

1

2
3
4
5
6
7
8
9

10

11

12

- 13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

29
30

31

32

- (1) ACTION OF THE UTILITY means an action taken by Austin Water pursuant to this chapter.
- (2) AQUATIC LIFE means a vertebrate organism dependent upon an aquatic environment to sustain its life.
- (3) AUTOMATIC IRRIGATION SYSTEM means any irrigation system connected to and being operated by a programmable controller, including a permanently or temporarily installed irrigation system.
- (4) AUSTIN WATER, AW, AWU, and the Utility mean the Austin Water Utility.
- (5) AUXILIARY WATER means a water supply from a source other than Austin Water's potable water supply.
- (6) AUSTIN WATER AUTHORIZED IRRIGATION INSPECTOR means an Irrigation Inspector licensed by the Texas Commission on Environmental Quality who has also both passed a director-approved class in landscape irrigation and has been awarded Austin Water Authorized Irrigation Inspector status in accordance with rules adopted pursuant to this chapter.
- (7) BLEED-OFF (BLOWDOWN) means the circulating water in a cooling tower which is discharged to help keep the dissolved solids concentrating in the water below a maximum allowable limit.
- (8) BLOWDOWN METER or discharge meter means a meter that tracks the amount of water discharged from a cooling tower system.
- (9) COMMERCIAL FACILITY means a site with five or more dwelling units, or a municipal, business, or industrial building and the associated landscaping, but does not include the fairways, greens, or tees of a golf course.
- (10) COMMERCIAL NURSERY means a facility where plant nursery stock, trees, seedlings, turf, shrubs, flowers, herbs, crops or other plant materials are cultivated, grown, stored, or

maintained prior to retail consumer, installer, or reseller purchase, use, consumption, or installation of the materials at any location other than the commercial nursery.

(11) COMMON AREA means an area held, designed, or designated for the common use of the owners or occupants of a townhouse project, planned unit development, apartment, condominium, mobile home park, or subdivision.

(12) CONCENTRATION means re-circulated water in a cooling tower that has elevated levels of total dissolved solids as compared to the original make-up water.

(13) CONDUCTIVITY CONTROLLER means a device used to measure the conductivity of total dissolved solids in the water of a cooling system and control the discharge of water in order to maintain efficiency.

(14) COOLING TOWER means an open water recirculation system that uses fans or natural draft to draw or force air to contact and cool water through the evaporative process that removes heat from water-cooled air conditioning systems and from industrial processes.

(15) COSMETIC POWER WASHING means treatment or cleaning of a surface with specialized equipment that uses a spray of or directed water for the cosmetic cleaning of buildings, vehicles or other mobile equipment, or outdoor surfaces. It does not include industrial cleaning, cleaning associated with manufacturing activities, hazardous or toxic waste cleaning, or cleaning necessary to remove graffiti.

(16) CYCLES OF CONCENTRATION means the ratio of the dissolved solids in recirculating water to the dissolved solids in the make-up water

(17) DESIGNATED OUTDOOR WATER USE DAY means the day during which a person is permitted to irrigate outdoors as prescribed in City Code Section 6-4-13(E) (*Water Conservation Guidelines*).

(18) DIRECTOR means the Director of Austin Water.

- (19) DRIFT ELIMINATOR means a device that captures large water droplets caught in the cooling tower air stream to prevent the water droplets and mist from escaping the cooling tower.
- (20) DRIP IRRIGATION means a method of irrigation which is typically installed below ground and consists of porous piping that allows the application of water at a slow and constant rate.
- (21) DROUGHT CONTINGENCY PLAN means a strategy or combination of strategies for temporary supply management and demand management responses to temporary and potentially recurring water supply shortages and other water supply emergencies required by Texas Administrative Code Title 30, Chapter 288, Subchapter B.
- (22) FOUNDATION WATERING means an application of water to the soils directly abutting the foundation of a building, structure, or improvement on land.
- (23) GOVERNMENT PROPERTY means property owned or operated by a federal, state, or local governmental unit, entity, agency, or a government subdivision for a public purpose.
- (24) HOSE-END SPRINKLER means an above-ground water distribution device that may be attached to a garden hose.
- (25) MAKE-UP means the amount of water required to replace normal losses caused by bleed-off (blowdown), drift, and evaporation.
- (26) MAKE-UP METER or intake meter means a meter that measures the amount of water entering a cooling tower system.
- (27) MANUAL IRRIGATION SYSTEM means an irrigation system designed to require the manual operation of valves or the attachment of a quick-coupling device.
- (28) MULTI-FAMILY PROPERTY means property containing five or more dwelling units.
- (29) NEW LANDSCAPE means vegetation:

