

**ORDINANCE NO. 102419-04**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA VERNIA, TEXAS, AMENDING CHAPTER 36 UTILITIES ARTICLE II WATER DIVISION 1 GENERALLY THE DROUGHT CONTINGENCY PLAN OF THE CITY OF LA VERNIA IN THE CODE OF ORDINANCES; ESTABLISHING ADMINISTRATIVE AND CRIMINAL PENALTIES WITH A FINE NOT TO EXCEED \$200.00; ESTABLISHING AN EFFECTIVE DATE HEREOF.**

**WHEREAS**, to conserve the available water supply and/or to 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 La Vernia hereby adopts the following regulations and restrictions on the delivery and consumption of water through an ordinance; and,

**WHEREAS**, 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; and,

**WHEREAS**, opportunity for the public to provide input into the preparation of the Plan was provided by the City of La Vernia by means of public notice in the designated of a public hearing; and,

**WHEREAS**, the City of La Vernia 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; and,

**WHEREAS**, the City of La Vernia will periodically provide wholesale water customers 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; and,

**WHEREAS**, the service area of the City of La Vernia is located within South Central Texas Regional Water Planning Area (Region L) and the City has informed the Region L Planning Group of the adoption of this Plan and has provided a copy of the Plan to the Texas Water Development Board.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA VERNIA, TEXAS:**

**Section 1.** That the recitals contain in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

**Section 2.** That CHAPTER 36 UTILITIES, ARTICLE II WATER, DIVISION 1 GENERALLY, OF THE CITY OF LA VERNIA CODE OF ORDINANCES, DROUGHT CONTINGENCY PLAN, is hereby amended as set forth in Exhibit A.

**Section 3.** The City Administrator 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.

**Section 4.** 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 5.** The provisions of this Plan shall apply to all persons, customers, and property utilizing water provided by the City. The terms “person” and “customer” as used in the Plan include individuals, corporations, partnerships, associations, and all other legal entities

**Section 6.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance be severable, and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared invalid by judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance and the remainder of this ordinance shall be enforced as written.

**Section 7.** That it is officially found, determined and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

**Section 8.** This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

**Section 9.** The repeal or amendment of any ordinance or part of ordinances 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 discontinuing, abating, modifying, or altering any penalty accruing or to accrue or as affecting any rights of the City of La Vernia under any section or provisions of any ordinances in effect at the time of passage of this ordinance.

**Section 10.** The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter as that covered herein.

**PASSED, APPROVED and ADOPTED by the City Council of the City of La Vernia, Texas, on this 24<sup>th</sup> day of October, 2019.**

**CITY OF LA VERNIA**

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Robert Gregory, Mayor

ATTEST:

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Brittani Porter, City Secretary

## EXHIBIT A

### CHAPTER 36 UTILITIES, ARTICLE II WATER, DIVISION 1 GENERALLY, OF THE CITY OF LA VERNIA CODE OF ORDINANCES IS HEREBY AMENDED AS FOLLOWS:

#### DELETE:

~~Sec. 36-201. Drought contingency plan adopted.~~

~~The city's drought contingency plan, on file in the office of the city secretary treasurer, is made part hereof for all purposes be, and the same is hereby, adopted as the official policy of the city.~~

#### ADD:

#### **Sec. 36-201. Declaration of policy, purpose and intent**

- (a) 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 La Vernia, hereinafter called the City, hereby adopts the following regulations and restrictions on Drought Contingency Plan (the Plan) for the delivery and consumption of water.
- (b) 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 conditions are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in this Chapter.
- (c) Opportunity for the public to provide input into the preparation of the Plan was provided by the City by means of previously scheduling and providing public notice of a public meeting to accept input on the Plan.
- (d) The City 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 direct contact, posting of information in public places and publication in local newspaper(s).
- (e) The service area of the city is located entirely within the South Central Texas Regional Water Planning Area (Region L). The City has informed the Region L Planning Group of the adoption of this Plan.

