

RESOLUTION NO. R-120924-1

**DROUGHT CONTINGENCY PLAN
FOR THE
CITY OF PORT LAVACA**

APRIL 7, 2003

Reviewed for update June 4, 2024

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, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the City of Port Lavaca hereby adopts the following regulations and restrictions on the delivery and consumption of 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 or other emergency water supply condition are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in Section XI of this Plan.

Section II: Public Involvement

Opportunity for the public to provide input into the preparation of the Plan was provided by the City of Port Lavaca by means of a notice to the customers on *their monthly water bill* and a Public Notice in the Port Lavaca Wave, an area newspaper.

Section III: Public Education

The City of Port Lavaca will periodically provide the public with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by means of utility bill inserts or a public notice in the Port Lavaca Wave.

Section IV: Coordination with Regional Water Planning Groups

The service area of the City of Port Lavaca is located within the South-Central Texas Regional Water Planning Group (Region L) and the City of Port Lavaca has provided a copy of this Plan to SCTRWPG.

Section V: Authorization

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

Section VI: Application

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

Section VII: 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 supplied by the City of Port Lavaca.

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 number 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, and rights-of-way and medians.

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

- (a) irrigation of landscape areas, including parks, athletic fields, 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 or any other purposes other than firefighting.

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

Section VIII: Criteria for Initiation and Termination of Drought Response Stages

The City Manager or his/her designee shall monitor water supply and/or demand conditions on a daily basis and shall determine when conditions warrant initiation or termination of each stage of the Plan, that is, when the specified “triggers” are reached.

The triggering criteria described below are based on information provided to the City of Port Lavaca by the Undine, LLC. Port Lavaca Water Treatment Plant Division. Undine, LLC. supplies all the treated drinking water to the City of Port Lavaca.

Water for Undine, LLC. ’s customers are secured by run-of- river water rights granted GBRA or by storage rights owned by GBRA in Canyon Dam and Reservoir near New Braunfels, Texas. If drought

or demand conditions fully engage all of the available GBRA run-of-river water supply, and the water demand continues to increase, then the further water demand will be satisfied by Canyon stored water rights. The Water Supply Division of GBRA, in coordination with the TCEQ Watermaster for the Guadalupe River, will determine when these trigger demand points occur, and will inform all GBRA customers affected.

Stage 1 Triggers – 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 VII – Definitions, when the City of Port Lavaca has received notification from GBRA that they have begun operating the Barrier at river mile 10 on the Guadalupe River in order to raise the normal pool level immediately upstream of the Barrier to an elevation sufficient for the efficient diversion of water through the outtake structure. Operation of the Barrier at river mile 10 will be based on:

Demand of all GBRA and other permitted customers for surface water

Available surface water flow from the Guadalupe River and its tributaries at river mile 10.

Requirements for termination

Stage 1 of the Plan may be rescinded upon notification by GBRA that the operation of the Barrier to raise the pool level has ceased.

Stage 2 Triggers – 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 IX of this Plan upon notification from GBRA that Stage I conditions are active and in addition, no flow over the Barrier and downstream toward the mouth of the river is occurring.

Requirements for termination

Stage 2 of the Plan may be rescinded upon notification by GBRA that the triggering event (no flow over the Barrier) has ceased. Stage I (Mild Water Shortage Conditions) will go into effect at this time.

Stage 3 Triggers – 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 Stage 1 and Stage 2 conditions are active and in addition:

The release of stored water from Canyon Dam to meet demand in Calhoun County is being executed by GBRA, to supplement its run-of-the river permitted supply available at the Barrier.

Requirements for termination

Stage 3 of the Plan may be rescinded when the triggering event (the release of stored water for Calhoun County customers from Canyon Dam) ceases. Stage 2 conditions go into effect upon termination of Stage 3.

