

**WATER CONSERVATION AND
DROUGHT CONTINGENCY PLAN**

CITY OF TERRELL, TEXAS

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Ordinance No. 2176 - Adopting Water Conservation and Drought Contingency Plan

Exhibit A Water Conservation and Drought Contingency Plan

ORDINANCE NO. 2176

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, REVISING SECTION 12-15 OF THE CODE OF ORDINANCES THROUGH THE ADOPTION OF A NEW WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN; ESTABLISHING CRITERIA FOR THE INITIATION AND TERMINATION OF DROUGHT RESPONSE STAGES; ESTABLISHING RESTRICTIONS ON CERTAIN WATER USES; ESTABLISHING PENALTIES FOR THE VIOLATION OF AND PROVISIONS FOR ENFORCEMENT OF THOSE RESTRICTIONS; ESTABLISHING PROCEDURES FOR GRANTING VARIANCES; AND PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Terrell, 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 or upon failure of major system components; and

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

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

WHEREAS, as authorized under law, and in the best interests of the citizens of Terrell, Texas, and its customers, 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 COUNCIL OF THE CITY OF TERRELL, TEXAS:

ARTICLE 1.

That Section 12-15, *Emergency Water Demand Management Regulations*, of Chapter 12 of the Code of Ordinances, is hereby repealed, and that the **Water Conservation and Drought Contingency Plan**, attached hereto as Exhibit A and hereby made part hereof for all purposes, including the penalties therein set forth, be and is hereby adopted as the official policy of the City, and that the said Plan shall hereafter be designated as the new Section 12-15 of the said Code.

ARTICLE 2.

That all ordinances that are in conflict with the provisions of this ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

ARTICLE 3.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance and the Plan set forth in Exhibit A are

severable and, if any phrase, clause, sentence, paragraph, or section of same shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance or said Plan, since the same would not have been enacted by the City Council without the incorporation into this ordinance or the Plan of any such unconstitutional phrase, clause, sentence, paragraph, or section.

ARTICLE 4.

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

Passed and Approved on this the 3rd day of June, 2003.
Passed and Adopted on this the 17th day of June, 2003.

Frances Anderson, Mayor

Attest:

John Rounsavall, City Secretary

Approved as to Form:

Mary Gayle Ramsey, City Attorney

EXHIBIT A

**Water Conservation and
Drought Contingency Plan**

Adopted by

CITY OF TERRELL

Ordinance No. 2176

Dated: JUNE 17, 2003

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WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN

Section I: Declaration of Policy, Purpose, and Intent

A. 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 to minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the City of Terrell (the City) hereby adopts the following Water Conservation and Drought Contingency Plan (the Plan).

B. Certain water uses regulated or prohibited under this Plan are considered to be nonessential, and continuation of such uses during times of water shortage or other emergency water supply conditions are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in Section XI of this Plan.

Section II: Public Involvement

Opportunity for the public to provide input into the preparation of the Plan was provided by the City by means of public meetings. There will be four meetings held:

City Hall April 15, 2003 @ 7:00 P.M.
City Hall May 01, 2003 @ 4:00 P.M. and 6:00 P.M.

Section III: Public Education

The City will periodically provide the public with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage. Press releases or utility bill inserts will provide this information.

Section IV: Wholesale Water Customer Education

The City will periodically provide wholesale water customers with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage. Providing a copy of the Plan or periodically including information about the Plan with invoices for water sales will provide this information.

Section V: Coordination with Regional Water Planning Groups

The service area of the City is located within the Region C regional water planning area. The City has provided a copy of this Plan to the Region C water planning group.

Section VI: 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 the 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 VII: Application

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

Section VIII: Definitions

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

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

Block rate: means the charge to the customer per 1,000 gallons at the regular water rate schedule of the customer.

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

Conservation: those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve 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, corporation, or organization using water supplied by City of Terrell.

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

Even-numbered addresses: street addresses, box numbers, or rural postal route 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 materials of lower value into forms having greater usability and value.

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

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

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

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

Safe operating capacity: The minimum capacity of the raw water supply, treatment units, or high service pumping rates as determined by the City Manager.

Wholesale water customer: any person, company, or organization reselling water supplied by the City of Terrell.

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

A. 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. Public notification of the initiation or termination of drought response stages shall be by press releases or utility bill inserts.

B. The City will notify its customers and the media of the termination of each Stage in the same manner as the notification of initiation of each Stage of the Plan.

C. The triggering criteria described below are based on statistical analysis of the vulnerability of the water source under drought of record conditions.