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

### **Sec. 36-201.1 Definitions**

For the purposes of this Chapter, 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 La Vernia.

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 neither essential nor required for the protection of public, health, safety, and welfare, including:

- A. Irrigation of landscaped area, including parks, water playgrounds, athletic fields, except otherwise provided under this Plan;
- B. Use of water to wash any motor vehicles, 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.

**Sec. 36-201.2 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, website, social media and/or signs posted in public places.

**(a) 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 non-essential water uses for Stage 1 of this Plan provided in Sections 7 and 9 when the following occurs:

1. Any regularly used well is out of service for more than seventy two (72) consecutive hours (three (3) days).
2. Well flow from any regularly used well is less than ninety percent (90%) of capacity.
3. Any regularly used storage facility is not filled for seventy two (72) consecutive hours (three (3) days).
4. Any storage facility is out of service due to repainting or other required maintenance.

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 seven consecutive days.

**(b) 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 for Stage 2 of this Plan when the following instances occur:

1. Any regularly used well is out of service for more than one hundred twenty (120) consecutive hours (five (5) days).
2. Well flow from any regularly used well is less than eighty percent (80%) of capacity.
3. Any regularly used storage facility is not filled for one hundred twenty (120) consecutive hours (five (5) days).

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 seven consecutive days. Upon termination of Stage 2, Stage 1 becomes operative.

**(c) 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 the following instances occur:

1. Any regularly used well is out of service for more than one hundred forty four (144) consecutive hours (six (6) days).

2. Well flow from any regularly used well is less than seventy percent (70%) of capacity.
3. Any regularly used storage facility is not filled for one hundred forty four (144) consecutive hours (six (6) days).

**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 seven consecutive days. Upon termination of Stage 3, Stage 2 becomes operative.

**(d) 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 the following instances occur:

1. Any regularly used well is out of service for more than one hundred sixty eight (168) consecutive hours (seven (7) days).
2. Well flow from any regularly used well is less than sixty percent (60%) of capacity.
3. Any regularly used storage facility is not filled for one hundred sixty eight (168) consecutive hours (seven (7) days).

**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 seven consecutive days. Upon termination of Stage 4, Stage 3 becomes operative.

**(e) 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 Administrator, or his/her designee, determines that a water supply emergency exists based on:

1. Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; or
2. 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 seven (7) consecutive days.



**(f) Stage 6 Triggers - Water Allocation**

Requirements for Initiation: Customers shall be required to comply with the Water Allocation Plan prescribed in Section IX of the Plan when the Mayor and City Council determine that the water supply emergency exists and comply with the requirements and restrictions for Stage 5 of the Plan when:

1. Extreme drought conditions exists;
2. Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; **or**
3. Natural or man-made contamination of the water supply source occurs.

Requirements for Termination:

Stage 6 of the Plan may be rescinded when the above referenced entity for a specific water source announces the termination of the Drought Stage or may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of five (5) consecutive days.

**Sec. 36-201.3 Notification for 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 36-201.2 of this Chapter, shall determine that a mild, moderate, severe, critical, or emergency water shortage condition exists and shall implement the following notification procedures:

**(a) Notification**

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

1. Publication in a newspaper(s) of general circulation.
2. Direct mail to each customer.
3. Signs posted in public places.

**(b) Additional Notification**

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

1. Members of the City Council.
2. Local Fire Chief(s).

3. County Emergency Management Coordinator.
4. County Judge and Commissioner(s).
5. Critical water users (hospitals, daycares, retirement/nursing homes, etc.).
6. TCEQ (required when mandatory restrictions are imposed).