- 131 (a) installed at the time of the construction of a residential or
132 commercial facility;
- 133 (b) installed as part of a governmental entity's capital improvement
134 project;
- 135 (c) installed to stabilize an area disturbed by construction; or
- 136 (d) that alters more than 500 contiguous square feet of an existing
137 landscape.
- 138 (30) **ONSITE ALTERNATIVE WATER SOURCE** means a water
139 source including recycled manufacturing process water, air
140 conditioner condensate, rainwater, stormwater, graywater, black
141 water, cooling tower blow down, and foundation drain water.
- 142 (31) **ORNAMENTAL FOUNTAIN** means an artificially created
143 structure from which a jet, stream, or flow of water emanates
144 and the water is not used for the preservation of aquatic life.
- 145 (32) **OVERFLOW ALARM** means a system that includes a level
146 switch and an electronic signaling device that sends an audible
147 signal or provides an alert via the energy management
148 control system to the tower operator in case of sump overflow.
- 149 (33) **PERMANENTLY INSTALLED IRRIGATION SYSTEM**
150 means a custom- made, site-specific system of delivering water
151 generally for landscape irrigation via a system of pipes or other
152 conduits installed below ground.
- 153 (34) **PERSON** means any natural person or legal entity such as an
154 individual, business, partnership, association, firm, corporation,
155 governmental, or other natural, business, or legal entity that
156 receives, requests, manages, uses, maintains, or is responsible
157 for water utility service at a service address, whether or not the
158 person or entity is a customer or account holder of Austin
159 Water.
- 160 (35) **PREMISE** means the outdoor area of property not enclosed by
161 fencing or walls or containing living areas, and not including
162 areas for storing vehicles or other motorized equipment.

- 163 (36) RECLAIMED WATER means reclaimed municipal wastewater
164 that is under the direct control of the City treatment plants,
165 satellite facilities, or a treatment plant with which the City
166 contracts, and that has been treated to a quality that meets or
167 exceeds the minimum standards of the 30 Texas Administrative
168 Code, Chapter 210.
- 169 (37) RESIDENTIAL FACILITY means a site with four or fewer
170 dwelling units.
- 171 (38) SOAKER HOSE means a perforated or permeable garden-type
172 hose or pipe that is laid above ground that provides irrigation at
173 a slow and constant rate.
- 174 (39) TEMPORARILY INSTALLED IRRIGATION SYSTEM
175 means a universally applicable above ground irrigation system
176 that uses a flexible hose or hardened pipe to deliver water to a
177 moveable water distribution device.
- 178 (40) TON means an evaporative cooling ton of 15,000 British
179 Thermal Units (BTUs) per hour.
- 180 (41) VEHICLE WASH FACILITY means a permanently-located
181 business that washes vehicles or other mobile equipment with
182 water or water-based products, including but not limited to self-
183 service car washes, full service car washes, roll-over/in-bay
184 style car washes, and facilities managing vehicle fleets or
185 vehicle inventory.
- 186 (42) XERISCAPE means a landscape which employs certain
187 principles of design and installation which conserve water and
188 energy and where the plant material, at mature growth, will
189 provide at least 50% of the new landscape's areal coverage. The
190 plant material must consist of plants identified on a plant list
191 provided by Austin Water that are very low water usage and
192 low water usage plants.

193 **PART 3.** City Code Section 6-4-3 (*Applicability of Regulations; Affirmative*
194 *Defenses*) is amended to read as follows:

195 **§ 6-4-3 - APPLICABILITY OF REGULATIONS; AFFIRMATIVE**
196 **DEFENSES.**

(A) This chapter applies to a person who uses, directs, manages, or allows the use of potable water supplied by Austin Water [Utility]. The chapter does not apply to a person ~~[who]~~ when the person only uses, directs, manages, or allows the use of auxiliary water or reclaimed water~~[unless the auxiliary water or reclaimed water is mixed with potable water supplied by Austin Water Utility].~~

(B) It is an affirmative defense to a violation of this chapter that the use of water that gave rise to the violation was consistent with the agreed upon terms and conditions of a water service contract with a wholesale water customer and that the use did not constitute water waste.

(C) It is an affirmative defense to a violation of this chapter that the use of water that gave rise to the violation properly utilized solely auxiliary water, and did not endanger public health, safety, or property.

~~(D[E])~~It is an affirmative defense to a violation of this chapter that the use of water that gave rise to the violation properly utilized solely reclaimed water, did not endanger public health, safety, or property, and did not constitute water waste in accordance with 6-4-12 (Water Waste Prohibited).

~~(E[D])~~It is an affirmative defense to a violation of this chapter that the act or omission that gave rise to the violation occurred solely because a documented emergency that prevented strict compliance, and that the act or omission did not disrupt the availability of adequate water for other public emergency response or fire fighting or fire suppression purposes.

PART 4. City Code Section 6-4-7 (*Administrative Rules*) is repealed and replaced with a new Section 6-4-7 to read as follows:

§ 6-4-7 - ADMINISTRATIVE RULES.

(A) The director may adopt administrative rules as necessary for the implementation of this chapter.

(B) Before the director may adopt or amend a nonemergency rule, the director will present the proposed rule to the Water and Wastewater Commission and the Resource Management Commission. In cases of emergency rule adoption, the director will present the rule to the

231 Water and Wastewater Commission and the Resource Management
232 Commission as soon as practicable following emergency rule
233 adoption.

234 (C) The rules shall be available for inspection on Austin Water's website
235 and at the Austin Water administrative offices during normal business
236 hours.

237 **PART 5.** City Code Section 6-4-10 (*Facilities Regulated*) is repealed and replaced
238 with a new Section 6-4-10 to read as follows:

239 **§ 6-4-10 - FACILITIES REGULATED.**

240 (A) The owner or water account holder of a commercial, or multi-family
241 residential situated on property equal to or greater than 1.0 acre in size
242 shall obtain an evaluation of any permanently installed automatic
243 irrigation system conducted at a frequency prescribed by rules
244 adopted pursuant to this chapter. The irrigation evaluation shall, at a
245 minimum:

246 (1) be conducted by an Austin Water authorized irrigation inspector
247 who has been authorized in accordance with rules adopted
248 pursuant to this chapter and whose authorization is reflected in
249 records maintained by Austin Water;

250 (2) be documented on forms provided by Austin Water; and

251 (3) verify that the irrigation system operating on the property
252 complies with all applicable requirements of this chapter, rules
253 adopted pursuant to this chapter, and other applicable technical
254 codes.

255 (B) The owner, or any water account holder, of vehicle washing facilities
256 shall provide an evaluation of all vehicle washing equipment
257 conducted at a frequency prescribed by rules adopted pursuant to this
258 chapter. The vehicle washing facility evaluation shall, at a minimum:

259 (1) be conducted by a Texas-licensed plumber of the vehicle
260 washing facility's choice;

261 (2) be documented on forms provided by Austin Water; and

- 262 (3) establish that the equipment is operating in compliance with
263 equipment standards prescribed by rules adopted pursuant to this
264 chapter.
- 265 (C) The owner or water account holder of a cooling tower must:
- 266 (1) register the tower with Austin Water using a form provided by
267 Austin Water;
- 268 (2) register a new or replacement tower prior to operation; and
- 269 (3) submit a fully completed annual inspection of the tower to
270 Austin Water by March 1 of each year using a form provided by
271 Austin Water verifying that the cooling tower is properly
272 permitted and complies with all applicable requirements of this
273 chapter, rules adopted pursuant to this chapter, and applicable
274 technical codes. The inspection must:
- 275 (a) be performed by an independent third-party Texas-
276 licensed mechanical or chemical engineer, or a person
277 holding a Texas Department of Licensing and
278 Regulations Air Conditioning and Registration License
279 (Class A) with a combined endorsement for process
280 cooling and refrigeration; and
- 281 (b) be performed not more than 90 days before the March 1
282 due date.
- 283 (D) A facility with 100 tons or greater of combined cooling capacity using
284 an evaporative cooling tower must:
- 285 (1) have the make-up and blowdown meters and overflow alarm
286 connected to the building's central energy management system
287 or utility monitoring dashboard; and
- 288 (2) offset a minimum of 10% of the make-up water with reclaimed
289 or onsite alternative water sources.
- 290 (E) Restaurants, bars, and other commercial food or beverage
291 establishments may not provide drinking water to customers unless a
292 specific request is made by the customer for drinking water.

- (F) The owner or operator of a hotel, motel, short term rental, or other establishment that offers or provides lodging or rental accommodations for compensation shall offer a towel and linen reuse water conservation option to its lodgers, renters, or customers and maintain in each applicable guest room, suite, or property informational signage to communicate information relating to this requirement and to offer the opportunity for guest participation.

PART 6. City Code Section 6-4-11 (*General Regulations*) is amended to add new Subsections (G) and (H) to read:

(G) The owner or water account holder of a cooling tower must:

- (1) operate the cooling tower in a manner to achieve a minimum of five cycles of concentration if the cooling tower utilizes potable water as its primary source of make-up water;
- (2) equip the cooling tower with:
 - (a) overflow sensors and alarms connected to the building's central energy management system or utility monitoring dashboard;
 - (b) make-up water and blowdown meters to manage water consumption;
 - (c) conductivity controllers; and
 - (d) a drift eliminator with a drift rate of not more than 0.005% of the circulated water flow rate for crossflow towers and 0.002% for counter flow towers;

(H) The owner or water account holder of a cooling tower shall use a biocide to treat the cooling system recirculation water to minimize the growth of *Legionella* and other microorganisms.

PART 7. Subsection (B) of City Code Section 6-4-12 (*Water Waste Prohibited*) is amended to read as follows:

(B) A person may not:

- (1) fail to repair a controllable leak, including ~~[but not limited to]~~ a broken sprinkler head, a broken pipe or a leaking valve; ~~[or]~~

- (2) operate an irrigation system with:
- (a) a broken head; [Ø]
 - (b) a head that is out of adjustment and the arc of the spray head is over a street, parking area, or other impervious surface; or
 - (c) a head that is misting because of high water pressure;[-Ø]
- (3) allow water flow during irrigation that:
- (a) runs, flows, or streams in a way that extends into a street, parking area, or other impervious surface for a distance of 50 feet or greater; or
 - (b) allows water to pond to a depth greater than 0.25 inch in a street, parking area, or on other impervious surfaces[-]; or
- (4) operate a cooling tower:
- (a) in a manner that allows an overflow from the cooling tower basin to occur; or
 - (b) without a functioning drift eliminator.

PART 8. Subsections (D) and (E) of City Code Section 6-4-13 (*Water Conservation Guidelines*) are amended to read as follows:

§ 6-4-13 - WATER CONSERVATION GUIDELINES.

- (D) Water use regulations of Section 6-4-15 (*Water Conservation Stage* [~~Section 6-4-15~~]) remain in effect until such time as the city manager orders termination of the stage in accordance with Subsection (C) of [s]Section 6-4-13[(C)], (*Water [Use] Conservation Guidelines*). Unless a drought or emergency stage is expressly declared by order of the [C]city [M]manager, water use regulations of the Section 6-4-15 (*Water Conservation Stage*) [~~section 6-4-15~~] automatically resume by default immediately upon any ordered termination of any drought or emergency stage.
- (E) Any outdoor water use subject to the provisions of this Chapter shall occur only on a day designated for the applicable water use activity,

property/facility type, and street number address classification indicated in the following table. A person may not conduct, authorize, or permit outdoor water use except in accordance with the designation schedule set out in the following table. In the following table, "EVEN" or "ODD" correspond to the street number of the physical property address where the outdoor water use occurs. The table below shall be referred to as "the Outdoor Water Use Schedule".

Conservation Stage and Drought Response Stage 1 Watering Schedule	
Property Type	Watering Day
Residential Property - Hose-end EVEN	Sunday and Thursday
Public Schools	Monday
Commercial/Multi family - Automatic <u>& Manual</u> EVEN	Tuesday
Residential – Automatic <u>& Manual</u> ODD	Wednesday
Residential - Automatic <u>& Manual</u> EVEN	Thursday
Commercial/Multi Family - Automatic <u>& Manual</u> ODD	Friday
Residential Property - Hose-end ODD	Wednesday and Saturday
Drought Response Stage 2 and Stage 3 Watering Schedule	
Property Type	Watering Day
Residential Property - Hose-end EVEN	Sunday
Public Schools	Monday
Commercial/Multi family - Automatic <u>& Manual</u> EVEN	Tuesday
Residential - Automatic <u>& Manual</u> ODD	Wednesday
Residential - Automatic <u>& Manual</u> EVEN	Thursday

Commercial/Multi Family - Automatic <u>& Manual</u> ODD	Friday
Residential Property - Hose-end ODD	Saturday

PART 9. Subsections (B) and (C) of City Code Section 6-4-14 (*Exemptions*) are amended to read as follows:

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

(1) Outdoor irrigation:

(a) using a hand-held hose or refillable watering vessel;

(b) using drip irrigation;

(c) of trees using an automatic bubbler system or soaker hose placed within the drip-line of the tree canopy;

(d) of vegetable gardens using a soaker hose;

(e) of athletic fields used for organized sports practice, competition, or exhibition events when the irrigation is necessary to protect the health and safety of the players, staff, or officials present for the athletic event;

(f) immediately following a commercial lawn treatment application by an applicator who possesses required licensure as applicable for use of such substances including ~~[but not limited to]~~ fertilizer, pesticides, and herbicides, provided receipts documenting such application and the applicator's credentials are provided upon request to a designee of the director; or

(g) of plant material at a commercial nursery.

(2) Water use:

- 388 (a) necessary for repair or installation of a permanently or
389 temporarily installed landscape irrigation system when
390 the person performing the irrigation work is present in
391 the area of irrigation; or
- 392 (b) necessary for the repair, testing, or installation of an
393 ornamental fountain when the person performing the
394 testing, repair or installation is present.
- 395 (C) The following activities shall be exempt from the application of
396 Section 6-4-15 (*Water Conservation Stage*), Section 6-4-16 (*Drought*
397 *Response Stage One Regulations*) requirements:
- 398 (1) Water use necessary to comply with federal, state, or local land
399 development permits requiring the establishment of new
400 landscaping between the hours of 7:00 p.m. to 10:00a.m.; and
- 401 (2) Irrigation of areas documented on a City approved and released
402 site plan as golf course fairways, greens, or tees.

403 **PART 10.** Subsection (D) of City Code Section 6-4-16 (*Drought Response Stage*
404 *One Regulations*) is amended to read as follows:

- 405 (D) A person may not irrigate outdoors at a residential facility or a
406 commercial facility with a hose-end or manual sprinkler system
407 between the hours of 10:00 a.m. and 7:00 p.m., even if the irrigation
408 occurs on the designated outdoor water use day for the location.

409 **PART 11.** Subsection (D) of City Code Section 6-4-17 (*Drought Response Stage*
410 *Two Regulations*) is amended to read as follows:

- 411 (D) A person may not irrigate outdoors at a residential facility or a
412 commercial facility with a hose-end or manual sprinkler system
413 between the hours of 10:00 a.m. and 7:00 p.m. even if the irrigation
414 occurs on the designated outdoor water use day for the location.

415 **PART 12.** Subsection (D) of City Code Section 6-4-18 (*Drought Response Stage*
416 *Three Regulations*) is amended to read as follows:

- 417 (D) A person may not irrigate outdoors at a residential facility or a
418 commercial facility with a hose-end or manual sprinkler system
419 except between the hours of 7:00 a.m. and 10:00 a.m. or between the

420 hours of 7:00 p.m. and 10:00 p.m. even if the irrigation occurs on the
421 designated outdoor water use day for the location.

422 **PART 13.** Subsection (B) of City Code Section 6-4-19 (*Emergency Stage Four*
423 *Regulations*) is amended to read as follows:

424 (B) A person may not use or allow the use of water to test or repair a
425 permanently or temporarily installed irrigation system or drip
426 irrigation system.

427 **PART 14.** Subsection (A) of City Code Section 6-4-30 (*Variance*) is amended to
428 read as follows:

429 (A) The director may grant a variance from a requirement of this chapter
430 if the director determines that special circumstances exist and that:

431 (1) strict compliance with the provisions at issue adversely affects
432 the health, safety, welfare or sanitation of the public, the
433 applicant, or the environment; or

434 (2) strict compliance with the provisions at issue substantially
435 threatens the applicant's primary source of income, the
436 applicant is employing all reasonable water conservation
437 measures, and approval of the variance will not result in water
438 waste in accordance with Section 6-4-12 (*Water Waste*
439 *Prohibited*).

440 **PART 15.** City Code Chapter 6-4, Article 3 (*Enforcement*) is repealed and
441 replaced with Article 5 (*Enforcement*) to read as follows:

442 **ARTICLE 5. ENFORCEMENT.**

443 **§ 6-4-50 APPLICABILITY.**

444 This article applies to all parts of this chapter.

445 **§ 6-4-51 OFFENSE.**

446 (A) A person commits an offense if the person:

447 (1) directs, performs, authorizes, requests, allows, assists, facilitates,
448 or permits an act prohibited by this chapter;

- 449 (2) fails to perform an act required by this chapter;
- 450 (3) makes or transmits to the director a false registration, log,
451 inspection, report or other document required by this chapter; or
- 452 (4) tampers with a conductivity controller, intake or discharge meter,
453 readout device, read data transmittal equipment, or attached
454 plumbing or electrical connections in a manner that causes
455 inaccurate or false readings or reports of the water use or system
456 operation to meet any inspection, evaluation or assessment
457 required by this chapter.
- 458 (B) Each day or part of the day during which the violation is committed
459 or continued is a separate offense.

460 **§ 6-4-52 ENFORCEMENT.**

- 461 (A) This chapter may be enforced in:
- 462 (1) an administrative hearing process established in Chapter 2-13
463 (*Administrative Adjudication of Violations*);
- 464 (2) a civil action described in Subsection (B) of Chapter 54 of the
465 Texas Local Government Code; or
- 466 (3) a criminal prosecution in Municipal Court.
- 467 (B) In an administrative hearing conducted pursuant to Chapter 2-13
468 (*Administrative Adjudication of Violations*), a person in whose name a
469 water service account is held is presumed to be responsible for a
470 violation of this Chapter that occurs at the water service account
471 location.
- 472 (C) In a Municipal Court prosecution:
- 473 (1) an offense under this chapter subject to the penalty prescribed
474 by Section 1-1-99 (*Offenses; General Penalty*); and
- 475 (2) a culpable mental state is not required for fines of \$500 or less
476 and need not be proved.
- 477 (D) Nothing in this chapter shall preclude the City's pursuit of any and all
478 enforcement remedies to address a violation of this chapter.

PART 16. City Code Chapter 6-4, Article 2 (*Water Use Management*) is amended to remove references to Divisions 1, 2, and 3; and to rename the article to read as follows:

ARTICLE 2. WATER USE MANAGEMENT; REGULATED ACTIVITIES.

PART 17. City Code Chapter 6-4 (*Water Conservation*) is amended to add a new Article 3 (*Drought Contingency Plan and Conservation Stages*) that includes Section 6-4-13 (*Water Conservation Guidelines*), Section 6-4-14 (*Exemptions*), Section 6-4-15(*Water Conservation Stage*) , Section 6-4-16 (*Drought Response Stage One Regulations*), Section 6-4-17(*Drought Response Stage Two Regulations*), Section 6-4-18 (*Drought Response Stage Three Regulations*), Section 6-4-19 (*Emergency Stage Four Regulations*), and Section 6-4-20 (*Director's Authority to Impose Additional Restrictions*) to read as follows:

ARTICLE 3. DROUGHT CONTINGENCY AND CONSERVATION STAGES.

PART 18. City Code Chapter 6-4 is amended to add a new Article 4 (*Variances and Alternative Compliance*) that includes Section 6-4-30 (*Variance*), Section 6-4-31 (*Expiration of Variance*), and Section 6-4-32 (*Alternative Compliance*); and current Article 3 (*Enforcement*) is renumbered to be Article 5 (*Enforcement*).

PART 19. City Code Section 15-9-241 (*Evaporative Loss Adjustment for Evaporative Cooling Towers*) is repealed and replaced with a new Section 15-9-241 to read as follows:

§ 15-9-241 - EVAPORATIVE LOSS ADJUSTMENT FOR EVAPORATIVE COOLING TOWERS.

(A) In this section, "director" means the director of Austin Water.

(B) A retail customer of Austin Water who takes water from the City's public water system for operation of one or more evaporative cooling towers may receive an adjustment in the calculation of the monthly wastewater billing for the amount of evaporated water not returned to the City's wastewater system (evaporative loss adjustment) provided that all of the following conditions are met:

- (1) For each customer utility account for which the customer desires to receive the evaporative loss adjustment, the customer must make written application to the director and receive written approval from the director in accordance with this

512 article. The customer application for approval to receive the
513 evaporative loss adjustment shall be made on a form provided
514 by the director for this purpose.

515 (2) The application shall be accompanied by the customer's
516 payment to Austin Water of a non-refundable processing fee for
517 handling, analysis and processing of the application and
518 appurtenant materials for the premises housing the subject
519 cooling tower installation. Payment of a fee under this section
520 does not excuse the payment of fees required by other city
521 codes and ordinances for permits, inspections, or other
522 approvals necessary for lawful installation of facilities required
523 by this chapter. The fee is set by separate ordinance.

524 (3) An applicant requesting the evaporative loss adjustment must
525 install, at the customer's sole expense, for each cooling tower or
526 set of cooling towers, submetering equipment of a size, type,
527 design, number, location and configuration approved by the
528 director to measure accurately both the amount of water that is
529 taken into the cooling tower or set of towers (commonly
530 referred to as a "makeup meter," referred to in this section as
531 the "intake meter") and to measure the amount of water that is
532 discharged from each cooling tower into the City's wastewater
533 system (commonly referred to as a "blowdown meter," here
534 referred to as the "discharge meter").

535 (4) In addition to intake and discharge submeters conforming to
536 this section, a customer requesting the evaporative loss
537 adjustment shall install, at the customer's sole expense, the
538 readout equipment or data transmittal equipment of a size, type,
539 design, number, location and configuration as the director may
540 determine to be necessary for the safe, accurate and efficient
541 reading of the intake and discharge meters required to be
542 installed by the customer.

543 (5) The director may prescribe special conditions for approval of
544 the evaporative loss adjustment that the director determines are
545 necessary because of particular circumstances relating to the
546 nature of the cooling tower installation or other operations
547 conducted on the subject premises including special conditions
548 concerning:

- 549 (a) the number, size, design, location, configuration or
550 security of intake and discharge meters,
- 551 (b) installation of readout and data transmittal equipment,
- 552 (c) reconfiguration of plumbing servicing the subject
553 premises or cooling tower installation,
- 554 (d) access to submetering, readout and data transmittal
555 facilities,
- 556 (e) conditions for proper recording and reporting of water
557 consumption and discharge to the sewer system,
- 558 (f) submeter read date(s),
- 559 (g) elimination or metering of bypass plumbing,
- 560 (h) securing or sealing of bypass plumbing,
- 561 (i) meter reading and billing protocols,
- 562 (j) meter maintenance protocols,
- 563 (k) safety of applicant personnel, city personnel and third
564 persons,
- 565 (l) installation of backflow prevention devices or other
566 measures for protection of the potable water supply, and
- 567 (m) other special conditions that the director determines are
568 necessary for the safe, proper and efficient installation,
569 operation and maintenance of the submetered installation
570 and the proper documentation, reporting, calculation and
571 administration of wastewater billings for the subject
572 premises. The evaporative loss adjustment shall be
573 granted only in accordance with the general conditions
574 stated in this Article and the special conditions prescribed
575 by the director. The director may reject an application or
576 revoke approval for receipt of the evaporative loss
577 adjustment for failure to comply with the special
578 conditions prescribed and the adjustment shall not be
579 granted for any portion of the billing cycle in which the

580 customer has failed to comply with any of the special
581 conditions.

582 (6) The customer application for approval of the evaporative loss
583 adjustment shall:

584 (a) describe the processes or operations conducted on the
585 subject premises;

586 (b) describe the subject cooling tower installation, its location
587 and the location of primary city water meters;

588 (c) describe the size, type, design, number and location of
589 backflow prevention devices existing or proposed to be
590 installed on the subject premises;

591 (d) describe the size, type, design, number, location and
592 configuration of intake and discharge meters and
593 appurtenances proposed to be installed;

594 (e) describe the readout and data transmittal equipment and
595 appurtenances proposed to be installed by the applicant;

596 (f) demonstrate the feasibility of submetering the cooling
597 tower installation in accordance with all requirements of
598 this section, other applicable city codes and ordinances
599 and sound engineering, utility and billing practices;

600 (g) be accompanied by electronic copies, compatible with
601 City of Austin requirements, of the following plumbing
602 diagrams:

603 (i) water diagram plan view of the proposed
604 installation;

605 (ii) water diagram elevation view of the proposed
606 installation;

607 (iii) drainage diagram plan view of the proposed
608 installation; and

609 (iv) drainage diagram elevation view of the proposed
610 installation.

- 611 (h) where the director determines the same to be necessary,
612 the applicant shall prepare and submit for review and
613 approval by the director plans and specifications for
614 installation of readout or data transmittal equipment
615 required by the director to be installed; and
- 616 (i) provide other and further information as the director shall
617 determine to be necessary for proper review and
618 consideration of the application.

619 (7) Review by director; grounds for rejection; proceedings upon
620 rejection.

- 621 (a) The director shall review and may reject an application
622 that the director determines:
- 623 (i) is false, inaccurate, incomplete;
- 624 (ii) fails to demonstrate the feasibility of submetering
625 the cooling tower installation in accordance with
626 this article;
- 627 (iii) fails to comply with other applicable City codes
628 and ordinances and sound engineering, utility and
629 billing practices; or
- 630 (iv) otherwise fails to conform to this article.
- 631 (b) If the director rejects the application, the director shall
632 notify the applicant in writing of the rejection of the
633 application and the reasons for rejection.
- 634 (c) If the application is rejected, the applicant may, at its
635 option, submit a revised application conforming to this
636 article for review and approval without payment of
637 another application and processing fee provided that the
638 revised application is received by the director within 90
639 days of the initial rejection by the director.
- 640 (d) The director may extend the time for resubmittal of the
641 application upon written request by the applicant
642 demonstrating that good cause exists for the extension.

- 643 (8) If the director determines that a site review of the cooling tower
644 installation is necessary for proper consideration of the application,
645 the applicant shall provide the director access to the subject cooling
646 tower installation.
- 647 (9) If a customer had requested approval for receipt of the evaporative
648 loss adjustment before the effective date of this Article, but no written
649 agreement was executed, or where an application is submitted by a
650 customer who has received notice of the termination of a prior written
651 agreement for receipt of the evaporative loss adjustment, or in the case
652 of reapplications or renewal applications under this article, the
653 director may modify or waive the documentary submittal
654 requirements set forth above in a manner the director shall determine
655 to be just and equitable so long as:
- 656 (a) the director determines that information describing the cooling
657 tower installation, submeter facilities and appurtenances
658 sufficient for processing the application has been obtained from
659 the applicant;
- 660 (b) the director has conducted a site inspection of the submeter
661 facilities previously installed;
- 662 (c) the applicant has paid all applicable fees for processing the
663 application; and
- 664 (d) the applicant complies with all other requirements of this article
665 for receipt of the evaporative loss adjustment.
- 666 (10) The applicant must:
- 667 (a) obtain all permits, and approvals;
- 668 (b) comply with all City Code provisions applicable to the
669 installation of the intake and discharge meters, readout and data
670 transmittal equipment, the discharge from the cooling tower
671 installation, or water efficiency standards and equipment; and
- 672 (c) comply with the registration and inspection requirements in
673 Section 6-4-10 (*Facilities Regulated*).

- 674 (11) Any piping constituting or capable of being utilized as an unmetered
675 bypass of the discharge meter installed (the unmetered bypass piping
676 or unmetered bypass) must be sealed in a manner specified by the
677 director and the seal shall not be broken except following written or
678 telephonic notice to the director indicating the intent of the customer
679 to utilize the unmetered bypass piping and providing an estimate of
680 the time for completion of meter maintenance or other activity
681 requiring utilization of the unmetered bypass piping.
- 682 (12) Before final approval by the director, to ensure the proper calibration
683 and performance in accordance with American Water Works
684 Association standards for meter accuracy, the customer shall use a
685 qualified independent meter calibration and testing firm approved by
686 the director:
- 687 (a) to calibrate and test the intake and discharge meters; and
688 (b) to calibrate the readout or data transmittal equipment if the
689 installation is required by the director.
- 690 The customer shall forward the written results evidencing proper
691 calibration and performance of the equipment to the director as a
692 condition for final approval to receive the evaporative loss adjustment.
- 693 (13) The director must notify the applicant in writing of the completion of
694 all requirements for final approval for application of the evaporative
695 loss adjustment to wastewater billings for the subject cooling tower
696 installation.
- 697 (14) Approval to receive the evaporative loss adjustment is valid for a
698 period of five years following which the applicant must reapply under
699 the then existing conditions for application and approval of the
700 evaporative loss adjustment. If the customer fails to reapply for
701 approval to receive the evaporative loss adjustment on or before the
702 expiration of the prior approval, wastewater billings to the premises
703 will be based on the standard wastewater billing method for that
704 premises' metered water consumption, until the customer reapplies
705 and is again granted approval to receive the evaporative loss
706 adjustment.
- 707 (15) Austin Water will apply the evaporative loss adjustment to customer
708 billings with the first complete billing cycle following inspection,

709 testing and final approval of the submetered installation and the
710 director's issuance of a letter to the customer acknowledging that all
711 requirements for approval of the evaporative loss adjustment have
712 been completed and accepted.

- 713 (16) In order to continue receipt of the evaporative loss adjustment for
714 each calendar year in the five year period following final approval by
715 the director, the customer must have the intake and discharge meters
716 calibrated and tested for accuracy at least annually and forward
717 written evidence of the completion of calibration and testing to the
718 director no later than one calendar year from the date of the previous
719 calibration and testing.

- 720 (17) The customer shall, at all times, operate and maintain the intake and
721 discharge meters, readout and data transmittal equipment in
722 accordance with the manufacturer's specifications for same and in
723 accordance with American Water Works Association standards for
724 meter accuracy. A submeter not meeting the above standards for
725 accuracy must be repaired or replaced and recalibrated to conform to
726 the American Water Works Association standards for accuracy. In the
727 event that a submeter stops registering or otherwise becomes
728 inaccurate, the evaporative loss adjustment shall be adjusted back to
729 the beginning of the inaccuracy. If the beginning date of the
730 inaccuracy cannot be determined, the adjustment period will be one-
731 half the time from the last submeter test date.

- 732 (18) The intake and discharge meters, readout and read data transmittal
733 equipment installed by the customer shall be subject to inspection and
734 testing by the director at any time. The customer shall ensure access
735 for the purpose of the inspection and testing without delay at all times.

- 736 (19) In order to receive the evaporative loss adjustment for each monthly
737 billing cycle, the customer approved to receive the evaporative loss
738 adjustment must read correctly the intake and discharge meters on the
739 same day that the city meter readers read the city water meters for the
740 subject premises (the city meter read date) and before the close of
741 business on the city meter read date, the customer shall transmit the
742 submeter reading data to the director by the method designated by the
743 director, which may include telephone, telefax, email, radio, or
744 computer controlled data transmittal equipment. The director shall
745 notify the customer in writing of the approved city meter read date on

746 which the intake and discharge meters must be read and reported to
747 the director.

748 (20) The evaporative loss adjustment shall not be granted for any monthly
749 billing cycle in which the customer has failed to read the intake and
750 discharge meters and transmit the submeter readings to the director
751 before the close of business on the city meter read date, unless the
752 customer has been granted an exception by the director under other
753 ordinance or city code provisions. In addition, in the event of the
754 failure by the customer to report or transmit the required submeter
755 readings on the city meter read date, the customer's wastewater bill for
756 the monthly billing cycle in question shall be determined on the basis
757 of the standard wastewater billing method for the premises.

758 (21) The following rules shall apply to the calculation of the wastewater
759 bill for premises for which the evaporative loss adjustment has been
760 approved:

761 (a) The amount of evaporative loss shall be determined for each
762 monthly billing cycle by the readings of each intake and
763 discharge meter reported to the director in accordance with this
764 Article unless the director determines that the meter readings
765 are false, inaccurate, or otherwise unreliable in which case
766 Austin Water will not grant the evaporative loss adjustment for
767 the subject billing period.

768 (b) Nothing in this section shall be construed to permit or require
769 the retroactive application of this Article or the adjustment or
770 recalculation of the wastewater bill of a customer for any
771 monthly billing cycle or portion occurring prior to final
772 approval by the director of the customer's application for receipt
773 of the evaporative loss adjustment.

774 (c) Austin Water will not subtract from the winter average water
775 consumption the amount of evaporative loss determined by
776 readings of the intake and discharge meters in the calculation of
777 the wastewater bill for the customer premises for which the
778 evaporative loss adjustment has been approved.

779 (d) Subject to any special billing conditions or protocol approved
780 by the director, and subject to this Article, for customers having

a City water meter used to service the building (including the cooling towers) and an irrigation system, Austin Water will calculate the wastewater bill for the premises for which the evaporative loss adjustment has been approved as follows:

- (i) For each year following approval of the customer application for receipt of the evaporative loss adjustment, a revised wastewater average for the customer premises housing the approved cooling tower installation (revised wastewater average) shall be established. The revised wastewater average shall be the daily average of the differences between the volume registered by the City water meter and the the customer's intake meter for the months during the standard wastewater averaging period, multiplied by 30.4, the average number of days in a month.
- (ii) Once the revised wastewater average for the customer premises is established in the above manner, the wastewater volume for the ensuing months will be the revised wastewater average so established or the actual water consumption determined by the readings of each City water meter for each billing cycle, whichever is less, plus the volume of cooling tower blowdown determined by each discharge meter reading for each monthly billing cycle.
- (iii) The volume of wastewater derived in accordance with (ii) above shall then be multiplied by the wastewater rate for the applicable customer class and the monthly charges established by the city council shall be added to the total to derive the wastewater bill for the customer premises.
- (iv) A revised wastewater average for the customer premises shall be established as set forth above in the winter months for each year of the five year term that the approval for the evaporative loss adjustment is in effect.
- (v) For any year in which a revised wastewater average for the customer premises cannot be derived as set forth

817 above due to the timing of the application or approval of
818 the evaporative loss adjustment, the wastewater volume
819 will be based on the actual water consumption for
820 customer premises determined by the reading of the city
821 water meter for each monthly billing cycle less the
822 volume of cooling tower makeup water determined by
823 the intake meter in the monthly billing cycle plus the
824 volume of cooling tower blowdown water discharged to
825 the city's wastewater system determined by the discharge
826 meter reading for the monthly billing cycle.

827 (e) Subject to any special conditions or billing protocol approved by
828 the director, wastewater billings for those utility customers
829 having one or more city water meters to service the building
830 (including the cooling towers) and one or more separate city
831 water meters used solely to service an irrigation system will not
832 be based on the standard wastewater average method or the
833 revised wastewater average calculation described in
834 Subparagraph (d) but will be calculated as follows:

835 (i) for each billing period following approval of the
836 customer application for receipt of the evaporative loss
837 adjustment, the difference between the intake meter
838 reading and the discharge meter reading shall be
839 subtracted from the actual water consumption for the
840 building (including the cooling towers) determined by the
841 readings of the city meters servicing the building (and
842 cooling towers) for each monthly billing cycle; and

843 (ii) the volume of wastewater derived in accordance with
844 Subdivision (i) shall be multiplied by the wastewater rate
845 for the applicable customer class and the monthly
846 charges established by the city council shall be added to
847 the total to derive the wastewater bill for the building
848 utility account.

849 (f) Subject to any special billing conditions or protocol approved by the
850 director, for customer premises that have one or more separate city
851 water meters that service both an irrigation system as well as one or
852 more cooling towers (but not the building proper), or for customer
853 premises having one or more separate city water meters used solely to

854 service each cooling tower (but not the building proper), the
855 wastewater bill for each utility account servicing each cooling tower
856 shall be calculated by multiplying the wastewater volume determined
857 by the discharge meter reading for each monthly billing period by the
858 rate for the applicable customer class and the customer account charge
859 established by the city council shall be added to the total to derive the
860 wastewater bill for the utility account.

- 861 (22) Customer premises whose total wastewater discharge to the City's
862 wastewater system (meaning the discharge from all buildings, cooling
863 towers and other installations on the site) is monitored by one or more
864 wastewater flow meters whose installation has been separately
865 approved by the director are not eligible to receive the evaporative
866 loss adjustment.

- 867 (23) For users of evaporative cooling towers whose particular
868 circumstances do not meet the literal requirements of this Article, but
869 in which the director reasonably determines that the grant of
870 evaporative loss adjustment is just and equitable and capable of being
871 implemented and administered in accordance with generally accepted
872 metering, billing and engineering practices, the director may enter into
873 written agreements approved by the city attorney setting forth terms
874 and conditions for approval and application of the evaporative loss
875 adjustment to non-standard situations. A written agreement shall
876 reflect the substantive requirements of this Article as closely as
877 possible and the existence of an agreement shall not exempt the
878 customer from the obligation to comply with Section 15-9-242
879 (*Offenses*) nor limit the applicability of the sanctions set forth in
880 Section 15-9-243 (*Revocation of Adjustment*).

882 **PART 20.** This ordinance takes effect on _____.

883

884 **PASSED AND APPROVED**

885 _____ §
886 _____ §
887 _____, 2020 § _____

888 _____ Steve Adler
889 _____ Mayor

890
891 **APPROVED:** _____ **ATTEST:** _____
892 Anne L. Morgan Jannette S. Goodall
893 City Attorney City Clerk