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DIVISION 1. - IN GENERAL

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Sec. 47-241. - Definitions.

As used in this article, the following words, terms, and phrases shall have the meanings ascribed to them in this section, unless the context clearly indicates another meaning:

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

Average water production means the city's daily average combined surface water and groundwater production during a three-day period.

Average water pressure means the 24-hour average of pressure readings at representative pressure points within the city's water distribution system.

Combined reservoir storage supply means the combined quantity of water stored at a point in time in Lake Houston, Lake Conroe and Lake Livingston (city share of storage only).

Conservation means 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 supply is conserved and made available for future or alternative uses.

Customer means any person receiving treated water service from the city's water system for whom (or for which) a meter has been installed. A person served by more than one meter is considered a separate customer for each meter.

Even-numbered street address means water service addresses ending in a fraction or in 0, 2, 4, 6, 8. For purposes of this definition, locations without addresses and customers having multiple street addresses that are served by the same water meter shall be deemed to have an even-numbered street address.

Irrigation means the use of water for the moistening and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, rights-of-way, and esplanades.

Major customer means the city's 100 largest water customers by volume of treated water consumed during the preceding calendar year.

Non-essential water use means use of water:

- (1) For irrigation;
 - (2) To wash any motor vehicle, motorbike, boat, airplane, or other self-propelled vehicle or trailer;
 - (3) To wash down any sidewalk, walkway, driveway, parking lot, tennis court, or other hard-surfaced area;
 - (4) To wash buildings or structures for purposes other than immediate fire protection;
 - (5) To flush gutters or permit water to run or accumulate in any gutter or street;
 - (6) To fill, re-fill, or add to any indoor or outdoor swimming pool, spa, or whirlpool; or
 - (7) From hydrants for construction purposes or any other purpose except fire fighting;
- subject to the affirmative defenses provided in [section 47-243](#) of this Code, as applicable.

Odd-numbered street address means water service addresses ending in 1, 3, 5, 7, or 9.

Plan means this article and any applicable administrative policies that relate to the implementation and enforcement of the city's water shortage program.

Water means waters contained in or flowing through any portion of the city's treated water system.

Water shortage period means the period of time during which any water shortage declaration is in effect.

(Ord. No. 01-753, § 3, 8-8-01)

Sec. 47-242. - Penalties.

Whenever in this article an act is prohibited or declared to be unlawful or whenever the doing of any act is required or the failure to do any act is prohibited, violation shall be punishable upon conviction by a fine in accordance with the following schedule:

- (1) If city personnel have previously provided a written notification to the violator, and the violator has not previously been convicted of violating any provision of this article:
 - a. A fine of exactly \$150.00, if the violation is of [section 47-252](#)
 - b. A fine of exactly \$250.00, if the violation is of [section 47-253](#)
 - c. A fine of exactly \$600.00, if the violation is of [section 47-254](#) or [47-255](#)
- (2) If the violator has on one occasion been previously convicted of violating any provision of this article:
 - a. A fine of exactly \$250.00, if the violation is of [section 47-252](#)
 - b. A fine of exactly \$450.00 if the violation is of [section 47-253](#)
 - c. A fine of exactly \$1,000.00, if the violation is of [section 47-254](#) or [47-255](#)
- (3) If the violator has on two or more occasions been previously convicted of violating any provision of this article:
 - a. A fine of not less than \$350.00 nor more than \$2,000.00, if the violation is of [section 47-252](#)
 - b. A fine of not less than \$500.00 nor more than \$2,000.00, if the violation is of [section 47-253](#)
 - c. A fine of not less than \$1,000.00 nor more than \$2,000.00, if the violation is of [section 47-254](#) or [47-255](#)

Each day that any violation continues shall constitute and be punishable as a separate offense.

(Ord. No. 01-753, § 3, 8-8-01)

Sec. 47-243. - Affirmative defenses.

- (a) It is an affirmative defense to prosecution under sections [47-252](#), [47-253](#), [47-254](#), and [47-255](#) that the water use was:
 - (1) Authorized by a variance issued under [section 47-245](#); or
 - (2) Required to alleviate conditions threatening life, safety, or welfare of the public, including, without limitation, fire suppression.
- (b) Additionally, it is an affirmative defense to prosecution under [section 47-253](#) that the water use was:
 - (1) Applied to plants that had been planted or transplanted on the same day; or
 - (2) Applied to plants by use of a bucket, watering can, hand held hose (with or without a nozzle), or other method in which the actor directly and by use of hands continuously controlled the application of the water.
- (c) Additionally, it is an affirmative defense to prosecution under [section 47-252](#) that the water use was:
 - (1) To flush water lines for public health and safety purposes.
 - (2) For municipal operations to wet any surface for the purpose of testing for leaks in buildings or structures;
 - (3) For municipal operations to wet any surface for the purpose of complying with air pollution laws;
 - (4) For maintaining public gardens and arboretums of national, state, or regional significance when necessary to preserve specimens;
 - (5) For commercial businesses that use water to maintain (but not expand) their primary business practices (e.g., commercial car and truck washes, nurseries, turf growers, water haulers, concrete pavers, etc.);
 - (6) To fill a swimming pool for the first time;
 - (7) To maintain the minimum depth of water in a swimming pool as required to maintain filtering function;
 - (8) For irrigation of the tee-boxes and greens on a golf course; or
 - (9) For irrigation of a golf course that was planted with new grass within the eight weeks preceding the declaration.

