

ORDINANCE 0-29-11

AN ORDINANCE OF THE CITY OF ATHENS ADOPTING A DROUGHT CONTINGENCY PLAN; ESTABLISHING CRITERIA FOR THE INITIATION AND TERMINATION OF DROUGHT RESPONSE STAGES; ESTABLISHING RESTRICTIONS ON CERTAIN WATER USES; ESTABLISHING PENALTIES FOR THE VIOLATION OF AND PROVISIONS FOR ENFORCEMENT OF THESE RESTRICTIONS; ESTABLISHING PROCEDURES FOR GRANTING VARIANCES; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE; AND REPEALING ORDINANCE #O-30-99 AND ORDINANCE O-19-09

WHEREAS, the City of Athens, Texas (City) recognizes the amount of water available to the City and its water utility customers is limited and subject to depletion during periods of extended drought; and

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

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

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

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF ATHENS, TEXAS;

SECTION 1.

That the City of Athens, Texas Drought Contingency Plan attached hereto as Exhibit "A" and made a part hereof for all purposes be, and the same is hereby, adopted as the official policy of the City.

SECTION 2.

That Ordinance #O-30-99 and Ordinance #O-19-09 are hereby repealed, and all Ordinances that are in conflict with the provisions of this Ordinance be, and the same are hereby, repealed and all other Ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 3.

Should any paragraph, sentence, subdivision, clause, phrase, or section of this Ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

SECTION 4.

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

PASSED AND APPROVED on first reading this the 26th day of September, 2011

PASSED AND APPROVED on second and final reading this the 10th day of October, 2011.



Randy Daniel, Mayor

ATTEST:



Pam Watson, City Secretary

EXHIBIT "A"

DROUGHT CONTINGENCY PLAN FOR THE CITY OF ATHENS OCTOBER, 2011

Section I: Declaration of Policy, Purpose, and Intent

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

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

Section II: Public Education

The City of Athens periodically will provide the public with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by means of public meetings, press releases and through postings on the official City of Athens website.

Section III: Coordination with Regional Water Planning Groups

The service area of the City of Athens is located within both Region C and Region I Water Planning Groups, and the City of Athens has provided a copy of this Plan to both the Region C and Region I Water Planning Groups.

Section IV: Authorization

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

Section V: Application

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

Section VI: Definitions

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

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

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

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

Customer: any person, company, or organization using water (raw and/or treated) supplied by the City of Athens. A Customer is also defined as a holder of a permit granted to them by the Authority to pump raw water from Lake Athens for local irrigation purposes.

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

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

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

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

Non-essential water use: water uses that are neither essential nor required for the protection of public, health, safety, and welfare, including:

- (a) irrigation of landscape areas, including parks, athletic fields, cemeteries and golf courses, except otherwise provided under this Plan;
- (b) use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- (c) use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;

- (d) use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (e) flushing gutters or permitting water to run or accumulate in any gutter or street;
- (f) use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;
- (g) use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- (h) failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
- (i) use of water from hydrants for construction purposes, oil and gas drilling / production operations, or any other purposes other than fire fighting.

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

Operator: an individual holding a valid certification for public water system operation as issued by the Texas Commission on Environmental Quality, who has met the education and experience requirements outlined within applicable rules and regulations established by the State of Texas.

Storage Facility: a defined volume (e.g., clearwell, ground storage tank, elevated storage tank, etc.) that is used to store potable water during periods of low demand for distribution to customers during periods of high demand within a water supply and distribution system.

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

The City Administrator or his/her designee, shall monitor water supply and/or demand conditions on a daily basis and shall determine when conditions warrant initiation or termination of each stage of the Plan. Public notification of the initiation or termination of drought response stages shall be by means of publication in a newspaper of general circulation, and through postings on the official City of Athens website.

The triggering criteria described below are based upon the reservoir storage capacity of Lake Athens, pumping capacities of the surface water treatment plant and groundwater wells, as well as past experiences with drought conditions.

The gross reservoir storage capacity of Lake Athens is 29,475 acre feet of water at the conservation pool elevation of 440 feet above Mean Sea Level (“MSL”) down to the deepest part of the lake at 393.7 feet MSL at 46.3 feet deep. However, the net usable volume is limited to only 21,013 acre feet of water. This limitation is because the deepest sluice gate at the raw water intake pump is at 421.5 feet MSL or 18.5 feet deep. Accordingly, the triggering criterion used herein for Lake Athens is based upon a percentage of the net usable volume.