1. Stage 1 - Mild Water Shortage Conditions

a. Requirements for initiation - Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain water uses, defined in Section VIII B Definitions, when one of the following conditions exist.

- 1) The total daily water demand exceeds 80 percent of the safe operating capacity for three consecutive days.
- 2) The total daily water demand exceeds 95 percent of the safe operating capacity on a single day.
- 3) The New City Lake at Elmo recedes 5 feet below spillway.

b. 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 30 consecutive days.

2. Stage 2 - Moderate Water Shortage Conditions

a. Requirements for initiation - Customers shall be required to comply with the requirements and restrictions on certain nonessential water uses, defined in Section VIII – Definitions, when one of the following conditions exists.

- 1) The total daily water demand equals or exceeds 90% of the safe operating capacity for three consecutive days.

- 2) The total daily water demand equals or exceeds 100% of the safe operating capacity on a single day.
- 3) The New City Lake at Elmo recedes 6 feet below spillway.

b. 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 30 consecutive days. Upon termination of Stage 2, Stage 1 becomes operative.

3. Stage 3 - Severe Water Shortage Conditions

a. Requirements for initiation - Customers shall be required to comply with the requirements and restrictions on certain nonessential water uses for Stage 3 of this Plan when any one of the following conditions exists.

- 1) The total daily water demand exceeds 95% of the safe operating capacity for three consecutive days.
- 2) The maximum water level attained in the ground storage tanks or elevated tanks falls more than 5% per day for three consecutive days.
- 3) The New City Lake at Elmo recedes 7 feet below spillway.

b. 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 30 consecutive days. Upon termination of Stage 3, Stage 2 becomes operative.

4. Stage 4 - Critical Water Shortage Conditions

a. Requirements for initiation - Customers shall be required to comply with the requirements and restrictions on certain nonessential water uses for Stage 4 of this Plan when any one of the following conditions exists.

- 1) The total daily water demand exceeds 100% of the safe operating capacity for three consecutive days.
- 2) The maximum water level attained in the ground storage tanks or elevated tanks falls more than 10% per day for three consecutive days.
- 3) The New City Lake at Elmo recedes 8 feet below spillway.

b. 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 30 consecutive days. Upon termination of Stage 4, Stage 3 becomes operative.

5. Stage 5 - Emergency Water Shortage Conditions

a. 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 the following:

- 1) Major water line breaks, or a pump or system failure occurs which causes unprecedented loss of capability to provide water service; **or**
- 2) Natural or man-made contamination of the water supply or source(s).

b. Requirements for termination - Stage 5 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist.

Section X: Drought Response Stages

A. 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 IX of the Plan, shall determine that a mild, moderate, severe, critical, or emergency condition exists and shall implement the following actions:

1. Stage 1 - Mild Water Shortage Conditions

a. Goal: Achieve a voluntary five percent (5%) reduction in total water use.

b. Supply Management Measures: Measures to be implemented directly by The City to manage limited water supplies and/or reduce water demand includes reduced or discontinued flushing of water mains. All City operations shall adhere to water use restrictions prescribed for Stage 2 of the Plan.

- 1) Customers are informed of the conditions by phone, mail, and media as appropriate and are asked to practice water conservation.
- 2) Base water allocation will be set as the number of gallons of water used by the customer in the previous billing period.

- 3) Should the customer's water usage exceed the base allocation by more than 5 percent, they will be assessed a surcharge of \$1.00 per 1,000 gallons above the base allocation.
- 4) Should the customer's water usage exceed the base allocation by more than 10 percent, they will be assessed a surcharge of \$2.00 per 1,000 gallons above the base allocation.
- 5) Should the customer's water usage exceed the base allocation by more than 15 percent, they will be assessed a surcharge of \$3.00 per 1,000 gallons above the base allocation and the City may, at their discretion, place flow restrictors in the customer's line.
- 6) If a leak on the customer's premises goes uncorrected more than thirty days after the customer has been notified of the condition, the City may, at their discretion, terminate water service to the premises until the leak is repaired. The City Manager, or his/her designee(s), will contact wholesale water customers to discuss water supply and/or demand conditions and will request that wholesale water customers initiate voluntary measures to reduce water use (e.g., implement Stage 1 of the customer's drought contingency plan).

c. Voluntary Water Use Restrictions:

- 1) Water customers are requested 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 Wednesdays 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.
- 2) All operations of the City shall adhere to water use restrictions prescribed for Stage 2 of the Plan.
- 3) Water customers are requested to practice water conservation and to minimize or discontinue water use for nonessential purposes.

2. Stage 2 - Moderate Water Shortage Conditions

a. Goal: Achieve a twenty percent (20%) reduction in total water use.

b. Supply Management Measures: Measures to be implemented directly by The City to manage limited water supplies and/or reduce water demand include: reduced or discontinued flushing of water mains, reduced or discontinued irrigation of public landscaped areas. All of The City operations shall adhere to water use restrictions prescribed for Stage 3 of the Plan.

- 1) Customers are informed of the conditions by phone, mail, and media as appropriate and are asked to restrict water usage.
- 2) Base water allocation will be set at 90% number of gallons of water used by the customer in the previous billing period.
- 3) Should the customer's water usage exceed the base allocation by more than 5 percent, they will be assessed a surcharge of \$1.00 per 1,000 gallons above the base allocation.
- 4) Should the customer's water usage exceed the base allocation by more than 10 percent, they will be assessed a surcharge of \$3.00 per 1,000 gallons above the base allocation.
- 5) Should the customer's water usage exceed the base allocation by more than 15 percent, they will be assessed a surcharge of \$5.00 per 1,000 gallons above the base allocation and the City may, at their discretion, place flow restrictors in the customer's line.
- 6) If a leak on the customer's premises goes uncorrected more than ten days after the customer has been notified of the condition, the City may, at their discretion, terminate water service to the premises until the leak is repaired.

c. The City Manager, or his/her designee(s), will contact wholesale water customers to discuss water supply and/or

demand conditions and will request that wholesale water customers initiate voluntary measures to reduce water use (e.g., implement Stage 3 of the customer's drought contingency plan).

d. The City Manager, or his/her designee(s), will initiate preparations for the implementation of pro rata curtailment of water diversions and/or deliveries by preparing a monthly water usage allocation baseline for each wholesale customer according to the procedures specified in Section XIII of the Plan.

e. Water Use Restrictions - The following uses of water are defined as nonessential and are prohibited. Under threat of penalty for violation, these water use restrictions shall apply to all customers.

- 1) Wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- 2) Use of water to wash down buildings or structures for purposes other than immediate fire protection;
- 3) Flushing gutters or permitting water to run or accumulate in any gutter or street; and

- 4) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

3. Stage 3 - Severe Water Shortage Conditions

a. Goal: Achieve a thirty percent (30%) reduction in total water use.

b. Supply Management Measures: Measures to be implemented directly by The City to manage limited water supplies and/or reduce water demand include: reduced or discontinued flushing of water mains, reduced or discontinued irrigation of public landscaped areas. All City operations shall adhere to water use restriction prescribed for Stage 4 of the Plan.

- 1) Customers are informed of the conditions by phone, mail, and media as appropriate and are asked to restrict water usage.
- 2) Base water allocation will be set at 80% number of gallons of water used by the customer in the previous billing period.
- 3) Should the customer's water usage exceed the base allocation by more than 5 percent, they will be assessed a surcharge of \$1.00 per 1,000 gallons above the base allocation.
- 4) Should the customer's water usage exceed the base allocation by more than 10 percent, they will be assessed a surcharge of \$5.00 per 1,000 gallons above the base allocation.
- 5) Should the customer's water usage exceed the base allocation by more than 15 percent, they will be assessed a surcharge of \$8.00 per 1,000 gallons above the base allocation and the City may, at their discretion, place flow restrictors in the customer's line.
- 6) If a leak on the customer's premises goes uncorrected more than 72 hours after the customer has been notified of the condition, the City may, at their discretion, terminate water service to the premises until the leak is repaired.

c. The City Manager, or his/her designee(s), will contact wholesale water customers to discuss water supply and/or demand conditions and will request that wholesale water customers initiate voluntary measures to reduce water use (e.g., implement Stage 3 of the customer's drought contingency plan).

d. The City Manager, or his/her designee(s), will initiate pro rata curtailment of water diversions and/or deliveries for each wholesale customer according to the procedures specified in Section XIII of the Plan.

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

- 1) 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 8:00 p.m. and 12:00 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.
- 2) The watering of golf course tees is prohibited unless the golf course utilizes a water source other than that provided by the City.
- 3) The use of water for construction purposes from fire hydrants is to be discontinued.

4. Stage 4 - Critical Water Shortage Conditions

a. Goal: Achieve a forty percent (40%) reduction in total water use.

b. Supply Management Measures: Measures to be implemented directly by The City to manage limited water supplies and/or reduce water demand include: reduced or discontinued flushing of water mains, reduced or discontinued irrigation of public landscaped areas. All of the City operations shall adhere to water use restriction prescribed for Stage 5 of the Plan.

- 1) Customers are informed of the conditions by phone, mail, and media as appropriate and are asked to restrict water usage.
- 2) The water system will deliver water by truck or in bottles if needed.
- 3) Base water allocation will be set at 70% number of gallons of water used by the customer in the previous billing period.
- 4) Should the customer's water usage exceed the base allocation by more than 5 percent, they will be assessed a surcharge of \$3.00 per 1,000 gallons above the base allocation.

- 5) Should the customer's water usage exceed the base allocation by more than 10 percent, they will be assessed a surcharge of \$10.00 per 1,000 gallons above the base allocation.
- 6) Should the customer's water usage exceed the base allocation by more than 15 percent, they will be assessed a surcharge of \$20.00 per 1,000 gallons above the base allocation and the City may, at their discretion, place flow restrictors in the customer's line.
- 7) If a leak on the customer's premises goes uncorrected more than 48 hours after the customer has been notified of the condition, the City may, at their discretion, terminate water service to the premises until the leak is repaired.

c. The City Manager, or his/her designee(s), will contact wholesale water customers to discuss water supply and/or demand conditions and will request that wholesale water customers initiate voluntary measures to reduce water use (e.g., implement Stage 4 of the customer's drought contingency plan).

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

- 1) 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 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.
- 2) 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 vehicle washing at commercial car washes and commercial service stations shall occur only between the hours of 6:00 a.m. and 10:00 a.m. and between 6:00 p.m. and 10:00 p.m.
- 3) The filling, refilling, or adding of water to swimming pools, wading pools, and jacuzzi-type pools is prohibited.
- 4) 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 re-circulation system.
- 5) No applications 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 allowed or approved.

5. Stage 5 - Emergency Water Shortage Conditions

a. Goal: Achieve a fifty percent (50%) or more reduction in total water use.

b. Supply Management Measures: Measures to be implemented directly by The City to manage limited water supplies and/or reduce water demand include such as reduced or discontinued flushing of water mains, discontinued irrigation of public landscaped areas.

- 1) Customers are informed of the conditions by phone, mail, and media as appropriate and are asked to restrict water usage.
- 2) The water system will deliver water by truck or in bottles if needed.
- 3) Base water allocation will be set at 60% number of gallons of water used by the customer in the previous billing period.
- 4) Should the customer's water usage exceed the base allocation by more than 5 percent, they will be assessed a surcharge of \$10.00 per 1,000 gallons above the base allocation.
- 5) Should the customer's water usage exceed the base allocation by more than 10 percent, they will be assessed a surcharge of \$20.00 per 1,000 gallons above the base allocation.
- 6) Should the customer's water usage exceed the base allocation by more than 15 percent, they will be assessed a surcharge of \$30.00 per 1,000 gallons above the base allocation and the City may, at their discretion, place flow restrictors in the customer's line.
- 7) If a leak on the customer's premises goes uncorrected more than 24 hours after the customer has been notified of the condition, the City may, at their discretion, terminate water service to the premises until the leak is repaired.

c. The City Manager, or his/her designee(s), will contact wholesale water customers to discuss water supply and/or demand conditions and will request wholesale water customers to initiate voluntary measures to reduce water use (e.g., implement Stage 5 of the customer's drought contingency plan).

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

- 1) Irrigation of landscaped areas is absolutely prohibited.

- 2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.

Section XI: Enforcement – Inside City

- A. No person shall knowingly or intentionally allow the use of water from the City for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this Plan, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by City Manager, or his/her designee, in accordance with provisions of this Plan.
- B. Any person who violates this Plan is guilty of a misdemeanor and, upon conviction shall be subject to a fine of not less than fifty dollars (\$50.00) and not more than two hundred dollars (\$200.00). Each day that one or more of the provisions in this Plan are 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, hereby established at twenty dollars (\$20.00), and any other costs incurred by the City in discontinuing 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, 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 parents' 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, police officer, or other City employee designated by the City Manager, may issue a citation to a person he/she reasonably believes to be in violation of this Plan. The citation shall be prepared in duplicate and shall contain the name and addresses of the alleged violator, if known, the offense charged, and shall direct him/her to appear in the municipal court on the date shown on the citation for which the date shall not be less than three days nor more than five days from the date the citation was issued. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over 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 XII: Variances – Inside City

- A. The City Manager, or his/her designee, may, in writing, grant temporary variance for existing water uses otherwise prohibited under this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:
1. Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.
 2. Alternative methods can be implemented which will achieve the same level of reduction in water use.
- B. Persons requesting an exemption from the provisions of this Plan shall file a petition for variance with the City after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the City Manager, or his/her designee, and shall include the following:
1. Name and address of the petitioner(s).
 2. Purpose of water use.
 3. Specific provision(s) of the Plan from which the petitioner is requesting relief.
 4. 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.
 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 meet the intent of this Plan and the compliance date.

8. Other pertinent information.

C. Variances granted by the City shall be subject to the following conditions, unless waived or modified by the City Manager or his/her designee:

1. Variances granted shall include a timetable for compliance.
2. Variances granted shall expire when the Plan is no longer in effect, unless the petitioner has failed to meet specified requirements.
3. No variance shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance.

Section XIII: Pro Rata Water Allocation to Wholesale Customers

A. **Policy and Procedures.** In the event that the triggering criteria specified in Section IX of the Plan for Stage 3 - Severe Water Shortage Conditions have been met, the City Manager is hereby authorized to initiate allocation of water supplies on a pro rata basis in accordance with Texas Water Code Section 11.039 and according to the following water allocation policies and procedures:

1. A wholesale customer's monthly allocation shall be a percentage of the customer's water usage baseline. The percentage will be set by resolution of the Terrell City Council based on the City Manager's assessment of the severity of the water shortage condition and the need to curtail water diversions and/or deliveries and may be adjusted periodically by resolution of the Terrell City Council as conditions warrant. Once pro rata allocation is in effect, water diversions by or deliveries to each wholesale customer shall be limited to the allocation established for each month.
2. A monthly water usage allocation shall be established by the City Manager, or his/her designee, for each wholesale customer. The wholesale customer's water usage baseline will be computed on the average water usage by month for the latest five (5) year period. If the wholesale water customer's billing history is less than five (5) years, the monthly average for the period for which there is a record shall be used for any monthly period for which no billing history exists.
3. The City Manager shall provide notice, by certified mail, to each wholesale customer informing them of their monthly water usage allocations and shall notify the news media and the executive director of the Texas Commission on Environmental Quality (TCEQ) upon initiation of pro rata water allocation.
4. Upon request of the customer or at the initiative of the City Manager, the allocation may be reduced or increased if, (1) the designated period does not accurately reflect the wholesale customer's normal water usage; (2) the customer agrees to transfer part of its allocation to another wholesale customer; or (3) other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the City Council of the City of Terrell.

B. **Enforcement.** During any period when pro rata allocation of available water supplies is in effect, wholesale customers shall pay the following surcharges on excess water diversions and/or deliveries:

1. 1.50 times the normal water charge per thousand gallons for water diversions and/or deliveries in excess of the monthly allocation up through 5 percent above the monthly allocation.
2. 2.00 times the normal water charge per thousand gallons for water diversions and/or deliveries in excess of the monthly allocation from 5 percent through 10 percent above the monthly allocation.
3. 2.50 times the normal water charge per thousand gallons for water diversions and/or deliveries in excess of the monthly allocation from 10 percent through 15 percent above the monthly allocation.
4. 3.00 times the normal water charge per thousand gallons for water diversions and/or deliveries more than 15 percent above the monthly allocation.
5. The above surcharges shall be cumulative.

C. **Variances.** The City Manager, or his/her designee, may, in writing, grant a temporary variance to the pro rata water allocation policies provided by this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the public health, welfare or safety, and if one or more of the following conditions are met:

1. Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.

2. Alternative methods can be implemented which will achieve the same level of reduction in water use.

D. **Petition for Variance.** Persons requesting an exemption from the provisions of this Plan shall file a petition for variance with the City Manager after pro rata allocation has been invoked. All petitions for variances shall be reviewed by the Terrell City Council, and shall include the following:

1. Name and address of the petitioner(s).
2. Detailed statement with supporting data and information as to how the pro rata allocation of water under the policies and procedures established in the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Plan.
3. Description of the relief requested.
4. Period of time for which the variance is sought.
5. Alternative measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.
6. Other pertinent information.

E. **Conditions for Variance.** Variances Granted by the Terrell City Council shall be subject to the following conditions, unless waived or modified by the Terrell City Council or its designee:

1. Variances granted all include a timetable for compliance.
2. Variances granted shall expire when the Plan is no longer in effect, unless the petitioner has failed to meet specified requirements.
3. No variance shall be retroactive or otherwise justify any violation of the Plan occurring prior to the issuance of the variance.