(Ord. No. 01-753, § 3, 8-8-01)

Sec. 47-244. - Administrative policy.

The director is authorized to establish administrative policies relating to the implementation of this article. A copy of the policies shall be available in the offices of the utility official for inspection and may be purchased at the fees prescribed by law.

(Ord. No. 01-753, § 3, 8-8-01)

Sec. 47-245. - Variances.

- (a) The utility official may in writing grant a temporary variance for an otherwise prohibited water use if he determines that failure to grant the variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection of the public or of the person requesting the variance, and one or more of the following conditions are met:
- (1) The petitioner cannot comply with the prohibition for technical reasons;
 - (2) The petitioner agrees to implement alternative methods that will achieve the same or a greater level of reduction in water use; or
 - (3) The director determines that the variance will best serve the health, welfare, and safety of the public, taking into consideration the hardships imposed upon the petitioner and the effects upon other customers.
- (b) Requests for variances shall be filed in writing with the utility official and shall include the following:
- (1) Name and address of the petitioner;
 - (2) Purpose of water use;
 - (3) Specific provision(s) of the plan from which the petitioner is requesting relief;
 - (4) A 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 the plan;
 - (5) Description of the relief requested;
 - (6) Period of time for which the variance is sought;
 - (7) Alternative water use restrictions or other measures the petitioner is taking or proposes to take to conform to the city's water shortage plan and the compliance date; and
 - (8) Other pertinent information reasonably required by the utility official to determine whether the criteria of subsection (a) have been met.
- (c) No variance shall be retroactive or otherwise justify any violation of the prohibitions hereunder occurring prior to the issuance of the variance. A variance is valid for all stages of the same water shortage period, but shall expire at the conclusion of the water shortage period.

(Ord. No. 01-753, § 3, 8-8-01)

Sec. 47-246. - Incentive program.

The director is authorized to sponsor on behalf of the city an incentive program under which the department will award certificates to customers who decrease their water usage during a water shortage period. The certificates shall be of a type that will be honored at no cost to the city for price reductions or other benefits at participating retail establishments.

(Ord. No. 01-753, § 3, 8-8-01)

Secs. 47-247—47-250. - Reserved.

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DIVISION 2. - SHORTAGES AND EMERGENCIES

[Sec. 47-251. - Stage one water shortage.](#)

[Sec. 47-252. - Stage two water shortage.](#)

[Sec. 47-253. - Stage three water shortage.](#)

[Sec. 47-254. - Stage four water shortage.](#)

[Sec. 47-255. - Emergency water shortage.](#)

[Sec. 47-256. - Wholesale water customers.](#)

[Secs. 47-257—47-265. - Reserved.](#)

Sec. 47-251. - Stage one water shortage.

- (a) A stage one water shortage is a period of time that begins when the director determines that the water supply or delivery system is under stress because of lower than average annual rainfall, temperatures that are higher or lower than normal, or other circumstances. The director's designation, which may cover all or only part of the city, shall be in writing and filed with the city secretary. A stage one water shortage ends when the director finds that the conditions leading to the declaration no longer exist and files a written declaration to that effect with the city secretary.
- (b) During a stage one water shortage, the director shall institute a water information management program. The director may use water billing statements, media, and other sources to disseminate information regarding conservation measures to be taken, including, but not limited to the following:
- (1) Requesting that customers insulate water pipes rather than running water to protect pipes from freezing;
 - (2) Requesting that customers check for and repair all leaks, dripping faucets, and running toilets, and that customers utilize water conservation measures such as displacement bags, lowflow shower heads and leak detection tablets;
 - (3) Requesting customers to limit irrigation to the hours between 12:01 a.m. and 10:00 a.m. or between 8:00 p.m. and midnight on no more than two days per week in conformity with the following schedule:
 - a. Sundays and Thursdays for customers with even-numbered street addresses; and
 - b. Saturdays and Wednesdays for customers with odd-numbered street addresses;
 - (4) Requesting major customers to make voluntary reductions in water consumption;
 - (5) Instituting a water use reduction program for city departments, including but not limited to:
 - a. Establishing a ten percent water consumption reduction goal for all city departments;
 - b. Ensuring that city irrigation systems do not wastewater;
 - c. Discontinuing of water main flushing during this period except to protect life or health;
 - d. Discontinuing washing of city vehicles during this period; and
 - (6) Advising customers that mandatory measures may be imposed if the water shortage period continues.

(Ord. No. 01-753, § 3, 8-8-01)

Sec. 47-252. - Stage two water shortage.