Stage 4 Triggers – 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 Stage 3 conditions are active and, in addition, all customer demand in Calhoun County is being met by the permitted release of stored water in Canyon Dam. The initiation of Stage 4 will also depend on:

- The cessation of flow from one or both of the two major springs, Comal and San Marcos Springs (equivalent to the drought of record).
- Encroachment of salt water from San Antonio bay toward the Barrier.

Requirements for termination

Stage 4 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist. Upon termination of Stage 4, Stage 3 becomes operative.

Stage 5 Triggers – 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 Manager, or his/her designee, determines that a water supply emergency exists based on:

- Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; or
- Natural or man-made contamination of the water supply source(s).

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 3 consecutive days.

Stage 6 Triggers – WATER ALLOCATION

Requirements for initiation

Water Code Section 11.039

Distribution of Water During Shortage

(a) If a shortage of water in a water supply not covered by a water conservation plan prepared in compliance with Texas Commission on Environmental Quality or Texas Water Development Board rules results from drought, accident, or other cause, the water to be distributed shall be divided among all customers pro rata, according to the amount each may be entitled to, so that preference is given to no one and everyone suffers alike.

(b) If a shortage of water in a water supply covered by a water conservation plan prepared in compliance with Texas Natural Resource Conservation Commission or Texas Water Development Board rules results from drought, accident, or other cause, the person, association of persons, or corporation owning or controlling the water shall divide the water to be distributed among all customers pro rata, according to:

(1) the amount of water to which each customer may be entitled; or

(2) the amount of water to which each customer may be entitled, less the amount of water the customer would have saved if the customer had operated its water system in compliance with the water conservation plan.

(c) Nothing in Subsection (a) or (b) precludes the person, association of persons, or corporation owning or controlling the water from supplying water to a person who has a prior vested right to the water under the laws of this state.

Section IX: Drought Response Stages

The City Manager, or his/her designee, shall monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in Section VIII of this Plan, shall determine that a mild, moderate, severe, critical, emergency or water shortage condition exists and shall implement the following notification procedures:

Notification

Notification of the Public:

The City Manager or his/ her designee shall notify the public by means of:

- Publication in the local newspaper
- Public service announcements
- Postings on the City Web Pages
- Push notifications through Dropcountr
- Notification through Code red alerts
- Posting through various social media outlets

Additional Notification:

The City Manager or his/ her designee shall notify directly, or cause to be notified directly, the following individuals and entities:

Mayor and members of the City Council	Numbers listed in City Managers Office
Fire Chief	361-552-3241
County Judge & Commissioner(s)	361-553-4600
TCEQ Corpus Christi Regional Office	361-881-6900
Calhoun County Hospital	361-552-6713
DaVita Port Lavaca Dialysis	833-343-0450

Stage 1 Response – MILD Water Shortage Conditions

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

Supply Management Measures:

Reduced flushing of water mains.

Voluntary Water Use Restrictions:

- (a) Water customers are requested to voluntarily limit the irrigation of landscaped areas to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and to irrigate landscapes only between the hours of midnight and 10:00 a.m. and 8:00 p.m. to midnight on designated watering days.
- (b) All operations of the City of Port Lavaca shall adhere to the same water use restrictions.
- (c) Water customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes.

Stage 2 Response – MODERATE Water Shortage Conditions

Goal: Achieve a 15% reduction in total domestic water use.

Supply Management Measures:

See Stage I. Also reduced irrigation of public landscaped areas.

Water Use Restrictions.

