



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		04/27/2015		
Department:		Public Works		
Department Head		Gerald Cosgrove		
Agenda Coordinator (include phone #): Tiffany Stephens (972) 769-4264				
CAPTION				
<p>An Ordinance of the City of Plano, Texas, amending Section 21-52 of Chapter 21, Utilities, of the Code of Ordinances of the City of Plano to identify the authority of the City to implement Water Conservation Requirements; and providing a penalty clause, a savings clause, a severability clause, a repealer clause, a publication clause and an effective date.</p>				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 2014-15	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	66,981,316	0	66,981,316
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	66,981,316	0	66,981,316
FUND(S): WATER & SEWER FUND				
<p>COMMENTS: This item has no immediate financial impact given current water restrictions. Future years revenue from water sales will be diminished due to revisions limiting sprinkler irrigation; however, the impact of these restrictions is indeterminable. Water rates and fees will continue to be structured to support the operational needs of Plano's water utility.</p> <p>STRATEGIC PLAN GOAL: Revising the Code of Ordinances to revise Plano's Water Conservation Plan and safeguard water supply for future use relates to the City's Goal of Financially Strong City with Service Excellence and Partnering for Community Benefit.</p>				
SUMMARY OF ITEM				
<p>The City of Plano adopted a revised Water Conservation Plan on April 28, 2014. This plan has many important water conservation requirements that presently cannot be enforced. This proposed ordinance will allow the City of Plano to enforce twice a week watering from April 1st to October 31st and once a week watering the remainder of the year. The ordinance restricts other items as well and includes a variance procedure. It is important for the City of Plano to conserve water even when we are out of drought restrictions.</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Ordinance				

An Ordinance of the City of Plano, Texas, amending Section 21-52 of Chapter 21, Utilities, of the Code of Ordinances of the City of Plano to identify the authority of the City to implement Water Conservation Requirements; and providing a penalty clause, a savings clause, a severability clause, a repealer clause, a publication clause and an effective date.

WHEREAS, on June 9, 1986, the City Council of the City of Plano duly passed Ordinance No. 86-6-15, which prohibited fugitive water flow; and

WHEREAS, the North Texas Municipal Water District adopted a Model Water Conservation Plan in 2014; and

WHEREAS, the City staff recommends that further amendments are necessary to Division 3. - Section 21-52. Fugitive water flow prohibited. These amendments are necessary to improve water conservation; and

WHEREAS, the City Council, after consideration of the recommendations of staff and all matters attendant and related thereto, is of the opinion that the recommended changes should be approved and adopted.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS THAT:

Section I. Division 3. Sec. 21-52. - Fugitive water flow prohibited of Article II, Water, Chapter 21, Utilities, of Plano Code of Ordinances is hereby repealed and replaced in its entirety as follows:

Sec. 21-52 Water Conservation Requirements

The City of Plano adopts the following water conservation measures:

- (a) The City of Plano limits irrigation with sprinklers to a maximum of twice per week between April 1 and October 31 per the table shown below for the corresponding even or odd numbered service address for the property, when not in a drought stage that further limits watering days.
- (b) The City of Plano limits irrigation with sprinklers to no more than one day per week between November 1 and March 30 per the table shown below for the corresponding even or odd numbered service address for the property, when not in a drought stage that further limits watering days.

Street Address	Days permitted for watering (April 1 – October 31)	Days permitted for watering (November 1 – March 31)
Even numbered	Mondays and Thursdays	Thursdays
Odd numbered	Tuesdays and Fridays	Tuesdays

- (c) The City of Plano restricts irrigation with sprinklers between the hours of 10 am to 6 pm from April 1 to October 31 of each year.
- (d) No person or operation shall cause or permit the flow of excess or fugitive water onto any adjacent property or public right-of-way. This includes watering impervious surfaces and watering during a precipitation or freeze event.
- (e) Rain and freeze sensors must be maintained to be functional.
- (f) “At home” car washing can be done only when using a water hose with a shut-off nozzle.
- (g) Charity car washes are allowed provided hoses use shut-off nozzles.
- (h) Home Owner Associations shall follow the Even Address Watering Schedule.
- (i) City water may not be used to fill/refill any natural or manmade pond with a surface area of 500 square feet or more. This does not restrict the filling or maintenance of pond levels by the effect of natural water runoff or the introduction of well water into the pond.
- (j) The watering of landscaping using a hand-held hose or soaker hose is allowed any day up to 2 hours a day.
- (k) The planting of cool season grasses (such as rye grass or other similar grasses) is prohibited.
- (l) Splash pads are only allowed to be installed if they recycle their water.

Properties that have their own water supply or use drip irrigation are exempt from these requirements, except that drip irrigation systems must not cause flow onto adjacent property or public right-of-way.

