “Exhibit A”:

Zone	Morning Watering Time 2:00 AM to 9:59 AM	Evening Watering Time 6:01 PM to 10:00 PM
1	Monday	Thursday
2	Friday	Tuesday
3	Saturday	Wednesday
4	Thursday	Monday
5	Tuesday	Friday
6	Wednesday	Saturday

Note: Landscape watering will be enforced as follows:
2:00 am to 9:59 a.m. on assigned day watering is allowed;
10:00 am to 5:59 p.m. – watering is not allowed;
6:00 pm to 9:59 p.m. on assigned day watering is allowed;
10:00 pm to 1:59 am – watering is not allowed.

- (5) Except as otherwise provided herein, landscape watering is prohibited on Sunday;
- (6) Landscape beds may be watered by using a hand-operated hose equipped with a positive shut off nozzle on any day including Sunday except between the hours of 10:00 am to 6:00 pm;
- (7) A drip irrigation system, soaker hoses, or irrigation zones specifically for foundation maintenance may be used as often as deemed necessary by the property owner to maintain foundation moisture. Irrigation for foundation maintenance will not be subject to the watering restriction schedule set forth in section 21-60.1(j)(3);
- (8) In all instances, excessive run-off is prohibited. Water run-off is excessive when it extends for a distance greater than ten (10) feet from the property's boundary lines; onto an adjacent property; or, ten (10) feet past the targeted irrigation area for commercial sites;
- (9) Trees may be watered by drip irrigation system or soaker hoses as often as deemed necessary by the property owner except between the hours of 10:00 am to 6:00 pm;
- (10) Municipal water use necessary to maintain the public health or safety, including, but not limited to: fire-fighting, fire prevention and water system maintenance is allowed;
- (11) The watering of golf course putting greens and tee boxes is permitted as needed;

All other golf course watering must follow the watering scheduled as outlined under Section 21-60.1(j)(4);

Excessive run-off is prohibited for all water users. (Restrictions do not apply to golf courses using non-potable water for landscape irrigation);

- (12) Irrigation of City parks, athletic complexes and facilities will be allowed Monday through Saturday from 10:00 pm to 6:00 am. Watering is not allowed on Sunday.

(k) **Stage 3** may be terminated when the level of Lake Lavon rises above an elevation of 482.0 msl and/or when Lake Chapman rises above an elevation of 430.0 msl and/or when the circumstances that caused the implementation of Stage 3 no longer prevail.

(l) **Triggers for Stage 4, Emergency (Mandatory) Drought Response Stage (hereinafter referred to as “Stage 4”)** – The City Manager, or an Executive Director in his absence, may implement Stage 4 when one or more of the following criteria are met:

- (1) NTMWD implements Stage 4 drought or emergency response stage;
- (2) The water level in Lake Lavon falls below an elevation of 475.0 msl (17 feet below the top of conservation storage);
- (3) The water level in Lake Chapman falls below an elevation of 423.0 msl (17 feet below top of conservation storage);
- (4) Regional water use is exceeding the limit of the permitted supply;
- (5) The supply from Lake Texoma or some other NTMWD water supply source has become severely limited in availability;
- (6) NTMWD demand exceeds the amount that can be delivered to customers;
- (7) NTMWD demand for all or part of the delivery system seriously exceeds delivery capacity because the delivery capacity is inadequate;
- (8) NTMWD’s supply source becomes contaminated;
- (9) NTMWD’s water supply system is unable to deliver water due to the failure or damage of major water system components;
- (10) Demand on City's system exceeds the amount that can be delivered to customers;

- (11) Demand on City's system for all or part of the delivery system seriously exceeds delivery capacity because the delivery capacity from NTMWD is inadequate;
- (12) The City 's supply source becomes contaminated;
- (13) The City's water supply system is unable to deliver water due to the failure of or damage to major water system components.

(m) **Goal for Water Use Reduction and Actions Available under Stage 4** - the goal for water use reduction under Stage 4 is a reduction of ten percent (10%) in the amount of water produced by NTMWD. The City Manager, or an Executive Director in his absence, may implement any or all of the following actions or programs under Stage 4:

- (1) Continue with water conservation actions or programs implemented under Stages 1, 2, and 3.