A. Stage 1 – Mild Water Shortage Conditions

Requirements for initiation – Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain water uses, defined in Section VI – Definitions, when any of the following events occur:

- Total daily production of potable water exceeds 4.5 million gallons per day (MGD);
or,

- The water surface elevation of Lake Athens drops to 436.90 feet MSL (75% of net usable volume).

Requirements for termination – Stage 1 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 7 consecutive days.

B. Stage 2 – Moderate Water Shortage Conditions

Requirements for initiation – Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses provided in Section VI of this Plan when any of the following events occur:

- Total daily production of potable water exceeds 4.5 MGD **and** the storage facilities do not refill to a level above 80% capacity overnight; **or**,
- The water surface elevation of Lake Athens drops to 434.60 feet MSL (60% of net usable volume).

Requirements for termination - Stage 2 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 7 consecutive days. Upon termination of Stage 2, Stage 1 becomes operative.

C. Stage 3 – Severe Water Shortage Conditions

Requirements for initiation - Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 3 of this Plan when any of the following events occur:

- Total daily production of potable water exceeds 4.5 MGD **and** the storage facilities do not refill to a level above 65% capacity overnight; **or**,
- The water surface elevation of Lake Athens drops to 432.00 feet MSL (45% of net usable volume).

Requirements for termination - Stage 3 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 7 consecutive days. Upon termination of Stage 3, Stage 2 becomes operative.

D. Stage 4 – Critical Water Shortage Conditions

Requirements for initiation - Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 4 of this Plan when any of the following events occur:

- Total daily production of potable water exceeds 4.5 MGD **and** the storage facilities do not refill to a level above 50% capacity overnight; **or**,
- The water surface elevation of Lake Athens drops to 429.00 feet MSL (30% of net usable volume).

Requirements for termination - Stage 4 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 7 consecutive days. Upon termination of Stage 4, Stage 3 becomes operative.

E. Stage 5 – Emergency Water Shortage Conditions

Requirements for initiation - Customers shall be required to comply with the requirements and restrictions for Stage 5 of this Plan when the City Administrator or his/her designee determines that a water supply emergency exists, based upon any of the following triggering criteria:

- Major water line breaks or pump or system failures occur, which cause an unprecedented loss of capability to provide water service; or
- Natural or man-made contamination of the water supply source(s) occurs; or
- Water supply sources are depleted to a level beyond those described above for Stage 4 – Critical Water Shortage Conditions.

Requirements for termination - Stage 5 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 7 consecutive days.

F. Water Rationing

Requirements for initiation - Customers shall be required to comply with the water allocation plan prescribed in Section IX of this Plan and comply with the requirements and restrictions for Stage 5 of this Plan when any of the following events occur:

- Total daily production of potable water exceeds 5.5 MGD **and** the storage facilities do not refill to a level above 35% capacity overnight; **or**,
- The water surface elevation of Lake Athens drops to 425.50 feet MSL (15% of net usable volume).

Requirements for termination - Water rationing may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 7 consecutive days.

Section VIII: Drought Response Stages

The City Administrator, or his/her designee, shall monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in Section VII of the Plan, shall determine that a mild, moderate, severe, critical, or emergency condition exists and shall implement the following actions upon publication of notice in a newspaper of general circulation, and through postings on the website that is operated and maintained by the City of Athens:

Stage 1 – Mild Water Shortage Conditions

Goal: Achieve a voluntary 10 percent reduction in daily water use.

Voluntary Water Use Restrictions:

- (a) Water customers are requested voluntarily to limit the irrigation of landscaped areas to even numbered calendar days for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and odd numbered calendar days for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and to irrigate landscapes only between the hours of midnight to 10:00 a.m. and 8:00 p.m. to midnight on designated watering days.

- (b) All operators of the City of Athens shall adhere to water use restrictions prescribed for Stage 2 of the Plan.
- (c) Water customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes.

Stage 2 – Moderate Water Shortage Conditions

Goal: Reduce daily water usage to 4.0 MGD or less.

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

- (a) Irrigation of landscaped areas shall be limited to even numbered calendar days for customers with a street address ending in an even number (0, 2, 4, 6, or 8), and odd numbered calendar days for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and to irrigate landscapes only between the hours of midnight to 10:00 a.m. and 8:00 p.m. to midnight on designated watering days. However, irrigation of landscaped areas is permitted at anytime if it is by means of a hand-held hose, a faucet-filled bucket or watering can of five (5) gallons or less, or a drip irrigation system.
- (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days between the hours of midnight and 10:00 a.m. and between 8:00 p.m. and midnight. Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public are contingent upon frequent vehicle cleansing, such as for garbage trucks and vehicles used to transport food and perishables.
- (c) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited except on designated watering days between the hours of midnight and 10:00 a.m. and between 8:00 p.m. and midnight.
- (d) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
- (e) Use of water from hydrants shall be limited to fire fighting, related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes and oil / gas production and operation purposes may be allowed under special permit from the City of Athens.
- (f) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours of midnight

and 10:00 a.m. and between 8:00 p.m. and midnight. However, if the golf course utilizes a water source other than that provided by the City of Athens, the facility shall not be subject to these regulations.