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

- (a) Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and irrigation of landscaped areas is further limited to the hours of 12:00 midnight until 10:00 a.m. and between 8:00 p.m. and 12:00 midnight on designated watering days. However, irrigation of landscaped areas is permitted at any time if it is by means of a hand-held hose, a faucet filled bucket or watering can of five (5) gallons or less, or 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 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 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 rises. 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 is contingent upon frequent vehicle cleansing, such as 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 12:00 midnight and 10:00 a.m. and between 8 p.m. and 12:00 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 firefighting, 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 may be allowed under special permit from the City of Port Lavaca.
- (f) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours 12:00 midnight and 10:00 a.m. and between 8 p.m. and 12:00 midnight. However, if the golf course utilizes a water source other than that provided by the City of Port Lavaca, the facility shall not be subject to these regulations.
- (g) All restaurants are prohibited from serving water to patrons except upon request of the patron.
- (h) 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.
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 Response – SEVERE Water Shortage Conditions

Goal: Achieve a 20% reduction in total domestic water use.

Supply Management Measures:

See Stage 2. Eliminate the flushing of all water mains except for decontamination purposes, discontinue irrigation of public landscaped areas and all water use for street sweeping.

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

- (a) Irrigation of landscaped areas shall be limited to designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8 p.m. and 12:00 midnight and shall be by means of hand-held hoses, hand-held buckets, drip irrigation, or permanently installed automatic sprinkler system only. The use of hose-end sprinklers is always prohibited.
- (b) The watering of golf course tees is prohibited unless the golf course utilizes a water source other than that provided by the City of Port Lavaca.
- (c) The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued.

Stage 4 Response – CRITICAL Water Shortage Conditions

Goal: Achieve a 20% reduction in total water use.

Supply Management Measures:

See Stage 3. Upon implementation of Stage 4 the City of Port Lavaca, upon having issued written notice, will disconnect the water services of willful violators if necessary to prevent the deliberate wasting of water.

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

- (a) Irrigation of landscaped areas shall be limited to designated watering days between the hours of 6:00 a.m. and 10:00 a.m. and between 8:00 p.m. and 12:00 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 are always prohibited.

(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 and commercial service stations and not in the immediate interest of public health, safety, and welfare is prohibited. Further, such vehicle washing at commercial car washes and commercial service stations shall occur only between the hours of 6:00 a.m. and 10:00 a.m. and between 6:00 p.m. and 10 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 application 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 approved, and time limits for approval of such applications are hereby suspended for such time as this drought response stage or a higher-numbered stage shall be in effect.

Stage 5 Response – EMERGENCY Water Shortage Conditions

Goal: Achieve a 50% percent reduction in total water use.

Supply Management Measures:

See Stage 4. Notify the Port Lavaca Fire Department and Calhoun County Emergency Management Coordinator. Contact the top 10 water customers and coordinate the usage of water in accordance with their respective needs.

Water Use Restrictions. All requirements of Stage 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.

Stage 6 Response – WATER ALLOCATION

In the event that water shortage conditions threaten public health, safety, and welfare, the City Manager is hereby authorized to allocate water according to the following water allocation plan:

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 Port Lavaca of a greater number of persons per household on a form prescribed by the City Manager. The City Manager 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 Port Lavaca 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 Manager. 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 Port Lavaca on such 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 Port Lavaca in writing within two (2) days. In prescribing the method for claiming more than two (2) persons per household, the City Manager shall adopt methods to ensure the accuracy of the claim. Any person who knowingly, recklessly, or with criminal negligence falsely reports the number of persons in a household or fails to timely notify the City of Port Lavaca of a reduction in the number of persons in a household shall be two hundred dollars (\$200).

Residential water customers shall pay the following surcharges:

Up to the threshold amounts, the monthly bill will be calculated in the normal manner. Over and above the threshold amounts indicated above, an additional 50% will be calculated for the existing block rate (the amount typically paid per 1000 gallons for all water used above the monthly minimum) per thousand-gallon increment.

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) 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 Port Lavaca of a greater number on a form prescribed by the City Manager. The City Manager 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 the City of Port Lavaca 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 Manager. If the number of dwelling units served by a master meter is reduced, the customer shall notify the City of Port Lavaca in writing within two (2) days. In prescribing the method for claiming more than two (2) dwelling units, the City Manager shall adopt methods to ensure 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 timely notify the City of Port Lavaca of a reduction in the number of dwelling units served by a master meter shall be fined two hundred dollars (\$200).