(n) **Water Use Restrictions Under Stage 4** - Upon implementation of Stage 4 and notification to the public as provided herein, the following water use restrictions shall apply to all customers, users and other persons connected to the City of Plano Water System:

- (1) All of the water use restrictions implemented during Stages 1, 2, and 3 shall continue in force except as amended or replaced by the restrictions set out herein;
- (2) Watering of any and all landscape and landscape bedding is prohibited except as amended or replaced by the restrictions set out herein;
- (3) A drip irrigation system, soaker hoses, or irrigation zones specifically designed for foundation maintenance may be used as often as deemed necessary by the property owner. Irrigation for foundation maintenance will not be subject to the watering restriction schedule set forth in section 21-60.1(j)(3);
- (4) In all instances, excessive run-off is prohibited. Water run-off is excessive when it extends for a distance greater than ten (10) feet from the property's boundary lines; onto an adjacent property; or, ten (10) feet past the targeted irrigation area for commercial sites;
- (5) Irrigation of City athletic fields will be allowed Monday through Saturday from 10:00 pm to 6:00 am. Watering is not allowed on the Sunday. The Director of Public Works will determine a percent reduction in water consumption for the City Parks and Recreation Department;
- (6) The watering of golf course putting greens and tee boxes is permitted as needed;

All other golf course watering is prohibited;

Excessive run-off prohibited for all water users. (Restrictions do not apply to golf courses using non-potable water for landscape irrigation);

- (7) Construction of new water lines or rehabilitation of existing water lines is prohibited except where necessary for public health or safety as determined by the Director of Public Works or as determined through the variance process set forth in section 21-60.2;
- (8) The use of potable water for construction purposes is prohibited except where necessary to protect the public health or safety as determined by the Director of Public Works or as determined through the variance process set forth in section 21-60.2;
- (9) Municipal water use necessary to maintain the public health or safety, including, but not limited to: fire-fighting, fire prevention and water system maintenance is allowed;
- (10) Notify wholesale customers of actions being taken and require them to implement similar procedures.

(o) Stage 4 may be terminated when Lake Lavon rises above an elevation of 479.0 msl and/or when Lake Chapman rises above an elevation of 427.0 msl and/or when the circumstances that caused the implementation of Stage 4 no longer prevail.

21-60.2 Procedures for Requesting Variances to the Plan

(a) All petitions for variances must be in writing, utilizing the Request for Variance form and addressed to the Public Works Department, City of Plano, P.O. Box 860358, Plano, Texas 75086. The form can be accessed through the city website at www.plano.gov/water or by contacting the Public Works Department. The request must include the following information:

- (1) Name, address, and phone number of the petitioners;
- (2) Physical address for which variance is being requested;
- (3) Petitioner's relationship to property (Owner, Contractor, Property Manager);
- (4) Name, address, and phone number of owner (if different from petitioner);
- (5) Detailed description of the relief requested;

- (6) Period of time for which the variance is sought;
- (7) Alternative measures that will be taken to reduce water use;
- (8) Other information deemed pertinent by the petitioner.

(b) The Water Education Coordinator shall evaluate all information pertinent to the variance request. The Coordinator may make his/her recommendation on the basis of the petition or he/she may request additional written information from the petitioner. The Coordinator will provide a response to the petitioner within seven (7) business days following receipt of a petition for variance deemed complete by the Coordinator. Failure to comply with requests for additional information from the Coordinator shall cause the request for a variance to be deemed withdrawn. The Coordinator may make a recommendation to the Director of Public Works or his designee to grant the variance if one or more of the following conditions are met:

- (1) Failure to grant such a variance would create an emergency condition adversely affecting the health or safety of the applicant (or the applicant's tenants, occupants or residents) or an emergency condition adversely affecting the public health or safety of the public at large;
- (2) Strict compliance with the drought contingency plan or the water use restrictions set out in the drought or emergency response stages cannot be achieved due to serious mechanical or technical limitations which cannot be corrected;
- (3) Alternative water conservation methods that achieve the same level of reduction in potable water use for applicant can be implemented;
- (4) If variance request is made when Stage 4 restrictions have been implemented, the applicant for the variance must demonstrate the variance is necessary to preserve public health and safety.

(c) The Director or his designee may grant a temporary variance for an existing water use otherwise prohibited under this drought contingency plan. The Director may take into consideration the recommendation provided by the Water Education Coordinator. The Director shall make a determination with regards to the variance within 7 business days of the receipt of the recommendation of the Water Education Coordinator. The decision of the Director is final.

Sec. 21-60.3 Criminal Penalty

Any person, firm or corporation who violates any term or provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine in accordance with Section 1-4(b) of the City Code of Ordinances for each offense. These criminal penalties may be imposed in addition to any Administrative or

Civil Remedy listed herein. Each day a violation continues shall constitute a separate offense.

Sec. 21-60.4 Administrative Remedies for Violations.

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

In the event that any person violates the provisions of this ordinance, the Director of Public Works or his designee, shall give notice to such person setting forth the evidence of noncompliance with the restrictions outlined in stages 2, 3 and 4.