Sec. 21-52.1. Exemption

The governmental use of water for essential services such as police, fire, and emergency services which is necessary to preserve or protect the health, safety and welfare of the citizens of Plano are exempt from any and all restrictions or mandates set forth in the Plan.

Sec. 21-52.2. Definitions

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"City" refers to the City of Plano.

"City Manager" refers to the City Manager of the City of Plano or any other City of Plano public official designated by the City Manager to act on behalf of the City Manager.

"Cool Season Grasses" refers to the varieties of turf grass that grow best in cool climates primarily in northern and central regions of the U.S. Cool season grasses include perennial and annual rye grass, Kentucky blue grass and fescues.

"Customer" means a person, company or other entity connected to the City's water system and contracting with the City of Plano to receive potable water service.

"Drip Irrigation" means micro-irrigation with low volume (measured in gallons per hour) and low pressure release of water to a specific root zone through point source emitters or pressure compensating in-line drippers. This does not include micro-sprayers or misters.

"Even numbered address" refers to street addresses (e.g. 1234 Plano Street) or box numbers ending in 0, 2, 4, 6, or 8.

"Fugitive water" refers to pumping, flow, release, escape, or leakage of any water from any pipe, valve, faucet, connection, diversion, well, from any water supply, transport, storage disposal or delivery system of a facility onto adjacent property or the public right-of-way.

"Irrigation System" means a site-specific system of delivering water, generally for landscape irrigation, via a system of pipes or other conduits installed below ground.

"Landscape" means natural plant materials around buildings or on grounds (i.e., trees, shrubbery, grasses and flowers) but excludes athletic fields and high use areas.

"North Texas Municipal Water District" or "NTMWD" refers to the North Texas Municipal Water District.

"Odd numbered address" refers to street addresses (e.g. 123 Plano Street) or box numbers ending in 1, 3, 5, 7 or 9.

"Person" means owner, occupant, or person in control of the premises or a person authorized by the owner, occupant, or person in control of the premises.

"Plano" refers to the City of Plano or the City.

"Pond" refers to a still body of water with a surface area of five hundred (500) square feet or more.

"Soaker Hose" means a perforated or permeable garden-type hose that is laid above ground and provides irrigation at a slow and constant rate.

"Sprinkler" means an above ground irrigation device that may be attached to a garden hose or in-ground irrigation system. This includes spray heads, rotor heads, and oscillating devices.

Sec. 21-52.3 Procedures for Granting Variances to these Requirements

- (a) The City Manager, Public Works Director or official designee may grant temporary variances for water uses otherwise prohibited under this drought and emergency response plan.
- (b) Variances shall be granted or denied at the discretion of the City Manager, Public Works Director or official designee. All petitions for variances should be in writing or e-mail or online form and include the following information:
 - (1) Name and address of the petitioners
 - (2) Contact email address and/or telephone number
 - (3) Purpose of water use
 - (4) Specific provisions from which relief is requested
 - (5) Detailed statement of the adverse effect of the provision from which relief is requested
 - (6) Description of the relief requested
 - (7) Period of time for which the variance is sought
 - (8) Other pertinent information.
- (c) Variances may be requested for landscaped areas to be watered for no more than thirty (30) consecutive days from the date a variance is granted. This includes new construction landscaped areas, newly seeded, sodded, hydro seeded, hydro mulched, sprigged areas in open space, common areas, right-of-ways and turf renovation at athletic fields.
- (d) Variances are considered temporary and must be re-submitted for reconsideration should the Drought and Emergency Response Plan be activated.

Sec. 21-52.4. Administrative Remedies for Violations

The following administrative remedies are available to the City in cases of noncompliance with the provisions of this ordinance. These administrative remedies may be assessed in addition to any criminal penalty assessed for a violation of this ordinance. Each day a violation continues shall constitute a separate violation for purposes of assessing administrative remedies. The requirement of a culpable mental state is expressly waived for administrative remedies.

In the event that any person violates the provisions of this ordinance, the Director of Public Works or his designee, shall give notice to such person setting forth the evidence of noncompliance with the restrictions outlined above.

(a) **In-Ground Irrigation Systems Violations**

(1) **Notification of Violation**

- (i) The City will install a locking device on the person's double check valve to the irrigation system; and
- (ii) Notice to be sent by letter delivered by United States Postal Service addressed to the person as recorded in the city's customer and utility billing records notifying that the irrigation system has been turned off and locked. The letter shall advise the person of the assessment of administrative remedies and fees. The letter shall advise the person the procedures for payment of the administrative fees and the procedure for requesting a hearing to contest the assessment of the administrative remedies.

(2) **Remedy**

- (i) The administrative penalty is one hundred fifty dollars (\$150) per occurrence when paid at Customer and Utility Services.
- (ii) If the irrigation system is not equipped with a rain/freeze sensor, then the administrative penalty can be waived if a licensed irrigator installs an operational rain/freeze sensor on the system. Such installations are not eligible for the City's rebate program.