Customers billed from a master meter under this provision shall pay the following monthly surcharges:

Up to the threshold amounts (6000 gallons/month/dwelling unit), the monthly bill will be calculated in the normal manner. Over and above the threshold amounts an additional 50% will be calculated for the existing block rate (the amount typically paid per 1000 gallons for all water used above the monthly minimum) per thousand-gallon increment.

Surcharges shall be cumulative.

Commercial Customers

A monthly water allocation shall be established by the City Manager, or his/her designee, for each nonresidential commercial customer other than an industrial customer who uses water for processing purposes. The non-residential customer's allocation shall be approximately 75% of the customer's usage for corresponding month's billing period for the previous 12 months. If the 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 history exists, but in any case, not less than 6000 gallons per month. The City Manager shall give his/her best effort to see that notice of each non-residential 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 Port Lavaca to determine the allocation. Upon request of the customer or at the initiative of the City Manager, the allocation may be reduced or increased if, (1) the designated period does not accurately reflect the customer's normal water usage, (2) one nonresidential customer agrees to transfer part of its allocation to another nonresidential 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 Manager.

Nonresidential commercial customers shall pay the following surcharges:

Up to the threshold amounts, the monthly bill will be calculated in the normal manner. Over and above the threshold amounts an additional 50% will be calculated for the existing block rate (the amount typically paid per 1000 gallons for all water used above the monthly minimum) per thousand-gallon increment.

The surcharges shall be cumulative.

Industrial Customers

A monthly water allocation shall be established by the City Manager, or his/her designee, for each industrial customer, which uses water for processing purposes. The industrial customer's allocation shall be approximately 90% percent 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 80% percent of the customer's water usage baseline. The industrial customer's water use baseline will be computed on the average water use 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 Manager 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 Port Lavaca 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 Manager, the allocation may be reduced or increased, (1) if the designated period does not accurately reflect the customer's normal water use because the customer had shut down 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 shut down 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 water use 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 Manager.

Industrial customers shall pay the following surcharges:

Up to the threshold amounts, the monthly bill will be calculated in the normal manner. Over and above the threshold amounts an additional 50% will be calculated for the existing block rate (the amount typically paid per 1000 gallons for all water used above the monthly minimum) per thousand-gallon increment.

The surcharges shall be cumulative.

Section X: Enforcement

- (a) No person shall knowingly or intentionally allow the use of water from the **City of Port Lavaca** 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 Manager, or his/her designee, in accordance with provisions of this Plan.
- (b) Any person who violates this Plan is guilty of a misdemeanor and, upon conviction shall be punished by a fine of two hundred dollars (\$200). 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 Manager, shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a re-connection charge, as indicated in the City of Port Lavaca Water Rates and Service Ordinance, and any other costs incurred by the City of Port Lavaca in discontinuing service. In addition, suitable assurance must be given to the City Manager that the same action shall not be repeated while the Plan is in effect. Compliance with this plan may also be sought through injunctive relief in the district court.

(c) Any person, including a person classified as a water customer of the City of Port Lavaca, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parents' control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this Plan and that the parent could not have reasonably known of the violation.

(d) Any employee of the City of Port Lavaca, police officer, or other individual designated by the City Manager, 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 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 municipal court to enter a plea of guilty or not guilty for the violation of this Plan. If the alleged violator fails to appear in municipal court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant. These cases shall be expedited and given preferential setting in municipal court before all other cases.

Section XI: Variances

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

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

- (b) Alternative methods can be implemented which will achieve the same level of reduction in water use.

Persons requesting an exemption from the provisions of this Ordinance shall file a petition for variance with the City of Port Lavaca 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 Manager, 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 uses 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.

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

- (a) Variances granted shall include a timetable for compliance.
- (b) Variances 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.