(a) In-Ground Irrigation Systems Violations

(1) Notification of Violation

- i. Placement of a notice flag on the premises to advise the person his double check device has been turned off and locked; and
- ii. The City will install a locking device on the person's double check valve to the irrigation system; and
- iii. Notice to be sent by letter delivered by United States Postal Service addressed to the person as recorded in the city's customer and utility billing records notifying that the irrigation system has been turned off and locked. The letter shall advise the person of the assessment of administrative remedies and fees. The letter shall advise the person the procedures for payment of the administrative fees and the procedure for requesting a hearing to contest the assessment of the administrative remedies.

(2) Remedy on First and Second Violation

- i. The administrative fee to restore service when a locking device has been installed is two hundred ten dollars (\$210) per occurrence when paid at Customer and Utility Services.
- ii. If a person requests a hearing to protest the assessment of the administrative fee, the administrative fee will be a maximum of two hundred twenty five dollars (\$225) per occurrence if the violation is upheld.

- (3) Remedy on Third Violation
 - i. In addition to the provisions set forth in 21.60.4(a)(1), (2) the City may elect to leave the locking device on the person's double check valve for 14 calendar days from the date the fee is paid.
 - (4) Remedy on Fourth and Subsequent Violations
 - i. In addition to the provisions set forth in 21.60.4(a)(1), (2), (3) the City may elect to leave the locking device on the person's double check valve for 28 calendar days from the date the fee is paid.
- (b) Violations for Systems Without Double-Check Valves or In-Ground Irrigation Systems
- (1) Violation Notification
 - i. Placement of a notice flag on the premises to advise the person he was in violation of watering restrictions.
 - ii. Notice shall be sent by letter delivered by United States Postal Service addressed to the person as recorded in the city's customer and utility billing records notifying the person of the violation. The letter shall advise the person of the assessment of administrative fees. The letter shall advise the person the procedures for payment of the administrative fees and the procedure for requesting a hearing to contest the assessment of the administrative remedies.
 - (2) Remedy
 - i. The administrative fee on all violations under section 21.60.4(b) is two hundred dollars (\$200) per occurrence when paid at Customer & Utility Services.
 - ii. If the person requests a hearing to protest the administrative fee, the administrative fee will be two hundred fifteen dollars (\$215). If violation is upheld, the administrative fee is to be paid at Customer & Utility Services.
- (c) Procedures for Paying Administrative Fees or Requesting a Hearing on the Fees

- (1) Personal appearance by the person listed on the city's Customer & Utility Services billing records is required to re-establish service to the irrigation system. The person's government issued photo identification must be provided at time of payment or upon request for a hearing.
- (2) A person may request a hearing to protest the assessment of any administrative remedy. To request a hearing, the owner must make the request in person to the City of Plano Public Works Department within fifteen (15) business days from the date on the written notice of violation. If a locking device was installed it shall remain in place until the conclusion of the hearing and payment of any required fee.
- (3) The Public Works Manager or his designee shall conduct the hearing. The Manager shall evaluate all information offered by the petitioner at the hearing. The person making the request for a hearing shall bear the burden of proof to show why, by a preponderance of the evidence, the administrative remedy should not be assessed. The Manager will provide a decision at the time of the hearing or within three (3) business days following the conclusion of the hearing.
- (4) Payment of any fees assessed at the hearing must be made within seven (7) business days of the decision from the hearing. Any fees not paid within this time limit shall be added to the person's next water billing cycle;
- (5) A person may appeal the decision from the hearing to the office of the Director of Public Works or his designee. The Director or his designee shall hear the appeal;
- (6) The request for an appeal must be filed in writing with the office of the Director of Public Works within three (3) business days from the notice being given by the Manager.
- (7) The Director or his designee shall render a decision at the time of the appeal or within three (3) business days from the conclusion of the appeal.
- (8) A person may elect to pay the administrative fee without requesting a hearing. Any fees not paid within 15 business days from the date on the written notice shall be added to the person's next water billing cycle.
- (9) Unpaid fees related to the Drought Contingency Plan can result in the termination of the domestic water services in accordance with

City of Plano Code Chapter 21, Article IV, Service Charges Generally, Section 21-131(d) and the established policies and procedures of the Customer and Utility Services Department.

- (d) Re-establishment of service to double checks that have been locked-off.
 - (1) The administrative fee is to be paid at City of Plano Customer & Utility Services. The locking device will be removed within three working days after notice of payment is received from Customer & Utility Services, unless a longer lock-out time period was assessed pursuant to section 21.60.4(a)(3), (4) above.
 - (2) Request for same day service to unlock double check will require an additional fee of \$40 to be paid in advance at Customer & Utility Services. Same day service is not available if a longer lock-out time was assessed pursuant to section 21.60.4(a)(3), (4) above.

(e) It shall be unlawful for a person to remove through the use of any means or otherwise cause damage to a lock that has been placed on a backflow prevention device by the director or his designee pursuant to this section.

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