

ORDINANCE NO. #07-1813

AN ORDINANCE OF THE CITY OF OVERTON, TEXAS, AMENDING THE CITY'S DROUGHT CONTINGENCY PLAN WHICH ESTABLISHES CRITERIA FOR THE INITIATION AND TERMINATION OF DROUGHT RESPONSE STAGES; RESTRICTIONS ON CERTAIN WATER USES; PENALTIES FOR THE VIOLATION OF AND PROVISIONS FOR ENFORCEMENT OF SEVERABILITY AND AN EFFECTIVE DATE.

Whereas, the City of Overton, Texas recognizes that the amount of water available to the City and its water utility customers is limited and subject to depletion during periods of extended drought;

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

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

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

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF OVERTON, TEXAS:

Section 1. That the amended City of Overton, Texas Drought Contingency Plan attached hereto as exhibit A and made part hereto for all purposes, is hereby adopted as the official policy of the City.

Section 2. That all ordinances that are in conflict with the provisions of this ordinance be, and the same are hereby, repealed and all other ordinances of the City not conflict with the provisions of this ordinance shall remain in full force and effect.

Section 3. Should any paragraph, sentence subdivision, clause phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance or any part or provision thereof, other that the part so declared to be invalid, illegal, or unconstitutional.

Section 4. This ordinance shall take effect immediately from and after its passage and the publication of the caption, as law in such cases provides.

DULY PASSED BY THE CITY OF OVERTON, TEXAS, ON THE 18TH DAY OF JULY 2013

By: C. R. Evans Jr. 6/2/17
C. R. Evans Jr. Mayor

ATTEST:
Rachél Gafford 6/2/17
Rachél Gafford, City Secretary



DROUGHT CONTINGENCY PLAN
FOR THE
CITY OF OVERTON
DRAWER D
1200 SOUTH COMMERCE
OVERTON, TEXAS 75684

2010002

JUNE 2013

Section 1: Declaration of Policy, Purpose, and Intent

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

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

Section II: Public Involvement

Opportunity for the public to provide input into the preparation of the Plan was provided by the City of Overton by means of public hearings and news media.

Section III: Public Education

The City of Overton will periodically provide the public with information about the Plan, including information about the conditions under which stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by means of news media releases and web site postings.

Section IV: Coordination with Regional Water Planning Groups

The service area of the city of Overton is located within the Carrizo-Wilcox aquifer and the City of Overton has provided a copy of the Plan to the East Texas Council of Governments.

Section V: Authorization

The City manager or his/her designee is hereby authorized and directed to implement the applicable provisions of this Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The City Manager or his/her designee shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

Section VI: Application

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

Section VII: Definitions

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

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

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

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

Customer: any person, company, or organization using water supplied by the City of Overton.

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

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

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

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

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

- (a) Irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this Plan;
- (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- (c) Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surface areas;
- (d) Use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (e) Flushing gutters or permitting water to run or accumulate in any gutter or street;
- (f) Use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;
- (g) Use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- (h) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
- (i) Use of water from hydrants for construction purposes or any other purposes other than firefighting.

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

Section VIII: Criteria for initiation and Termination of Drought Response Stages

The City Manager or his/her designee shall monitor water supply and/or demand conditions on a daily basis and shall determine when conditions warrant initiation or termination of each stage of the Plan, that is, when the specified triggers are reached.

The triggering criteria described below are based on known system capacities.

The City of Overton shall notify The Rusk County Groundwater Conservation District whenever the City implements a severe, critical, or emergency stage. The Rusk County Groundwater Conservation District is located in Henderson, Texas, 903-657-1900. Upon implementing one of these stages, the other entity shall implement same.

Stage 1 Triggers MILD Water Shortage Conditions

Requirements for initiation

Customers shall be required to voluntarily conserve water and adhere to the prescribed restrictions on certain water uses, defined in section VII Definitions, when total daily water demands equal or exceed 65% of the safe operating capacity of water supply facilities for a period of three consecutive (3) days or 73% in a single day.

Requirements for Termination

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

Stage 2 Triggers MODERATE Water Shortage Conditions

Required for initiation

Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses provided in Section IX of this Plan when total daily water demand equals or exceeds 68% of the safe operating capacity of water system facilities for a period of three (3) consecutive days or 77% in a single day.