- (a) A stage two water shortage is a period of time that begins when, upon the recommendation of the director, the mayor declares a stage two water shortage upon finding that one or more of the following conditions exist:
- (1) Combined reservoir storage supply is approximately 24 months' surface water supply for a period of ten consecutive days;
 - (2) Average water production is 80 percent of the combined pumpage capacity of the treated ground water and surface water system for a period of three consecutive days; or
 - (3) Average water pressure within the city's treated water distribution system is 45 pounds per square inch or less.

The declaration, may cover all or only a part of the city, shall be in writing and filed with the city secretary. A stage two water shortage ends when the director finds that the conditions leading to the declaration have ceased to exist for a period of between three and ten days, taking into consideration weather reports, the condition of the

water system, and associated factors, and the director files a written declaration to that effect with the city secretary.

- (b) During a stage two water shortage, customers are required to:
- (1) Repair detectible water leaks within 72 hours of discovery; and
 - (2) Limit outdoor irrigation to the hours between 12:01 a.m. and 10:00 a.m. or between 8:00 p.m. and midnight on no more than two days per week in conformity with the following schedule:
 - a. Sundays and Thursdays for customers with even-numbered street addresses; and
 - b. Saturdays and Wednesdays for customers with odd-numbered street addresses.
- (c) During a stage two water shortage, the director shall institute a water use reduction program for city departments, including but not limited to:
- (1) Establishing a ten percent water consumption reduction goal for all city departments;
 - (2) Ensuring that city irrigation systems do not wastewater;
 - (3) Discontinuing of water main flushing except to protect life or health; and
 - (4) Discontinuing washing of city vehicles.

(Ord. No. 01-753, § 3, 8-8-01)

Sec. 47-253. - Stage three water shortage.

- (a) A stage three water shortage is a period of time that begins when, upon the recommendation of the mayor, the city council declares a stage three water shortage upon finding that one or more of the following conditions exist:
- (1) Combined reservoir storage supply is approximately 18 months surface water supply for a period of ten consecutive days;
 - (2) Average water production is 85 percent of the combined pumpage capacity of the treated groundwater and surface water system for a period of three consecutive days; or
 - (3) Average water pressure within the city's treated water distribution system is 40 pounds per square inch or less.

A stage three water shortage ends when, upon the recommendation of the mayor, the city council finds that the conditions leading to the declaration no longer exist.

- (b) During a stage three water shortage, all provisions of [section 47-252](#) of this Code shall apply. In addition, aesthetic water use is unlawful.

(Ord. No. 01-753, § 3, 8-8-01)

Sec. 47-254. - Stage four water shortage.

- (a) A stage four water shortage is a period of time that begins when, upon the recommendation of the mayor, the city council declares a stage four water shortage upon finding that one or more of the following conditions exist:
- (1) Combined reservoir storage supply is approximately 12 months surface water supply for a period of a ten consecutive days;
 - (2) Average water production is 90 percent of the combined pumpage capacity of the treated groundwater and surface water system for three consecutive days; or
 - (3) Average water pressure within the city's treated water distribution system is 35 pounds per square inch or less.

A stage four water shortage ends when, upon the recommendation of the mayor, the city council finds that the conditions leading to the declaration no longer exist.

- (b) During a stage four water shortage all provisions of [sections 47-252](#) and [47-253](#) of this Code shall apply. In addition, non-essential water use is unlawful.
- (c) During a stage four water shortage, as required for the public health and safety of the citizens and consistent with the city's contracts and state law, the mayor may reduce or terminate water service to customers in the following sequence:
- (1) Public and private schools, colleges, and universities and outdoor customers.
 - (2) Contract customers, industrial customers, and commercial customers.
 - (3) Residential customers.
 - (4) Public or private health facilities and custodial care homes.

(Ord. No. 01-753, § 3, 8-8-01)

Sec. 47-255. - Emergency water shortage.

- (a) An emergency water shortage is a period of time that begins when the director finds that there is an imminent threat to the capability of the water system to provide adequate service to assure the health or safety of the public, such as may result from a natural disaster, act of war or terrorism, or catastrophic system accident or

failure. The declaration of a water emergency must be subsequently ratified within ten days following its declaration by the city council. An emergency water shortage ends when, upon the recommendation of the director, the city council finds that the conditions leading to the declaration no longer exist.

- (b)** During an emergency water shortage all provisions of sections [47-252](#), [47-253](#), and [47-254](#) shall apply.

(Ord. No. 01-753, § 3, 8-8-01)

Sec. 47-256. - Wholesale water customers.

In the event of a water shortage diminishing the supply of water for wholesale water customers, the department shall curtail pro-rata water deliveries to all affected customers in accordance with section 11.039 of the Texas Water Code. The department shall include in each wholesale water contract a requirement that, in the event of a water shortage, water will be distributed according to the requirements of section 11.039 of the Texas Water Code.

(Ord. No. 01-753, § 3, 8-8-01)

Secs. 47-257—47-265. - Reserved.