

ORDINANCE NO. 20160505-003

AN ORDINANCE AMENDING CITY CODE CHAPTER 6-4 RELATING TO WATER CONSERVATION; AND CREATING OFFENSES.

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

PART 1. FINDINGS.

The City Council finds that:

Given the history of, and ongoing 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 including adequate supplies necessary for emergency fire fighting, fire suppression, and natural disaster or other emergency management or disaster response.

PART 2. City Code Section 6-4-2(9) (*Definitions*) is amended to read:

- (9) DESIGNATED OUTDOOR WATER USE DAY means the day [~~prescribed by rule on~~] during which a person is permitted to irrigate outdoors[~~;~~]as prescribed in Section 6-4-13 (E) (*Water Conservation Guidelines*).

PART 3. City Code Section 6-4-7 (*Administrative Rules*) is amended to delete Subsection (C) and renumber accordingly:

§ 6-4-7 ADMINISTRATIVE RULES.

- (A) The director shall adopt administrative rules for the implementation of this chapter.
- (B) Before the director may adopt or amend a nonemergency rule, the director shall present for consideration the proposed rule to the Water and Wastewater Commission and the Resource Management Commission. In cases of emergency rule adoption, the director shall present the rule to the Water and Wastewater Commission and the Resource Management Commission as soon as practicable following emergency rule adoption.

~~[(C) The rules shall provide for designated outdoor water use days.]~~

~~[(D)]~~(C) The rules shall provide for a commercial facility irrigation evaluation program and will include provisions for the assessment and the collection of any associated fees.

~~[(E)]~~(D) The rules shall provide water efficiency standards for vehicle washing equipment.

~~[(F)]~~(E) The rules shall be available for inspection at the Austin Water Utility administrative offices during normal business hours.

~~[(G)]~~(F) Austin Water Utility shall maintain records of Irrigation Inspectors holding AWU Authorized Irrigation Inspector status in accordance with rules adopted pursuant to this chapter.

PART 4. The water use schedule in Subsection (E) of City Code Section 6-4-13 (*Water Conservation Guidelines*) is repealed and replaced as follows:

- (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 - Hose- End EVEN	Sunday and Thursday
Public Schools	Monday
Commercial/Multi Family -Automatic EVEN	Tuesday
Residential - Automatic ODD	Wednesday
Residential - Automatic EVEN	Thursday
Commercial/Multi Family - Automatic ODD	Friday

Residential Property – Hose-end ODD	Wednesday and Saturday
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Drought Response Stage 2 and Stage 3 Watering Schedule	
Property Type	Watering Day
Residential - Hose- End EVEN	Sunday
Public Schools	Monday
Commercial/Multi Family -Automatic EVEN	Tuesday
Residential - Automatic ODD	Wednesday
Residential - Automatic EVEN	Thursday
Commercial/Multi Family - Automatic ODD	Friday
Residential Property – Hose-end ODD	Saturday

PART 5. City Code Section 6-4-15 (*Water Conservation Stage*) is amended to read:

§ 6-4-15 WATER CONSERVATION STAGE.

- (A) This section prescribes water conservation regulations and applies during the periods prescribed by Section 6-4-13(D) (*Water Conservation Guidelines*).
- (B) A person may not irrigate outdoors at a residential facility or a commercial facility except on a designated outdoor water use day for the location~~[as set forth in Section 6-4-13 (E)]~~.
- (C) A person may not irrigate outdoors at a residential facility or a commercial facility between the hours of 10:00 a.m. and 7:00 p.m., even if the irrigation occurs on a designated outdoor water use day ~~[designated by rules as the outdoor water use day]~~ for the location.
- (D) A person may not operate a patio mister at a commercial facility except between the hours of 4:00 p.m. and midnight.
- (E) A person may not use or allow the use of water to wash or rinse an automobile, truck, trailer, boat, airplane, motorcycle, or other mobile equipment or vehicle, unless using a hose with a positive shutoff valve or a single, refillable vessel

with water. A person commits a separate offense for each vehicle or piece of equipment washed in violation of this subsection. It is an affirmative defense to a violation of this subsection that the water use occurred at a vehicle wash facility for the water use charged in the complaint.

- (F) A person may not use or allow the use of water to wash, rinse, or treat any outdoor surface, including but not limited to a sidewalk, driveway, parking area, street, tennis court, patio, or other paved area or outdoor building surface, unless using a hose with a positive shutoff valve or a single, refillable vessel with water. A person commits a separate offense for each outdoor surface washed in violation of this subsection.