Requirements for termination

Stage 2 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three consecutive (3) days. Upon termination of Stage 2, Stage 1 becomes operative.

Stage 3 Triggers SEVERE Water Shortage Conditions

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 3 of this Plan when total water demand equal or exceeds 77% of the safe water capacity of water system facilities for a period of three (3) consecutive days or 82% in a single day.

Requirements for termination

Stage 3 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of Stage 3, Stage 2 becomes operative.

Stage 4 Triggers CRITICAL Water Shortage Conditions

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 4 of this Plan when total water demand equals or exceeds 80% of the safe operating capacity of the water system facilities for a period of three (3) days.

Requirements for termination

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

Stage 5 Triggers EMERGENCY Water Shortage Conditions

Requirements for initiation

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

1. Major water line breaks or pump or system failure occur which cause unprecedented loss of capacity to provide water service; **or**
2. Natural or man-made contamination of the water supply source(s).

Requirements for termination

Stage 5 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days.

Stage 6 Triggers Water Allocation

Requirements for initiation

Customers shall be required to comply with the water allocation plan prescribed in Section IX of this Plan and comply with the requirements and restrictions for Stage 5 of this Plan when water system ability to provide safe water is compromised or usage reaches 80% of safe operating capacity.

Requirements for termination

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

Section IX: Drought response Stages

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

Notification

Notification to the Public:

The City Manager or his/her designee shall notify the public by means of:

- Public Service announcements*
- Publication in local newspaper of general circulation*
- Marquis sign posted at 4-way stop intersection*

Additional notification:

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

- Mayor and City Council Members*
- Fire and Police chief*
- Rusk County Emergency Management Coordinator*
- Rusk County Judge and County Commissioner*
- Rusk County Groundwater Conservation District*
- TCEQ (required when mandatory restrictions are imposed)*
- Critical water users (nursing home, doctor's offices)*
- Major water users (J. W. Green)*

Stage 1 Response MILD Water Shortage Conditions

Target: Achieve a voluntary 10% percent reduction in total water use or daily water demand.

Best Management Practices for Supply Management

Reduced or discontinued flushing of water mains.

Voluntary Water Use restrictions for reducing Demands:

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

Stage 2 Response MODERATE Water Shortage conditions

Target: Achieve a 20% percentage reduction in daily water demand

Best management Practices for Supply Management

The City of Overton will cease to discontinue flushing of water mains, reduce or discontinue irrigation of public landscaped areas.

Water Use Restrictions for Demand Reductions:

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

- (a) Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6, or 8), and Saturdays and Wednesday for water customers with a street address ending in an odd number (1, 3, 5, 7, or 9), and irrigation of landscaped areas is further limited to the hours of 12:00 midnight until 10:00 a. m. and between 8:00 p. m. and 12:00 midnight on designated watering days. However, irrigation of landscaped areas is permitted anytime if it is by means of a hand-held hose, a faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system.

- (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a. m. and between 8:00 p. m. and 12:00 midnight. Such watering, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public, is contingent upon the frequent vehicle cleaning, such as garbage trucks and vehicles used to transport food and perishables.
- (c) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight.
- (d) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
- (e) Use of water from hydrants shall be limited to firefighting, related activities, or other activities necessary to maintain public health, safety, and welfare, except the use of water from designated fire hydrants for construction purposes may be allowed under special permit from the City of Overton.
- (f) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited ~~except~~ on designated watering days between the hours of 12:00 midnight ^{and} However, if the golf course utilizes a water source other than that provided by the City of Overton, the facility shall not be subject to these regulations. ?
- (g) All restaurants are prohibited from serving water to patrons except upon request of the patron.
- (h) The following uses of water are defined as non-essential and are prohibited:
 1. Wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surface areas;
 2. Use of water to wash down buildings or structures for purposes other than immediate fire protection;
 3. Use of water for dust control;
 4. Flushing gutters or permitting water to run or accumulate in any gutter or street; and
 5. Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

Stage 3 response SEVERE Water Shortage Conditions

Target: Achieve a 30% percent reduction in daily water demand.

Best Management Practices for Supply Management

The City of Overton will reduce or discontinue flushing of water mains, reduced or discontinued irrigation of public landscaped areas.