- (g) The following uses of water are defined as non-essential and are prohibited:
1. Wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
 2. Use of water to wash down buildings or structures for purposes other than immediate fire protection;
 3. Use of water for dust control (except at the scalped areas of sports playing fields, which are allowed to be sprinkled as necessary);
 4. Flushing gutters or permitting water to run or accumulate in any gutter or street; and
 5. Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

Stage 3 – Severe Water Shortage Conditions

Goal: Reduce daily water usage to 4.0 MGD or less.

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

- (a) Irrigation of landscaped areas (including use of a hand-held hose, bucket or watering can) shall be limited to odd-even watering calendar days between the hours of midnight and 10:00 a.m. and between 8:00 p.m. and midnight.
- (b) The watering of golf course fairways is prohibited unless the golf course utilizes a water source other than that which is provided by the City of Athens; watering of tees and greens, however, is permitted.
- (c) The use of water for construction purposes and oil / gas production and operation purposes from designated fire hydrants under special permit is to be discontinued.
- (d) All restaurants are prohibited from serving water to their patrons, except when requested specifically by those patrons.
- (e) Irrigation with private pumps taking suction directly from Lake Athens is prohibited.

Stage 4 – Critical Water Shortage Conditions

Goal: Reduce daily water usage to 4.0 MGD or less.

Water Use Restrictions – All requirements of Stages 2 and 3 shall remain in effect during Stage 4 except:

- (a) Irrigation of landscaped areas shall be limited to odd-even watering calendar days between the hours of 6:00 a.m. and 10:00 a.m. and between 8:00 p.m. and midnight and shall be by means of hand-held hoses, hand-held buckets, or drip irrigation only. The use of hose-end sprinklers or permanently installed automatic sprinkler systems is prohibited at all times.
- (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial car wash or commercial service station and not in the immediate interest of public health, safety, and welfare is prohibited. Further, such vehicle washing at commercial car washes and commercial service stations shall occur only between the hours of 6:00 a.m. and 10:00 a.m. and between 6:00 p.m. and 10:00 p.m.
- (c) The filling, refilling, or adding of water to swimming pools, wading pools, and Jacuzzi-type pools is prohibited.
- (d) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
- (e) No applications for new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be allowed or approved.

Stage 5 – Emergency Water Shortage Conditions

Goal: Reduce daily water usage to 4.0 MGD or less.

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

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

Section IX: Water Rationing

Every wholesale water contract entered into or renewed after adoption of this Plan, including contract extensions, that in the case of shortage of water resulting from drought, source supply contamination, system outage due to the failure of major system components, and or water production or distribution system limitations, the water to be distributed shall be divided in accordance with Texas Water Code 11.039. Pro rata curtailment of water deliveries to or diversions by wholesale water customers is authorized by Texas Water Code 11.039.

The City of Athens is the Athens Municipal Water Authority’s sole customer for treated water and, in the event that water shortage conditions threaten public health, safety and welfare, the Athens

Municipal Water Authority Board of Directors shall require the City of Athens to implement the City's water rationing plan as follows:

Single-Family Residential Customers

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

Persons per Household	Gallons per Month
1 or 2	6,000
3 or 4	7,000
5 or 6	8,000
7 or 8	9,000
9 or 10	10,000
11 or more	12,000

“Household” means the residential premises served by the customer’s meter. “Persons per household” includes only those persons currently physically residing at the premises and expected to reside there for the entire billing period. It shall be assumed that a particular customer’s household is comprised of two (2) persons unless the customer notifies the City of Athens of a greater number of persons per household on a form prescribed by the City Administrator. The City Administrator shall give his/her best effort to see that such forms are mailed, otherwise provided, or made available to every residential customer. If, however, a customer does not receive such a form, it shall be the customer’s responsibility to go to the City of Athens offices to complete and sign the form claiming more than two (2) persons per household. New customers may claim more persons per household at the time of applying for water service on the form prescribed by the City of Athens. When the number of persons per household increases so as to place the customer in a different allocation category, the customer may notify the City of Athens on such a form and the change will be implemented in the next practicable billing period. If the number of persons in a household is reduced, the customer shall notify the City of Athens in writing within two (2) days. In prescribing the method for claiming more than two (2) persons per household, the City Administrator shall adopt methods to insure the accuracy of the claim. Any person(s) who knowingly, recklessly, or with criminal negligence falsely reports the number of persons in a household or fails to notify in a timely manner the City of Athens of a reduction in the number of persons in a household shall be fined not less than \$100. Residential water customers shall pay the following surcharges:

- \$5 for the first 1,000 gallons over allocation.
- \$10 for the second 1,000 gallons over allocation.
- \$15 for the third 1,000 gallons over allocation.
- \$20 for each additional 1,000 gallons over allocation.