(b) **Violations for Systems without Double-Check Valves or In-Ground Irrigation Systems.**

(1) **Violation Notification**

- (i) Notice shall be sent by letter delivered by United States Postal Service addressed to the person as recorded in the city's customer and utility billing records notifying the person of the violation. The letter shall advise the person of the assessment of administrative fees. The letter shall advise the

person the procedures for payment of the administrative fees and the procedure for requesting a hearing to contest the assessment of the administrative remedies.

(2) Remedy

- (i) The administrative penalty is one hundred fifty dollars (\$150.00) per occurrence when paid at Customer & Utility Services.
- (ii) If the irrigation system is not equipped with a rain/freeze sensor, then the administrative penalty can be waived if a licensed irrigator installs an operational rain/freeze sensor on the system. Such installations are not eligible for the City's rebate program.

(c) Procedures for Paying Administrative Penalties or Requesting a Hearing on the Fees

- (1) Personal appearance by the person listed on the city's Customer & Utility Services billing records is required to re-establish service to the irrigation system. The person's government issued photo identification must be provided at time of payment or upon request for a hearing.
- (2) A person may request a hearing to protest the assessment of any administrative penalty. To request a hearing, the owner must make the request in person to the City Public Works Department within fifteen (15) business days from the date on the written notice of violation.
- (3) The Public Works Operations Manager or his designee shall conduct the hearing. The Manager shall evaluate all information offered by the petitioner at the hearing. The person making the request for a hearing shall bear the burden of proof to show why, by a preponderance of the evidence, the administrative remedy should not be assessed. The Manager will provide a decision at the time of the hearing or within three (3) business days following the conclusion of the hearing.
- (4) Payment of any penalty assessed at the hearing must be made within seven (7) business days of the decision from the hearing. Any penalty not paid within this time limit shall be added to the person's next water billing cycle.
- (5) A person may appeal the decision from the hearing to the office of the Director of Public Works or his designee. The Director or his designee shall hear the appeal.
- (6) The request for an appeal must be filed in writing with the office of the Director of Public Works within three (3) business days from the notice being given by the Manager.
- (7) The Director or his designee shall render a decision at the time of the appeal or within three (3) business days from the conclusion of the appeal.

- (8) A person may elect to pay the administrative penalty without requesting a hearing. Any penalty not paid within fifteen (15) business days from the date on the written notice shall be added to the person's next water billing cycle.
 - (9) Unpaid penalties related to the Water Conservation Requirements can result in the termination of the domestic water services in accordance with City Code Chapter 21, Article IV, Service Charges Generally, Section 21-131 (d) and the established policies and procedures of the Customer and Utility Services Department.
- (d) Re-establishment of service to double checks that have been locked-off.
- (1) The administrative penalty is to be paid at City Customer & Utility Services. The locking device will be removed within three (3) working days after notice of payment is received from Customer & Utility Services.
 - (2) Request for same day service to unlock double check will require an additional fee of forty dollars (\$40) to be paid in advance at Customer & Utility Services.
- (e) It shall be unlawful for a person to remove through the use of any means or otherwise cause damage to a lock that has been placed on a backflow prevention device by the director or his designee pursuant to this section.
- (f) Administrative remedy for customers outside city. The Director of Public Works shall advise wholesale water customers outside the city limits receiving water service from the city of actions taken under the Plan by telephone and/or by letter. Noncompliance with any requirement in any stage may result in termination of service and removal of meter. Prior to such termination, the wholesale water customer shall be given notice of the city's intent to terminate service and shall have five (5) business days from the mailing of such notice to appeal the decision to the Director. Notice shall be sufficient if sent by certified mail to the last known address of the customer. If service is terminated, customer shall be liable for all costs of reinstallation. Termination of service to a wholesale water customer under this provision is subject also to the terms of any written contract between the city and the customer.

Section II. Any person, firm or corporation found to be violating any term or provision of this Ordinance shall be subject to a fine in accordance with Section 21-48 of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section III. All provisions of the ordinances of the City, codified or uncodified, in conflict with the provisions of this Ordinance are hereby repealed upon the effective date of this Ordinance, and all other provisions of the ordinances of the City, codified or uncodified, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section IV. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this Ordinance shall not affect the validity or constitutionality of any other portion of this Ordinance.

Section V. The repeal of any ordinance or part of any ordinance effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as affecting any rights of the municipality under any section or provision of any ordinance at the time of passage this Ordinance.

Section VI. This Ordinance shall become effective from and after its passage and publication as required except that the requirement to stop using city water to fill a pond of over 500 square feet shall go into effect on January 1, 2017.

DULY PASSED AND APPROVED this the 27th day of April 2015.

Harry LaRosiliere, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY