

ORDINANCE NO. _____

**AN ORDINANCE REPEALING AND REPLACING CITY CODE CHAPTER 6-4
RELATING TO WATER CONSERVATION.**

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

PART 1. FINDINGS.

The City Council finds that:

Given the potential for severe and frequent drought conditions in Central Texas, it is essential that water use policies balance the need to conserve water with the need to protect the City's urban landscape and tree canopy. Water conservation efforts, including policies for responsible outdoor water use, help maximize limited resources as population grows while ensuring supply for critical public health and safety needs as well as fire protection.

PART 2. City Code Chapter 6-4 (*Water Conservation*) is repealed and replaced with a new Chapter 6-4 to read as follows:

ARTICLE 1. GENERAL PROVISIONS.

§ 6-4-1 WATER USE MANAGEMENT PLAN.

This chapter establishes a Water Use Management Plan.

§ 6-4-2 DEFINITIONS.

Unless a different definition is expressly provided, in this chapter:

- (1) **ACTION of THE UTILITY** means an action taken by Austin Water Utility pursuant to this chapter.
- (2) **AQUATIC LIFE** means a vertebrate organism dependent upon an aquatic environment to sustain life.
- (3) **AUXILIARY WATER** means a water supply from a source other than Austin Water Utility's potable water supply.
- (4) **AWU AUTHORIZED IRRIGATION INSPECTOR** means an Irrigation Inspector licensed by the Texas Commission on Environmental Quality who has in addition both passed a director-approved class in landscape irrigation

1 and has been awarded AWU Authorized Irrigator status in accordance with
2 rules adopted pursuant to this chapter.

- 3 (5) **COMMERCIAL FACILITY** means a site with five or more dwelling units,
4 or a municipal, business, or industrial building and the associated
5 landscaping, but does not include the fairways, greens, or tees of a golf
6 course.
- 7 (6) **COMMERCIAL NURSERY** means a facility where plant nursery stock,
8 trees, seedlings, turf, shrubs, flowers, herbs, crops or other plant materials
9 are cultivated, grown, stored, or maintained prior to retail consumer,
10 installer, or reseller purchase, use, consumption, or installation of the
11 materials at any location other than the commercial nursery.
- 12 (7) **COMMON AREA** means an area held, designed, or designated for the
13 common use of the owners or occupants of a townhouse project, planned
14 unit development, apartment, condominium, mobile home park, or
15 subdivision.
- 16 (8) **COSMETIC POWER WASHING** means treatment or cleaning of a surface
17 with specialized equipment that uses a spray of or directed water for the
18 cosmetic cleaning of buildings, vehicles or other mobile equipment, or
19 outdoor surfaces. It does not include industrial cleaning, cleaning associated
20 with manufacturing activities, hazardous or toxic waste cleaning, or cleaning
21 necessary to remove graffiti.
- 22 (9) **DESIGNATED OUTDOOR WATER USE DAY** means the day prescribed
23 by rule on which a person is permitted to irrigate outdoors.
- 24 (10) **DESIGNEE OF THE DIRECTOR** means an employee of the City of Austin
25 authorized by his/her employment to perform tasks necessary for the
26 function of the Utility.
- 27 (11) **DIRECTOR** means the executive director of the Austin Water Utility.
- 28 (12) **DRIP IRRIGATION** means a method of irrigation which is typically
29 installed below ground and consists of porous piping that allows the
30 application of water at a slow and constant rate.
- 31 (13) **DROUGHT CONTINGENCY PLAN** means a strategy or combination of
32 strategies for temporary supply management and demand management
33 responses to temporary and potentially recurring water supply shortages and
34 other water supply emergencies required by Texas Administrative Code
35 Title 30, Chapter 288, Subchapter B.
- 36 (14) **FOUNDATION WATERING** means an application of water to the soils
37 directly abutting the foundation of a single or multi- family dwelling, or a
38 municipal or commercial building.
- 39 (15) **HOSE-END SPRINKLER** means an above ground water distribution device
40 commonly, but not universally, attached to the end of a garden hose.

- 1 (16) MULTI-FAMILY PROPERTY means property containing five or more
2 dwelling units.
- 3 (17) MUNICIPAL PROPERTY means property owned by a governmental entity
4 and operated for business with the general public.
- 5 (18) NEW LANDSCAPE means vegetation:
6 (a) installed at the time of the construction of a residential or commercial
7 facility;
8 (b) installed as part of a governmental entity's capital improvement
9 project;
10 (c) installed to stabilize an area disturbed by construction; or
11 (d) that alters more than 500 contiguous square feet of an existing
12 landscape.
- 13 (19) ORNAMENTAL FOUNTAIN means an artificially created structure from
14 which a jet, stream, or flow of water emanates and is not utilized for the
15 preservation of aquatic life.
- 16 (20) PERMANANTLY INSTALLED IRRIGATION SYSTEM means a custom-
17 made, site-specific system of delivering water generally for the purpose of
18 landscape irrigation via a system of pipes or other conduits installed below
19 ground. These systems commonly, but not universally, utilize, at least in
20 part, PVC pipe in their construction and utilize water distribution devices.
- 21 (21) PERSON means any individual, partnership, association, firm, public or
22 private corporation, governmental authority, or other legal entity that
23 receives or is responsible for water utility service at a service address.
- 24 (22) PREMISE means the outdoor area of property not enclosed by fencing or
25 walls or containing living areas, or areas for storing vehicles or other
26 motorized equipment.
- 27 (23) RECLAIMED WATER means reclaimed municipal wastewater that is under
28 the direct control of the City treatment plants, satellite facilities, or a
29 treatment plant with which the City contracts, and that has been treated to a
30 quality that meets or exceeds 30 Texas Administrative Code, Chapter 210
31 requirements
- 32 (24) RESIDENTIAL FACILITY means a site with four or fewer dwelling units.
- 33 (25) SOAKER HOSE means a perforated or permeable garden-type hose or pipe
34 that is laid above ground that provides irrigation at a slow and constant rate.
- 35 (26) TEMPORARILY INSTALLED IRRIGATION SYSTEM means a
36 universally-applicable above ground irrigation system that commonly uses a
37 flexible hose or hardened pipe to deliver water to a moveable water
38 distribution device.
- 39 (27) THE UTILITY means the Austin Water Utility.
- 40 (28) VEHICLE WASH FACILITY means a permanently-located business that
41 washes vehicles or other mobile equipment with water or water-based
42 products, including but not limited to self-service car washes, full service car

1 washes, roll-over/in-bay style car washes, and facilities managing vehicle
2 fleets or vehicle inventory.

3 (29) XERISCAPE means a landscape which employs certain principles of design
4 and installation which conserve water and energy and where the plant
5 material, at mature growth, will provide, minimally, 50% of the new
6 landscape's area coverage. The plant material must consist of plants taken
7 from a plant list provided by Austin Water and identified as very low water
8 usage and low water usage plants. The plant list may be amended as needed.
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10 **§ 6-4-3 APPLICABILITY OF REGULATIONS; AFFIRMATIVE DEFENSES.**

- 11 (A) Except for reclaimed water, this chapter applies to a person who uses, directs,
12 manages, or allows the use of potable water supplied by Austin Water Utility.
13 Auxiliary water or reclaimed water which is mixed with or supplemented by
14 potable water supplied by Austin Water Utility is made subject to the regulatory
15 authority of this chapter.
- 16 (B) It is an affirmative defense to a violation of this chapter that the use of water that
17 gave rise to the violation was consistent with the agreed upon terms and conditions
18 of a water service contract by a wholesale water customer and that the use did not
19 constitute water waste.
- 20 (C) It is an affirmative defense to a violation of this chapter that the use of water that
21 gave rise to the violation properly utilized solely reclaimed water, did not endanger
22 public health, safety, or property, and did not constitute water waste.
- 23 (D) It is an affirmative defense to a violation of this chapter that the act or omission
24 that gave rise to the violation occurred solely because of a documented public or
25 private emergency, occurred to address the scope of the emergency, and that it did
26 not disrupt the availability of adequate water for other public emergency response
27 or fire fighting purposes.

28 **§ 6-4-4 COMPLIANCE REQUIRED.**

29 A person may not use or permit the use of the water in a manner that conflicts with the
30 requirements of this chapter or in an amount greater than permitted by this chapter.
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32 **§ 6-4-5 FEES AND CHARGES.**

- 33 (A) Fees and charges assessed pursuant to this chapter shall be set by City Council
34 under a separate ordinance or, where permitted, by the director by rule.
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- 1 (B) Fees and charges associated with enforcement of this chapter shall be clearly
2 identified on the customer's utility billing invoice or on the order assessing the fee
3 or charge, except as where otherwise provided by local ordinance or adopted rule.
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5 **§ 6-4-6 INSPECTIONS AND RIGHT OF ENTRY.**
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- 7 (A) The director or director's designee may:

- 8 (1) conduct an inspection of any property, equipment or improvement to determine
9 compliance with this chapter; and
10 (2) require an owner or occupant of a property, equipment or improvement to correct
11 a violation of this chapter.