Surcharges shall be cumulative.

Master-Metered Multi-Family Residential Customers

The allocation to a customer billed from a master meter, which jointly measures water to multiple permanent residential dwelling units (e.g., apartments, mobile homes, etc.) shall be allocated 6,000 gallons per month for each dwelling unit. It shall be assumed that such a customer's meter serves two dwelling units unless the customer notifies the City of Athens of a greater number on a form prescribed by the City Administrator. The City Administrator shall give his/her best effort to see that such forms are mailed, otherwise provided, or made available to every such customer. If, however, a customer does not receive such a form it shall be the customer's responsibility to go to City of Athens offices to complete and sign the form claiming more than two (2) dwellings. A dwelling unit may be claimed under this provision whether it is occupied or not. New customers may claim more dwelling units at the time of applying for water service on the form prescribed by the City Administrator. If the number of dwelling units served by a master meter is reduced, the customer shall notify the City of Athens in writing within two (2) days. In prescribing the method for claiming more than two (2) dwelling units, the City Administrator shall adopt methods to insure the accuracy of the claim. Any person who knowingly, recklessly, or with criminal negligence falsely reports the number of dwelling units served by a master meter or fails to notify in a timely manner the City of Athens of a reduction in the number of persons in a household shall be fined not less than \$100. Customers billed from a master meter under this provision shall pay the following monthly surcharges:

\$5 for 1,000 gallons over allocation up through 1,000 gallons for each dwelling unit.

\$10, thereafter, for each additional 1,000 gallons over allocation up through a second 1,000 gallons for each dwelling unit.

\$15, thereafter, for each additional 1,000 gallons over allocation up through a third 1,000 gallons for each dwelling unit.

\$20, thereafter, for each additional 1,000 gallons over allocation.

Surcharges shall be cumulative.

Commercial Customers

A monthly water usage allocation shall be established by the City of Athens, or its designee, for each non-residential commercial customer other than an industrial customer who uses water for processing purposes. The non-residential customer's allocation shall be approximately seventy five percent (75%) of the customer's usage for the corresponding month's billing period over the previous 12 months. If the customer's billing history is shorter than 12 months, the monthly average of the period for which there is a record shall be used for any monthly period for which no history exists. Provided, however, a customer (75 percent of whose monthly usage is less than 50,000 gallons) shall be allocated 37,500 gallons. The City Administrator shall give his/her best effort to see that notice of each non-residential customer's allocations is mailed to such customer. If, however, a customer does not receive such notice, it shall be the customer's responsibility to contact the City Administrator to determine the allocation value. Upon request of the customer or at the initiative of the City Administrator, the allocation may be reduced or increased if, (1) the designated period does not accurately reflect the customer's normal water usage, (2) one non-residential customer agrees to transfer part of its allocation to another non-residential customer, or (3) other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the City Administrator. Non-residential commercial customers shall pay the following surcharges:

Customers whose allocation is 30,000 gallons through 50,000 gallons per month -

- \$5 per thousand gallons for the first 1,000 gallons over allocation.
- \$10 per thousand gallons for the second 1,000 gallons over allocation.
- \$15 per thousand gallons for the third 1,000 gallons over allocation.
- \$20 per thousand gallons for each additional 1,000 gallons over allocation.

Customers whose allocation is 50,000 gallons per month or more -

- 2 times the block rate for each 1,000 gallons in excess of the allocation up through 5 percent above allocation.
- 3 times the block rate for each 1,000 gallons from 5 percent through 10 percent above allocation.
- 4 times the block rate for each 1,000 gallons from 10 percent through 15 percent above allocation.
- 5 times the block rate for each 1,000 gallons more than 15 percent above allocation.

The surcharges shall be cumulative. As used herein, "block rate," means the charge to the customer per 1,000 gallons at the regular water rate schedule at the level of the customer's allocation.

Industrial Customers

A monthly water usage allocation shall be established by the City of Athens, or its designee, for each industrial customer, which uses water for processing purposes. The industrial customer's allocation shall be approximately ninety percent (90%) of the customer's water usage baseline. Ninety (90) days after the initial imposition of the allocation for industrial customers, the industrial customer's allocation shall be further reduced to eighty five percent (85%) of the customer's water usage baseline. The industrial customer's water usage baseline will be computed on the average water usage for the 12 month period ending prior to the date of implementation of Stage 2 of the Plan. If the industrial water customer's billing history is shorter than 12 months, the monthly average for the period for which there is a record shall be used for any monthly period for which no billing history exists. The City Administrator shall give his/her best effort to see that notice of each industrial customer's allocation is mailed to such customer. If, however, a customer does not receive such notice, it shall be the customer's responsibility to contact the City of Athens to determine the allocation, and the allocation shall be fully effective notwithstanding the lack of receipt of written notice. Upon request of the customer or at the initiative of the City Administrator, the allocation may be reduced or increased, (1) if the designated period does not accurately reflect the customer's normal water usage because the customer had shutdown of a major processing unit for repair or overhaul during the period, (2) the customer has added or is in the process of adding significant additional processing capacity, (3) the customer has shutdown or significantly reduced the production of a major processing unit, (4) the customer has previously implemented significant permanent water conservation measures such that the ability to further reduce usage is limited, (5) the customer agrees to transfer part of its allocation to another industrial customer, or (6) if other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the City Administrator. Industrial customers shall pay the following surcharges:

Customers whose allocation is 50,000 gallons through 100,000 gallons per month -

- \$5 per thousand gallons for the first 1,000 gallons over allocation.
- \$10 per thousand gallons for the second 1,000 gallons over allocation.
- \$15 per thousand gallons for the third 1,000 gallons over allocation.
- \$20 per thousand gallons for each additional 1,000 gallons over allocation.

Customers whose allocation is 100,000 gallons per month or more -

- 2 times the block rate for each 1,000 gallons in excess of the allocation up through 5 percent above allocation.
- 3 times the block rate for each 1,000 gallons from 5 percent through 10 percent above allocation.
- 4 times the block rate for each 1,000 gallons from 10 percent through 15 percent above allocation.
- 5 times the block rate for each 1,000 gallons more than 15 percent above allocation.

The surcharges shall be cumulative. As used herein, "block rate," means the charge to the customer per 1,000 gallons at the regular water rate schedule at the level of the customer's allocation.

Section X: Enforcement

- (a) No person shall knowingly or intentionally allow the use of water from the City of Athens for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this Plan, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by the City Administrator, or his/her designee, in accordance with provisions of this Plan.
- (b) Any person who violates this Plan is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than one hundred dollars (\$100) and not more than two hundred fifty dollars (\$250). Each day that one or more of the provisions in this Plan is violated shall constitute a separate offense. If a person is convicted of three or more distinct violations of this Plan, the City Administrator shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a reconnection charge, hereby established at \$250, and any other costs incurred by the Athens Municipal Water Authority or the City of Athens in discontinuing service. In addition, suitable assurance must be given to the City Administrator that the same action shall not be repeated while the Plan is in effect. Compliance with this Plan may also be sought through injunctive relief in the District Court.
- (c) Any person, including a person classified as a water customer of the City of Athens, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a reputable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to

show that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parents' control shall constitute a reputable presumption that the parent committed the violation, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this Plan and that the parent could not reasonably have known of the violation.

- (d) Any employee of the Athens Municipal Water Authority or the City of Athens, or any police officer designated by the Athens Municipal Water Authority or the City of Athens may issue a citation to a person he/she reasonably believes to be in violation of this Ordinance. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, the offense charged, and shall direct him/her to appear in the Athens Municipal Court on the date shown on the citation for which the date shall not be less than 3 days nor more than 5 days from the date the citation was issued. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over 14 years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in Athens Municipal Court to enter a plea of guilty or not guilty for the alleged violation of the Plan. If the alleged violator fails to appear in Athens Municipal Court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant. These cases shall be expedited and given preferential setting in Athens Municipal Court before all other cases.

Section XI: Variances

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

- (a) Compliance with this Plan cannot technically be accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.
- (b) Alternative methods can be implemented which will achieve the same level of reduction in water use.
- (c) Failure to grant the variance would adversely affect the health, safety and welfare of the general public, or would create a plausible threat to national security.

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

- (a) Name and address of the petitioner(s).

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

Variations granted by the City of Athens shall be subject to the following conditions, unless waived or modified by the City Administrator or his/her designee:

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

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