PART 6. City Code Section 6-4-16 (*Drought Response Stage One Regulations*) is amended to read:

§ 6-4-16 DROUGHT RESPONSE STAGE ONE REGULATIONS.

- (A) This section prescribes Drought Response Stage One regulations and applies during any Stage One period ordered by the city manager in accordance with [the periods prescribed by] Section 6-4-13(C) (*Water Conservation Guidelines*).
- (B) A person may not irrigate outdoors at a residential facility or a commercial facility except on a designated outdoor water use day for the location~~[as set forth in Section 6-4-13 (E)]~~.
- (C) A person may not irrigate outdoors at a residential facility or a commercial facility with an automatic irrigation system between the hours of 8:00 [5:00] a.m. and 7:00 p.m., even if the irrigation occurs on [a day designated by rule as] the designated outdoor water use day for the location.
- (D) A person may not irrigate outdoors at a residential facility or a commercial facility with a hose-end sprinkler system between the hours of 10:00 a.m. and 7:00 p.m., even if the irrigation occurs on ~~[a day designated by rule as]~~ the designated outdoor water use day for the location.
- (E) A person may not operate a patio mister at a commercial facility except between the hours of 4:00 p.m. and midnight.
- (F) A person may not use or allow the use of water to wash or rinse an automobile, truck, trailer, boat, airplane, motorcycle, or other mobile equipment or vehicle~~[-]~~, unless using a hose with a positive shutoff valve or a single, refillable vessel with water. A person commits a separate offense for each vehicle or piece of equipment washed in violation of ~~[the terms and conditions of]~~ this ~~[§]~~subsection. It is an affirmative defense to a violation of this subsection that the water use occurred at a vehicle wash facility for the water use charged in the complaint.

- (G) A person may not use or allow the use of water to wash, rinse, or treat any outdoor surface, including but not limited to a sidewalk, driveway, parking area, street, tennis court, patio, or other paved area or outdoor building surface, unless using a hose with a positive shutoff valve or a single, refillable vessel with water. A person commits a separate offense for each outdoor surface washed in violation of this subsection.

PART 7. City Code Section 6-4-17 (*Drought Response Stage Two Regulations*) is amended to read:

§ 6-4-17 DROUGHT RESPONSE STAGE TWO REGULATIONS.

- (A) This section prescribes Drought Response Stage Two Regulations and applies during any Stage Two period ordered by the city manager in accordance with Section 6-4-13(C) (*Water Conservation Guidelines*).
- (B) A person may not irrigate outdoors at a residential facility or a commercial facility except on the designated outdoor water use day for the location~~[as set forth in Section 6-4-13 (E)]~~.
- (C) A person may not irrigate outdoors at a residential facility or a commercial facility with an automatic irrigation system between the hours of 5:00 a.m. and 7:00 p.m. even if the irrigation occurs on ~~[a day designated by rule as]~~ the designated outdoor water use day for the location.
- (D) A person may not irrigate outdoors at a residential facility or a commercial facility with a hose-end sprinkler system between the hours of 10:00 a.m. and 7:00 p.m. even if the irrigation occurs on ~~[a day designated by rule as]~~ the designated outdoor water use day for the location.
- (E) Operation of a charity car wash is prohibited. It is not a defense to a violation of this section that the charity car wash occurred on the designated outdoor water use day for the location~~[as prescribed by rule]~~.
- (F) A person may not use or allow the use of water to wash or rinse an automobile, truck, trailer, boat, airplane, motorcycle, or other mobile equipment or vehicle~~[-]~~, unless using a single, refillable vessel with water. A person commits a separate offense for each vehicle or piece of equipment washed in violation of ~~[the terms and conditions of]~~ this ~~[S]~~ subsection. It is an affirmative defense to a violation of this subsection that the water use occurred at a vehicle wash facility for the water use charged in the complaint.
- (G) A person may not irrigate a golf fairway unless the irrigation occurs between the hours of midnight and 5:00 a.m. or between the hours of 7:00 p.m. and midnight on the designated outdoor water use day applicable to the property. A person may irrigate a golf course green or tee every other day only if the

irrigation of the location is consistent with a noticed exception establishing the schedule for the property submitted on forms required by Austin Water Utility and approved by the director.

- (H) A person may not operate an ornamental fountain with an aerial emission of water or aerial fall of water greater than four inches other than for aeration necessary to preserve habitat for aquatic life.
- (I) A person may not operate a patio mister at a commercial facility except between the hours of 4:00 p.m. until midnight.
- (J) A person may not use or allow the use of water to wash, rinse, or treat any outdoor surface, including but not limited to a sidewalk, driveway, parking area, street, tennis court, patio, or other paved area or outdoor building surface, unless using a hose with a positive shutoff valve or a single, refillable vessel with water. A person commits a separate offense for each outdoor surface washed in violation of this subsection.

PART 8. City Code Section 6-4-18 (*Drought Response Stage Three Regulations*) is amended to read:

§ 6-4-18 DROUGHT RESPONSE STAGE THREE REGULATIONS.

- (A) This section prescribes Drought Response Stage Three Regulations and applies during a period ordered by the city manager in accordance with Section 6-4-13(C) (*Water Conservation Guidelines*).
- (B) A person may not irrigate outdoors at a residential facility or a commercial facility except on a designated outdoor water use day for the location~~[as set forth in Section 6-4-13 (E)]~~.
- (C) A person may not irrigate outdoors at a residential facility or a commercial facility with an automatic irrigation system between the hours of 6:00 a.m. and midnight even if the irrigation occurs on ~~[a day designated by rule as]~~ the designated outdoor water use day for the location.
- (D) A person may not irrigate outdoors at a residential facility or a commercial facility with a hose-end sprinkler system except between the hours of 7:00 a.m. and 10:00 a.m. or between the hours of 7:00 p.m. and 10:00 p.m. even if the irrigation occurs on ~~[a day designated by rule as]~~ the designated outdoor water use day for the location.
- (E) Operation of a charity car wash is prohibited. It is not a defense to a violation of this section that the charity car wash occurred on a designated outdoor water use day for the location~~[as prescribed by rule]~~.

- (F) A person may not use or allow the use of water to wash or rinse an automobile, truck, trailer, boat, airplane, motorcycle, or other mobile equipment or vehicle[-], unless using a single, refillable vessel with water. A person commits a separate offense for each vehicle or piece of equipment washed in violation of ~~[the terms and conditions of]~~ this ~~[S]~~ subsection. It is an affirmative defense to a violation of this subsection that the water use occurred at a vehicle wash facility for the water use charged in the complaint.
- (G) A person may not irrigate a golf fairway unless the irrigation occurs between the hours of midnight and 5:00 a.m. or between the hours of 7:00 p.m. and midnight on the designated outdoor water use day applicable to the property. A person may irrigate a golf course green or tee every other day only if the irrigation of the location is consistent with a noticed exception establishing the schedule for the property submitted on forms required by the Utility and approved by the director.
- (H) The filling of spas is prohibited.
- (I) A person may not operate a splash pad except during the hours and subject to the restrictions set forth in a rule adopted pursuant this chapter.
- (J) A person may not operate a patio mister at a commercial facility except between the hours of 4:00 p.m. and 8:00 p.m.
- (K) A person may not operate an ornamental fountain with an aerial emission of water or aerial fall of water greater than four inches in distance other than for aeration necessary to preserve habitat for aquatic life.
- (L) A person may not use or allow the use of water to wash, rinse or treat any outdoor surface, including but not limited to a sidewalk, driveway, parking area, street, tennis court, patio, or other paved area or outdoor building surface, unless using a hose with a positive shutoff valve or a single, refillable vessel with water. A person commits a separate offense for each outdoor surface washed in violation of this subsection.

PART 9. City Code Section 6-4-30 (*Variance*) is amended to delete Subsections (D) and (E) and renumber accordingly:

§ 6-4-30 VARIANCE.

- (A) The director may grant a variance from a requirement of this chapter if the director determines that special circumstances exist and that:
 - (1) strict compliance with the provisions at issue adversely affects the health, safety, welfare or sanitation of the public, the applicant, or the environment; or

- (2) strict compliance with the provisions at issue substantially threatens the applicant's primary source of income, the applicant is employing all reasonable water conservation measures, and approval of the variance will not result in water waste.
- (B) The director may not grant a variance from a requirement of this chapter based on an alleged adverse impact to the environment unless the applicant submits an environmental impact study, hydrological analysis, and additional data or documentation as required by the director to establish that the specific variance requested is necessary to avoid or mitigate a significant adverse impact on an endangered or listed protected plant, animal, or aquatic species or critical environmental feature present on the property or to maintain the traditional and natural character of a critical environmental feature.
- (C) The director may grant a variance from a requirement 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*), or Section 6-4-18 (*Drought Response Stage Three Regulations*) only if the applicant establishes at least one of the following:
- (1) an AWU Authorized Irrigation Inspector has determined that, due to its site-specific conditions, a site cannot be watered with an average coverage of 0.5 inches within the time limits prescribed by this chapter; and as applicable, a current irrigation system evaluation required pursuant to Section 6-4-10(A) (*Facilities Regulated*) is on file with Austin Water Utility; or
 - (2) the property owner or operator has a documented medical hardship or qualifying disability that prevents the person's strict adherence to a requirement of this chapter; or
 - (3) watering in a manner or at a time inconsistent with a requirement of this chapter is necessary for treatment of tree diseases or for pest control prescribed by a licensed arborist or pest control professional.
- ~~[(D) The director may grant a variance from a requirement of Section 6-4-15 (*Water Conservation Stage*), Section 6-4-16 (*Drought Response Stage One Regulations*), for a newly installed landscape. If the landscape installation is required in order to obtain a certificate of occupancy for a newly constructed single family home, the applicant shall provide a completed notice to the director on the form provided by Austin Water at least one full business day before the landscape is installed.~~
- (E) A variance granted under Subsection 6-4-30(D) (*Variance*) is subject to and shall include the following conditions:

- ~~(1) the applicant may water a newly installed landscape no more than 0.5 inches in one day; and~~
- ~~(2) watering of the newly installed landscape must comply with the following schedule:~~
 - ~~(a) for the first 10 days after installation, watering is permitted daily;~~
 - ~~(b) for the 11th through 20th day after installation, watering is permitted every other day before 10:00 a.m. and after 7:00 p.m.; and~~
 - ~~(c) for the 21st through 30th day after installation, watering is permitted every third day before 10:00 a.m. and after 7:00 p.m.]~~

~~(D)~~~~(F)~~ The director may grant a variance from a requirement 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*) or Section 6-4-18 (*Drought Response Stage Three Regulations*) for a newly installed landscape if:

- (1) the new landscaping is classified as Xeriscape in accordance with this chapter; and
- (2) irrigation for the establishment of the Xeriscaping complies with the following:
 - (a) for the first 10 days following installation, irrigation is permitted daily before 10:00 a.m. and after 7:00 p.m.; and
 - (b) for the 11th through the 40th day following installation, irrigation is permitted twice per week before 10:00 a.m. and after 7:00 p.m.; and
 - (c) if the landscape installation is required in order to obtain a certificate of occupancy for a newly constructed single family home, the applicant shall provide a completed notice of irrigation variance to the director on the form provided by Austin Water at least one full business day before the landscape is installed.
- (3) A one-time extension of the approved variance may be granted by the director only upon the submittal by the applicant of a written request which demonstrates a clear need for the extension to establish the new landscaping.

~~(E)~~~~(G)~~ The director may grant a variance to Section 6-4-19 (*Emergency Stage Four Regulations*) when:

- (1) Watering is required to prevent or address foundation cracking. A variance approved pursuant to this subsection will specify a designated day for foundation watering and shall require the foundation watering to occur before 7:00 a.m. or after 7:00 p.m.
- (2) Watering is necessary for the prescribed treatment of tree diseases or for pest control.
- (3) Irrigation of athletic fields when irrigation is necessary to protect the health and safety of players and game officials.

(F)~~(H)~~ The director may grant a variance from Section 6-4-11(E) (General Regulations) if site conditions are such that compliance would present a significant financial hardship or health risk to the applicant or the public.

(G)~~(H)~~ A person may seek a variance by filing an application with the director and paying the associated fees established by separate rule. The director may require the applicant to provide information the director determines is necessary to evaluate the variance request. If the director approves a variance, the applicant shall keep a copy of the approval provided in a location on the subject property that is accessible and visible to the public.

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

(I)~~(K)~~ A variance following its approval by the director may be immediately suspended or revoked by Austin Water Utility if the director or director's designee determines any of the following:

- (1) a violation of the terms of the variance occurs at the location during the effective period of the variance;
- (2) the application submitted to the director upon which the variance approval was based included false, misleading, incomplete, or inaccurate information or attachments; or
- (3) the director declares an emergency recall of variances to control use or preserve supply based on protracted drought, unusual operational event, or other public necessity.

PART 10. This ordinance takes effect on May 16, 2016.

PASSED AND APPROVED

_____, May 5 _____, 2016

APPROVED: _____

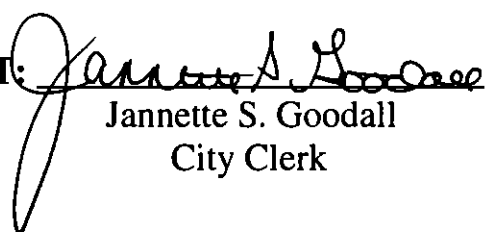

Anne L. Morgan
City Attorney

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Steve Adler
Mayor

ATTEST: _____


Jannette S. Goodall
City Clerk