- 12 (B) A designee of the director having reasonable cause to believe that a violation of this
13 chapter exists, may enter a commercial facility or premise to inspect the facility
14 provided the designee:

- 15 (1) presents the designee's credentials to an employee of the facility and expressly
16 requests entry; and
17 (2) informs the employee of the facility that the designee has a right of entry; or
18 (3) makes a reasonable effort to locate the owner of unoccupied property; or
19 (4) limits the inspection of commercial properties not opened for business to areas
20 generally available to the public.

- 21 (C) An inspection of a residential property shall be conducted from:

- 22 (1) areas accessible to the general public; or
23 (2) restricted access areas only after the designee has provided the designee's
24 credentials to the property manager, owner, occupant or other representative and
25 obtained consent to enter a restricted access area.

- 26 (D) If consent sought for an inspection to determine compliance with this chapter is
27 denied, the designee requesting the inspection may seek recourse to available law to
28 obtain entry and inspection.

- 29 (E) An employee may enter onto a privately owned common area for the purposes of
30 conducting inspections. The designee may seek recourse to available law to obtain
31 entry into areas with restricted access.

- 32 (F) A person seeking a variance pursuant to Article II, Division 3 (*Variances: Alternative*
33 *Compliance*) or participation in an Austin Water Utility Conservation Program
34 provides a designee of the director the right to enter the subject premise to conduct
35 inspections and investigations necessary to determine compliance with this chapter.
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- 37 (G) Conducting or failing to conduct an onsite inspection does not impose liability on
38 the City, a City officer or employee, or a City representative for damage to a person
39 or property.
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1 **§ 6-4-7 ADMINISTRATIVE RULES.**
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- 3 (A) The director shall adopt administrative rules for the implementation of this chapter.
4 (B) Before the director may adopt or amend a nonemergency rule, the director shall
5 present the proposed rule to the Water and Wastewater Commission and the
6 Resource Management Commission. In cases of emergency rule adoption, the
7 director shall present the rule to the Water and Wastewater Commission and the
8 Resource Management Commission as soon as practicable following emergency
9 rule adoption.
10 (C) The rules shall provide for designated outdoor water use days.
11 (D) The rules shall provide for a commercial facility irrigation evaluation program and
12 will include provisions for the assessment and the collection of any associated fees.
13 (E) The rules shall provide water efficiency standards for vehicle washing equipment.
14 (F) The rules shall be available for inspection at the Austin Water Utility
15 administrative offices during normal business hours.
16 (G) Austin Water Utility shall maintain records of Irrigation Inspectors awarded AWU
17 Authorized Irrigation Inspector status in accordance with rules adopted pursuant to
18 this chapter.
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21 **ARTICLE II: WATER USE MANAGEMENT**

22 **Division 1: Regulated Activities**
23

24 **§ 6-4-10 FACILITIES REGULATED.**
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- 28 (A) Effective January 1, 2013, the owner of a commercial, multi-family residential or
29 City municipal facility situated on property equal to or greater than 1.0 acres in size
30 shall obtain an evaluation of any permanently installed irrigation system conducted at
31 a frequency prescribed by rules adopted pursuant to this chapter. The irrigation
32 evaluation shall, at a minimum, require that :
33 (1) the irrigation system evaluation be conducted by an AWU Authorized Irrigation
34 Inspector;
35 (2) the irrigation system evaluation be documented on forms provided by Austin
36 Water Utility; and
37 (3) the irrigation system evaluation verify that the irrigation system operating on the
38 subject property is a properly permitted system that complies with all applicable
39 requirements of this chapter and other applicable technical codes.
40 (B) Effective January 1, 2013, the operators of vehicle washing facilities shall provide an
41 evaluation of all vehicle washing equipment conducted at a frequency prescribed by

1 rules adopted pursuant to this chapter. The vehicle washing facility evaluation shall, at
2 a minimum, require that:

3 (1) equipment evaluations be conducted by a licensed plumber of the vehicle washing
4 facility's choice;

5 (2) the equipment evaluation be documented on forms provided by Austin Water
6 Utility; and

7 (3) the equipment evaluation establish that the equipment is operating in compliance
8 with equipment standards as prescribed by rules adopted pursuant to this chapter .

9 (C) Restaurants, bars, and other commercial eating establishments may only serve water
10 to customers upon specific request by the customer.

11 (D) Effective January 1, 2013, hotel, motels and other businesses offering overnight guest
12 accommodations must offer towel and linen reuse programs in guest rooms and
13 supply each room with informational signage to allow for guest participation.

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15 **§ 6-4-11 GENERAL REGULATIONS.**

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17 (A) A charity car wash may not be conducted unless it occurs at an authorized vehicle
18 washing facility meeting the requirements of 6-4-10(B) utilizing only the equipment
19 of the facility that complies with this chapter and the rules promulgated thereby.