Water Use Restrictions for Demand Reduction:

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

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

Stage 4 Response CRITICAL Water Shortage Conditions

Target: Achieve a 40% reduction in daily water demand

Best Management Practices for Supply Management:

The City of Overton will discontinue flushing of water mains, discontinue irrigation of public landscaped areas, and cease the selling of water at designated hydrants for any purpose.

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

- (a) Irrigation of landscaped areas shall be limited to designated watering days between the hours of 6:00 a.m. and 10:00 a.m. and between 8:00 p. m. and 12:00 midnight and shall be by means of hand-held hoses, hand-held buckets, or drip irrigation only. The use of hose-end sprinklers or permanently installed automatic sprinkler systems are prohibited at all times.
- (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle not occurring on the premises of a commercial car wash and commercial service stations and not in the immediate interest of public health, safety, and welfare is prohibited. Further, such vehicles washing at commercial car washes and commercial service stations shall occur only between the hours of 6:00 a. m. and 10:00 a. m. and between 6:00 p. m. and 10:00 p. m.

- (c) The filling, refilling, or adding of water to swimming pools, wading pools, and Jacuzzi-type pools is prohibited.
- (d) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
- (e) No application for new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be approved, and time limits for approval of such applications are hereby suspended for such time as this drought response stage or a higher-numbered stage shall be in effect.

Stage 5 Response EMERGENCY Water Shortage Condition

Target: Achieve a 45% reduction in daily water demand.

Best Management Practices for Supply Management:

The City of Overton shall discontinue flushing of water mains, discontinue irrigation of public landscaped areas and cease the selling of water from designated hydrants for any purpose.

Water use Restrictions for reduced Demand: All requirements of Stage 2, 3, and 4 shall remain in effect during Stage 5 except:

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

Stage 6 Response WATER ALLOCATION

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

Single Family Residential Customers

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

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

Household means the residential premises served by the customer's meter. Persons per household include only those persons currently physically residing at the premises and expected to reside there for the entire billing period. It shall be assumed that a particular customer's household is comprised of two (2) persons unless the customer notifies the City of Overton of a greater number of persons per household on a form prescribed by the City Manager. The City Manager shall give his/her best effort to see that such forms are mailed, otherwise provided, or made available to every residential customer. If, however, a customer does not receive such a form, it shall be the customer's responsibility to go to the City of Overton offices to complete and sign the form claiming more than two (2) persons per household. New customers may claim more persons per household at the time of applying for water service on the form prescribed by the City Manager. When the number of persons per household increases so as to place the customer in a different allocation category, the customer may notify the City of Overton on such form and the change will be implemented in the next practicable billing period. If the number of persons in a household is reduced, the customer shall notify the City of Overton in writing within two (2) days. In prescribing the method for claiming more than two (2) persons per household, the City Manager shall adopt methods to insure the accuracy of the claim. Any person who knowingly, recklessly, or with criminal negligence falsely reports the number of persons in a household or fails to timely notify the City of Overton of a reduction in the number of persons in a household shall be fined not less than \$50.00.

Residential water customer shall pay the following surcharges:

- \$3.50 for the first 1,000 gallons over the allocation.
- \$4.00 for the second 1,000 gallons over allocation
- \$5.00 for the third 1,000 gallons over allocation.

Surcharge shall be cumulative (increasing by one addition after another).

Master-Metered Multi-Family Residential Customer

The allocation to a customer billed from a master meter which jointly measures water to multiple permanent residential dwelling units such as the Overton Housing Authority shall be allocated 6,000 gallons per month for each dwelling unit. It shall be assumed that such a customer's meter serves two dwelling units unless the customer notifies the City of Overton of a greater number on a form prescribed by the City Manager. The City Manager shall give his/her best effort to see that such forms are mailed, otherwise provided, or made available to every such customer. If, however, a customer does not receive such a form, it shall be the customer's responsibility to go to the City of Overton City Hall office to complete and sign the form claiming more than two (2) dwellings. A dwelling unit may be claimed under this provision whether it is occupied or not. If the number of dwellings units served by a master meter is reduced, the customer shall notify the City of Overton in writing within two (2) days. Any person who knowingly, recklessly, or with criminal negligence falsely reports the number of dwelling units served by a master meter or fails to timely notify the City of Overton of a reduction in the number of persons in a household shall be fined not less than \$50.00.

The Overton Housing Authority has four master meter locations which serve different number of dwelling units.

- (1) The Carver location on FM 2089 has seven dwelling units on one master meter which has an average of 3-4 persons per dwelling unit.
- (2) The location on North Street has thirty-three (33) dwelling units on a master meter averaging one (1) to two (2) person, mostly elderly, per dwelling unit.
- (3) Ball Park Road location has eighteen (18) dwelling units on one (1) master meter.
- (4) There are two apartments located on M & P Street averaging one (1) person per dwelling unit on one (1) master meter.

Customers billed from a master meter under this provision shall pay the following monthly surcharges:

\$ 3.50 for 1,000 gallons over allocation up through 1,000 gallons for each dwelling unit.
\$ 4.00 therefore, for each additional 1,000 gallons over allocation up through a second 1,000 gallons for each dwelling unit.

\$ 5.00 therefore, for each additional 1,000 gallons over allocation up through a third 1,000 gallons for each dwelling unit.

Surcharges shall be cumulative.

Commercial Customers

A monthly water allocation shall be established by the City Manager, or his/her designee, for each non-residential commercial customer. The non-residential customer's allocation shall be approximately 80% of the customer's usage for corresponding months billing period for the previous months. If the customer's billing history is shorter than 12 months, the monthly average for the period for which there is a record shall be used for any monthly period for which no history exists. Provided, however, a customer 80 percent of whose monthly usage is less than 5,000 gallons, shall be allocated 5,000 gallons. The water department supervisor shall give his/her best effort to see that notice of each non-residential customer's allocation is mailed to such customer. If, however, a customer does not receive such notice, it shall be the customer's responsibility to contact the City of Overton

Example: If a non-residential commercial customer is averaging Ten Thousand Two Hundred and Fifty (10, 250) gallons a month water usage, the non-residential commercial customer will be allocated 80% of previous monthly average or Eight Thousand Two Hundred (8,200) gallons a month from that period on until the emergency water crisis ceases.

Upon requests of the customer or at the initiative of the City Manager, the allocation may be reduced or increased if, (a) the designated period does not accurately reflect the customer's normal water usage, (b) other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the City Manager or his/her designee.

Only one nonresidential commercial customer exists, the Billy Max Moore Correctional Facility, and their water allocation is up to one million gallons per month at a cost of \$7,250.00. The overage over the one million gallons is \$4.25 per each additional thousand gallons.

Industrial Customers

The City of Overton presently has no industrial customers.

Section X: Enforcement

- (a) No person knowingly or intentionally allow the use of water from the City of Overton for residential, commercial, agricultural, industrial, governmental, or any other purpose in a manner contrary to any provision of this Plan, or in amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by the City Manager or designee, in accordance with provisions of this Plan.
- (b) Any person that violates this Plan is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$50.00 and not more than \$200.00. Each day that one or more of the provision of this Plan is violated shall constitute a separate offense. If a person is convicted of three or more distinct violations of this Plan, the City Manager shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a re-connection charge and any other costs incurred by the City of Overton in disconnecting service. In addition, suitable assurance must be given to the City Manager that the same action shall not be repeated while the Plan is in effect. Compliance with this Plan may also be sought through injunctive relief in the district court.
- (c) Any person, including a person classified as a water customer of the City of Overton, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parent's control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this Plan and that the parent could not have reasonably known of the violation.

- (d) Any employee of the City of Overton, police officer, or other Municipal employee designated by the City Manager, may issue a citation to a person he/she reasonably believes to be in violation of this Ordinance. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, the offense charged, and shall direct him/her to appear in the municipal court on the designated date shown on the citation for which the date shall be the next set municipal court but no sooner than ten (10) days from the date the citation was issued. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of the violator, or to a person 14 years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in municipal court to enter a plea of guilty or not guilty for the violation of this Plan. If the alleged violator fails to appear in municipal court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant. These cases shall be expedited and given preferential setting in municipal court before all other cases.

Section XI

Variances

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

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

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

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

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

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

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

Section XIII Severability

It is hereby declared to be the intention of the Overton City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Plan shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutional shall not affect any of the remaining phrases, clauses, sentences, paragraph, and section of this Plan, since the same would not have been enacted by the Overton City Council without the incorporation into this Plan of any such unconstitutional phrase, clause, sentence, paragraph, or section.