20 (B) Commercially operated cosmetic power/pressure washing equipment must be fitted
21 with a water recycling unit and a spray nozzle using no more than 3.5 gallons of
22 water per minute and having a trigger shut-off.

23 (C) An ornamental fountain may not be operated unless it recirculates water.

24 (D) Foundation watering at a location may not be conducted unless it occurs on a
25 designated outdoor water use day for the location during the irrigation time period
26 prescribed by this chapter or by rule.

27 (E) Except for municipal uses associated with law enforcement or public health and
28 safety, all new commercial developments located within 250 feet of a reclaimed water
29 distribution line are required to obtain and utilize permitted connections to reclaimed
30 water for irrigation, cooling, and other significant non-potable water uses.

31 (F) The use of potable water for roadway base preparation and dust abatement work,
32 applications, or activity by any person is prohibited on any project or at any location
33 where reclaimed water is available within one mile of the location or project site and
34 the use of nonpotable or reclaimed water will not jeopardize public or environmental
35 health or safety, including the health or safety of location or project workers or
36 residents. Reclaimed or nonpotable water used for these purposes must be applied in
37 accordance with all applicable health, safety, and environmental regulations.

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40 **§ 6-4-12 WATER WASTE PROHIBITED.**

- 1 (A) The subsection prohibits the waste of water and is applicable to all parts of this
2 chapter.
- 3 (B) A person may not:
- 4 (1) fail to repair a controllable leak, including but not limited to a broken
5 sprinkler head, a broken pipe or a leaking valve; or
 - 6 (2) operate an irrigation system with:
 - 7 (a) a broken head; or
 - 8 (b) a head that is out of adjustment and the arc of the spray head is
9 over a street, parking area, or other impervious surface; or
 - 10 (c) a head that is misting because of high water pressure; or
 - 11 (3) during irrigation, allow water:
 - 12 (a) to develop a stream of water extending in a street, parking area, or
13 other impervious surface for a distance of 50 feet or greater; or
 - 14 (b) to pond to a depth greater than 0.25 inch in a street, parking area,
15 or other impervious surface.
- 16 (C) Subsection (B) does not apply to irrigation during repair or testing of a new or
17 existing irrigation system if the person performing the testing is present in the area
18 where irrigation is being tested or repaired.
- 19 (D) It is an affirmative defense to a charge of a violation of subsection (B)(1) that the
20 property where the leak occurs has been officially accepted into a government-
21 assisted housing repair program, the condition is within the scope of repairs the
22 government has agreed to fund or repair, and the person charged with the violation or
23 the property where the violation occurs is not in default of any obligation of the
24 government-assistance housing repair program at the time of the violation charged.

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26 **§ 6-4-13 WATER CONSERVATION GUIDELINES.**

- 27
- 28 (A) The director shall recommend and the city manager shall adopt water conservation
29 guidelines that include:
- 30 (1) policies for compliance by city or other governmental departments; and
 - 31 (2) the criteria for determining when a conservation stage takes effect or
32 terminates.
- 33 (B) The city manager shall update the guidelines if the city manager determines that
34 changed conditions of the city's water supply system, regulatory obligations, or other
35 environmental or situational factors warrant or necessitate guideline adjustment.
- 36 (C) The city manager may order that the water use restrictions of *Water Conservation*
37 *Stage, Water Conservation Stage One Regulations, Water Conservation Stage Two*
38 *Regulations, Water Conservation Stage Three Regulations, Water Conservation*
39 *Stage Four Regulations* take effect after determining that the order is necessary to
40 protect the public health, safety, or welfare. The order is effective immediately
41 following official public notice.

1 (D) The director shall monitor the daily supply and demand for water and make
2 recommendations to the city manager whether to implement or terminate water use
3 restrictions in accordance with the Drought Contingency Plan in effect and kept on
4 file with Austin Water Utility or other circumstances effecting continuity of service.
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6 **§ 6-4-14 EXEMPTIONS.**
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8 (A) Exemptions under this subsection apply to Section 6-4-15(*Water Conservation*
9 *Stage*), Section 6-4-16 (*Water Conservation Stage One Regulations*), Section 6-4-17
10 (*Water Conservation Stage Two Regulations*), Section 6-4-18 (*Water Conservation*
11 *Stage Three Regulations*), and Section 6-4-19 (*Water Conservation Stage Four*
12 *Regulations*) and are:

- 13 (1) The use of water necessary to protect the health, safety, or welfare of the public;.
- 14 (2) The use of reclaimed or auxiliary water provided potable water from Austin Water
15 Utility is not used to supplement or mix with the auxiliary water source;
- 16 (3) Necessary use of water for repair of a water distribution facility, flushing of utility
17 lines or residential or commercial plumbing lines;
- 18 (4) Necessary use of water, other than for landscape irrigation, for a governmental
19 entity performing a governmental function, including a capital improvement
20 construction project;
- 21 (5) Necessary use of water, other than for landscape irrigation, to meet requirements of
22 specific federal, state, and local permits required for land development that include
23 but are not limited to roadway base preparation, dust control, maintenance of trees
24 subject by Chapter 25 to preservation restrictions or requirements, concrete or
25 asphalt work, and building construction;
- 26 (6) Vehicle washing of garbage trucks and vehicles used to transport food and
27 perishables; or
- 28 (7) Water use necessary for immediate fire prevention where the threat of fire is to a
29 building or some other constructed structure.

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32 (B) The following activities shall be exempt from the application of Section 6-4-
33 15(*Water Conservation Stage*), Section 6-4-16(*Water Conservation Stage One*
34 *Regulations*), Section 6-4-17 (*Water Conservation Stage Two Regulations*),and
35 Section 6-4-18 (*Water Conservation Stage Three Regulations*):

36 (1) Outdoor irrigation:

- 37 (a) using a hand-held hose or refillable watering vessel;
- 38 (b) using drip irrigation;
- 39 (c) of trees using an automatic bubbler system or soaker hose placed within
40 the drip-line of the tree canopy;
- 41 (d) of vegetable gardens using a soaker hose;

- 1 (e) of athletic fields used for organized sports practice, competition, or
2 exhibition events and the irrigation is necessary to protect the health and
3 safety of the players, staff, or officials present for the athletic event; or
4 (f) immediately following a commercial lawn treatment application by an
5 applicator who possesses required licensure as applicable for use of such
6 substances including but not limited to fertilizer, pesticides, and
7 herbicides, provided receipts documenting such application and the
8 applicator's credentials are provided upon request to a designee of the
9 director; or
10 (g) of plant material at a commercial nursery.

11 (2) Water use:

- 12 (a) necessary for repair and installation of a permanently installed landscape
13 irrigation system when the person doing the irrigation work is present in
14 the area of irrigation; or
15 (b) necessary for the repair, testing, or installation of an ornamental fountain
16 and the person doing the testing, repair or installation is present.

17 (C) The following activities shall be exempt from the application of Section 6-4-15
18 (*Water Conservation Stage*), Section 6-4-16 (*Water Conservation Stage One*
19 *Regulations*) requirements:

- 20 1. Water use necessary to comply with federal, state, and/or local land
21 development permits requiring the establishment of new landscaping; and
22 2. Irrigation of areas documented on a City approved and released site plan as
23 golf course fairways, greens, and tees.
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26 **§ 6-4-15 WATER CONSERVATION STAGE.**

- 27
28 (A) This section prescribes water conservation regulations and applies during the periods
29 prescribed by Section 6-4-13(C) (*Water Conservation Guidelines*).
30 (B) A person may not irrigate outdoors at a residential facility or a commercial facility
31 except on a designated outdoor water use day as determined by rules adopted
32 pursuant to this chapter.
33 (C) A person may not irrigate outdoors at a residential facility or a commercial facility
34 between the hours of 10:00 a.m. and 7:00 p.m.
35 (D) Commercial patio misters may operate from 4:00 p.m. until midnight.
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38 **§ 6-4-16 WATER CONSERVATION STAGE ONE REGULATIONS.**

- 39 (A) This section prescribes Water Conservation Stage One regulations and applies during
40 the periods prescribed by Section 6-4-13(C) (*Water Conservation Guidelines*).

- 1 (B) A person may not irrigate outdoors at a residential facility or a commercial facility
2 except on a designated outdoor water use day as determined by rules adopted
3 pursuant to this chapter.
- 4 (C) A person may not irrigate outdoors at a residential facility or a commercial facility
5 between the hours of 5:00 a.m. and 7:00 p.m.
- 6 (D) Commercial patio misters may operate from 4:00 p.m. until midnight.
- 7 (E) A person may not wash an automobile, truck, trailer, boat, airplane, or other
8 mobile equipment on a residential property or a commercial property other than a
9 vehicle wash facility except on a designated outdoor water use day. A person
10 commits a separate offense for each vehicle or piece of equipment washed in
11 violation of the terms and conditions of this Subsection.

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14 **§ 6-4-17 WATER CONSERVATION STAGE TWO REGULATIONS.**

- 15 (A) This section prescribes Water Conservation Stage Two Regulations and applies
16 during a period ordered by the city manager in accordance with Section 6-4-13(C)
17 (*Water Conservation Guidelines*).
- 18 (B) A person may not irrigate outdoors at a residential facility or a commercial facility
19 except on a designated outdoor water use day as determined by rules adopted
20 pursuant to this chapter.
- 21 (C) A person may not irrigate outdoors at a residential facility or a commercial facility
22 between the hours of 5:00 a. m. and 7:00 p.m.
- 23 (D) Charity car washes are prohibited.
- 24 (E) A person may not wash a motor vehicle or other motorized equipment including but
25 not limited to an automobile, truck, trailer, boat, or airplane on a residential property
26 or a commercial property other than a vehicle wash facility. A person commits a
27 separate offense for each vehicle or piece of equipment washed in violation of the
28 terms and conditions of this Subsection.
- 29 (F) A person may not irrigate a golf fairway, except on a designated outdoor water use
30 day between the hours of midnight and 5:00 a.m. and between the hours of 7:00 p.m.
31 and midnight. A person may irrigate a golf course green or tee every other day
32 provided a noticed exception establishing the irrigation schedule is completed on
33 forms developed by the Utility and filed with the director.
- 34 (G) A person may not operate an ornamental fountain with an aerial emission of water or
35 aerial fall of water greater than 4 inches other than for aeration necessary to preserve
36 habitat for aquatic life.
- 37 (H) Commercial patio misters may operate from 4:00 p.m. until midnight.

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40 **§ 6-4-18 WATER CONSERVATION STAGE THREE REGULATIONS.**

- 1 (A) This section prescribes Water Conservation Stage Three Regulations and applies
2 during a period ordered by the city manager in accordance with Section 6-4-13(C)(
3 *Water Conservation Guidelines*).
- 4 (B) A person may not irrigate outdoors at a residential facility or a commercial facility
5 except on a designated outdoor water use day as determined by rules adopted
6 pursuant to this chapter.
- 7 (C) A person may not irrigate outdoors at a residential facility or a commercial facility
8 between the hours determined by rules adopted pursuant to this chapter.
- 9 (D) Charity car washes are prohibited.
- 10 (E) A person may not wash a motor vehicle or other motorized equipment including but
11 not limited to an automobile, truck, trailer, boat, or airplane on a residential property
12 or a commercial property other than a vehicle wash facility. A person commits a
13 separate offense for each vehicle or piece of equipment washed in violation of the
14 terms and conditions of this Subsection.
- 15 (F) A person may not irrigate a golf fairway, except on a designated outdoor water use
16 day between the hours of midnight and 5:00 a.m. and between the hours of 7:00 p.m.
17 and midnight. A person may irrigate a golf course green or tee every other day
18 provided a noticed exception establishing the irrigation schedule is completed on
19 forms developed by the Utility and filed with the director.
- 20 (G) The filling of spas and operation of splash pads is prohibited
- 21 (H) A person may operate a patio mister only between the hours of 4:00 p.m. and 8:00
22 p.m.
- 23 (I) A person may not operate an ornamental fountain with an aerial emission of water or
24 aerial fall of water greater than 4 inches in distance other than for aeration necessary
25 to preserve habitat for aquatic life.
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28 **§ 6-4-19 WATER CONSERVATION STAGE FOUR REGULATIONS**

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

- 33 (A) A person may not irrigate vegetation outdoors.
- 34 (B) A person may not wash an automobile, truck, trailer, boat, airplane, or other
35 mobile equipment.
- 36 (C) A person may not operate an outdoor ornamental fountain or structure making
37 similar use of water, other than the aeration necessary to preserve habitat for
38 aquatic life.
- 39 (D) A person may not add potable water to a water-jetted or air-jetted tub, fountain,
40 pond, swimming pool or other container serving an aesthetic or recreational
41 purpose. This does not apply to non-aerating birdbaths or animal watering
42 containers.

- 1 (E) The operation of splash pads and other similar recreational uses of water are
2 prohibited.
- 3 (F) A person may not wash any outdoor surface including but not limited to a
4 sidewalk, driveway, parking area, street, tennis court, patio, or other paved area or
5 outdoor building surface.
- 6 (G) A person may not operate a patio mister.
- 7 (H) A person may not water in a chemical lawn treatments unless specifically
8 authorized in accordance with Section 6-4-30(F)(2) .
- 9 (I) A person may not water the ground around a building foundation to prevent
10 foundation cracking except as specifically authorized in accordance with Section
11 6-4-30(F) (1) .

12 **Division 2. Additional Restrictions**

13 **§ 6-4-20 DIRECTOR'S AUTHORITY TO IMPOSE ADDITIONAL** 14 **RESTRICTIONS.**

- 15 (A) The director may implement mandatory water restrictions in addition to those
16 prescribed by Article II, Division 1 (Regulated Activities) to protect the public
17 health and safety in the event of an unusual water system operational event,
18 catastrophic occurrence, severe weather event, or other disaster situation or
19 occurrence necessitating additional restrictions.
- 20 (B) The director may require municipal wholesale customers to curtail water use on
21 a pro rata basis, in accordance with Section 11.039 (*Distribution of Water During*
22 *Shortage*) of the Texas Water Code and as determined by any rules or plans
23 adopted pursuant to this chapter.
- 24 (C) The director may implement additional restrictions, immediately following
25 official public notice.

26 **Division 3. Variances; Alternative Compliance.**

27 **§ 6-4-30 VARIANCE.**

- 28 (A) The director may grant a variance from a requirement of this chapter if the director
29 determines that special circumstances exist and that:
 - 30 (1) strict compliance with the provisions at issue adversely affects the health,
31 safety or sanitation of the public or the applicant; or
 - 32 (2) strict compliance with the provisions at issue substantially threatens the
33 applicant's primary source of income and the applicant is employing
34 available water conservation measures.

- 1 (B) The director may grant a variance from a requirement of Section 6-4-15(*Water*
2 *Conservation Stage*), Section 6-4-16 (*Water Conservation Stage One Regulations*),
3 Section 6-4-17 (*Water Conservation Stage Two Regulations*),and Section 6-4-18
4 (*Water Conservation Stage Three Regulations*) if:
5 (1)an AWU Authorized Irrigation Inspector determines that, due to its size, a
6 property cannot be completely watered with an average of 0.5 inches of
7 water in the timeframe prescribed by this chapter; and if applicable, a
8 current irrigation system evaluation required pursuant to Section 6-4-10(A)
9 is on file with Austin Water Utility; or
10 (2) a person has a documented medical hardship that prevents adherence to the
11 prescribed requirements of this chapter ; or
12 (3) watering is necessary for the prescribed treatment of tree diseases or for pest
13 control.
- 14 (C) The director may grant a variance from a requirement of Section 6-4-15(*Water*
15 *Conservation Stage*), Section 6-4-16 (*Water Conservation Stage One Regulations*),
16 for a newly installed landscape.
17 If the landscape installation is required for certificate of occupancy for newly
18 constructed single family homes, the person shall provide a completed notice to the
19 director on the form provided by Austin Water at least one day before the
20 landscape is installed.
- 21 (D) A variance granted under Subsection 6-4-30(C) must include the following
22 conditions:
23 (1)the applicant may water a newly installed landscape no more than 0.5 inches
24 in one day; and
25 (2) watering must comply with the following schedule:
26 (a) for the first 10 days after installation, watering is permitted daily;
27 (b) for the 11th through 20th days after installation, watering is permitted
28 every other day before 10:00 a.m. and after 7:00 p.m.; and
29 (c) for the 21st through 30th days after installation, watering is permitted
30 every third day before 10:00 a.m. and after 7:00 p.m.
- 31 (E) The director may grant a variance from a requirement of Section 6-4-15 (*Water*
32 *Conservation Stage*), Section 6-4-16 (*Water Conservation Stage One Regulations*),
33 Section 6-4-17 (*Water Conservation Stage Two Regulations*) and Section 6-4-18
34 (*Water Conservation Stage Three Regulations*) for a newly installed landscape and:
35 (1) The new landscaping is classified as Xeriscape in accordance with this
36 chapter.
37 (2) Irrigation for the establishment of the new landscaping complies with the
38 following:
39 (a)For the first 10 days following installation, irrigation is permitted daily
40 before 10:00 a.m. and after 7:00 p.m; and
41 (b)For the 11th through the 40th day following installation, and irrigation
42 is permitted twice per week before 10:00 a.m. and after 7:00 p.m; and

1 (c)If the landscape installation is required for certificate of occupancy for
2 newly constructed single family homes, the person shall provide a
3 completed notice of irrigation variance to the director on the form
4 provided by Austin Water at least one day before the landscape is
5 installed.

6 (3)A one-time extension may be granted by the director upon the submittal of a
7 written request which demonstrates the need for the additional irrigation
8 period.
9

10 (F) The director may grant a variance to Section 6-4-19 (*Water Conservation Stage*
11 *Four Regulations*)when:

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

16 (2) Watering is necessary for the prescribed treatment of tree diseases or for
17 pest control.

18 (3) Irrigation of athletic fields when irrigation is necessary to protect the health
19 and safety of players and game officials.

20 (G) A person may seek a variance by filing an application and the appropriate fees with
21 the director. The director may require the applicant to provide information the
22 director determines is necessary to evaluate the variance request. If the director
23 approves a variance, the applicant shall keep a copy of the approval in a location
24 on the affected property that is accessible and visible to the public.

25 (H) A variance approved by the director must comply with Section 6-4-12 (*Water*
26 *Waste Prohibited*).

27 (I) A variance approved by the director may be revoked if a designee of the director
28 alleges that a violation of this chapter exists during operation of the variance.
29

30 § 6-4-31 EXPIRATION OF VARIANCE.

31 A variance from a requirement of this chapter expires immediately upon completion of
32 the activity for which the variance is sought or at a time as determined by the
33 director or his designee.
34
35
36

37 § 6-4-32 ALTERNATIVE COMPLIANCE.

38 (A) The director may permit a person to comply with alternative water use restrictions
39 after determining that:

40 (1)the alternative compliance meets or exceeds the intent of this chapter;
41

- 1 (2)the alternative compliance is specifically requested by the applicant in
2 writing and the request demonstrates how compliance will be achieved
3 through the alternative methods; and,
4 (3) the alternative compliance is expressly approved by the director.
- 5 (B) Alternative compliance approved by the director must comply with Section 6-4-12
6 (*Water Waste Prohibited*).
- 7 (C) If the director approves alternative compliance water use restrictions, the applicant
8 shall keep a copy of the approval in a location on the affected property that is
9 accessible and visible to the public.
- 10 (D) Alternative compliance approved by the director may be suspended or revoked if the
11 director or the director’s designee finds any of the following:
- 12 (1) violation of a term or condition of the approved alternative compliance
13 authorization;
14 (2) false, misleading, or incomplete information was submitted by the applicant
15 in connection with the alternative compliance request and approval;
16 (3) emergency conditions or unusual operational event or weather situation
17 requires immediate suspension or revocation of the approved alternative
18 compliance.

ARTICLE 3: ENFORCEMENT.

§ 6-4-40 APPLICABILITY.

This article is applicable to all parts of this chapter

§ 6-4-41 PRESUMPTION OF VIOLATION.

A person in whose name a water service account is held is presumed to be responsible for a violation of this chapter that occurs at the water service account location.

§ 6-4-42 PENALTY

- 35 (A) A person commits an offense if the person directs, performs, authorizes, or permits
36 an act prohibited by this chapter or fails to perform an act required by this chapter.
37 Each instance of a violation of this chapter is a separate offense.
- 38 (B) An offense under this chapter may be enforced as an administrative violation as
39 authorized by Texas Local Government Code Chapter 54 and all penalties
40 automatically applied to the water service account pursuant to the fee schedule
41 approved and published by the director, or pursuant to § 6-4-44 , unless the
42 customer opts out of automatic administrative fee additions to the account on a form

1 provided by the director not later than January 1 of each year or within 30 days of
2 establishing an account with the Utility, whichever is sooner.

3 (C) An alleged violator under this chapter shall receive notice in writing and shall, at a
4 minimum, contain:

- 5 (1) the name of the responsible person ;
- 6 (2) the address of the alleged violation;
- 7 (3) a description of the alleged violation;
- 8 (4) notice of the penalty applied to the next monthly utility statement; and
- 9 (5) information on the appeal process.

10 (D) Notice shall be delivered via United States Postal Service first class mail or the
11 customer's email address if the customer consents to service of such notices by
12 email and is presumed valid when forwarded to the address on file of the water
13 service account holder.

14 **§ 6-4-43 ADMINISTRATIVE PROCESS**

15
16
17 (A) ADMINISTRATIVE REVIEW - Any person wishing to appeal an enforcement
18 action of the Utility may request an administrative review conducted by a designee
19 of the director. A request for an administrative review must be made in writing to
20 the Utility on or before the 20th day following the date of the notice of violation.
21 The review shall take place on or before the 10th day following a request for
22 appeal. The person shall be notified of the Utility's determination including the
23 results of the review and instructions on how to request an administrative hearing.

24
25 (B) ADMINISTRATIVE HEARING – Any person wishing to appeal a decision from
26 an administrative review may request a hearing conducted by a hearing officer
27 appointed by the city manager or the Manager's designee.

- 28 (1) The person must request the administrative hearing in writing to the director
29 on or before the 10th day following notice of the administrative review
30 determination.
- 31 (2) Not later than the 10th day following a request for an administrative
32 hearing, the Utility shall provide the person with information as to the time
33 and place of the hearing. If the person fails to appear at the hearing, the
34 person will be considered to admit liability and will be charged accordingly.
- 35 (3) A person who is found by a hearing officer to have violated an ordinance
36 may appeal by filing a petition in municipal court before the 31st day after
37 the date of the hearing officer's determination. An appeal does not stay
38 enforcement and collection of the judgment unless the person, before filing
39 the appeal, posts a bond with the Utility.

40 **§ 6-4-44 NON-ADMINISTRATIVE ENFORCEMENT**