#### **Sec. 36-201.4 Drought Response Stages**

##### **(a) Stage 1 – MILD Water Shortage Conditions**

1. Goal: Achieve a voluntary ten percent (10%) reduction in daily water demand.
2. Supply Management Measures: The Director of Public Works shall be responsible for overseeing the reduction or discontinued flushing of water mains, activation and use of an alternative supply source(s), use of reclaimed water for non-potable purposes, and blending of alternate sources.
3. Voluntary Water Use Restrictions for Reducing Demand: 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.
4. All operations of the City of La Vernia shall adhere to water use restrictions prescribed for Stage 1 of the Plan.
5. Water customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes.

##### **(b) Stage 2 – Restrictions - MODERATE Water Shortage Conditions**

1. Goal: Achieve a twenty percent (20%) reduction in daily water demand.
2. Supply Management Measures: The Director of Public Works shall see that reduced or discontinued flushing of water mains, reduced or discontinued irrigation of public landscaped areas, use of blending an alternative supply source(s) and use of reclaimed water for non-potable purposes.
3. Water Use Restrictions for Demand Reduction: Under the 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 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 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 La Vernia.
- (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 La Vernia), 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:

- i. wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- ii. use of water to wash down buildings or structures for purposes other than immediate fire protection;
- iii. use of water for dust control;
- iv. flushing gutters or permitting water to run or accumulate in any gutter or street; and
- v. failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

**(c) Stage 3 – Restrictions – SEVERE Water Shortage Conditions**

1. Goal: Achieve a thirty percent (30%) reduction in daily water demand.
2. Supply Management Measures: The Director of Public Works shall see that reduced or discontinued flushing of water mains, reduced or discontinued irrigation of public landscaped areas, use of blending an alternative supply source(s) and use of reclaimed water for non-potable purposes.
3. Water Use Restrictions: All requirements of Stages 1 and 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 prohibited at all times.
  - (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 La Vernia.
  - (c) The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued.

**(d) Stage 4 – Emergency Restrictions – CRITICAL Water Shortage Conditions**

1. Goal: Achieve a forty percent (40%) reduction in daily water demand.
2. Supply Management Measures: The Director of Public Works shall see that reduced or discontinued flushing of water mains, reduced or discontinued irrigation of public landscaped areas, use of blending an alternative supply source(s) and use of reclaimed water for non-potable purposes.
3. Water Use Restrictions: All restrictions in Stage 1, 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 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 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.

**(e) Stage 5 Response – EMERGENCY Water Shortage Conditions**

- 1. Goal: Achieve a fifty percent (50%) reduction in daily water demand.
- 2. Water Use Restrictions for Reducing Demand: 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.

**(f) Stage 6 Response – Water Allocation**

In the event that water shortage conditions threaten public health, safety, and welfare, the City Administrator or his/her designee is hereby authorized to allocate water according to the following water allocation plan:

**1. Single-Family Residential Customers**

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

<b>Persons per Household</b>	<b>Gallons Per Month</b>
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 customers’ household is comprised of two (2) persons unless the customer notifies the City of La Vernia of a greater number of persons per household on a form prescribed by the Director of Public Works. The Director of Public Works 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 La Vernia offices to complete and sign the form claiming more than two (2) persons per household. New customers may claim the number of persons per household at the time of applying for water service on the form prescribed by the Director of Public Works. When the number of persons per household increases so as to the place the customer in a different allocation category, the customer may notify the City of La Vernia 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 La Vernia in writing within two (2) days. In prescribing the method for claiming more than two (2) persons per household, the Director of Public Works shall adopt methods to insure the accuracy of the claim. Any person who knowingly, recklessly, or with criminal negligence false reports the number of persons in a household or fails to timely notify the City of La Vernia of a reduction in the number of persons in a household shall be fined not less than two hundred dollars (\$200.00). Residential water customers shall pay the following surcharges:

\$2.00	For the first 1,000 gallons over allocation.
\$3.00	For the second 1,000 gallons over allocation.
\$4.00	For the third 1,000 gallons over allocation.
\$5.00	For each additional 1,000 gallons over allocation.

Surcharges shall be cumulative.

**2. 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 La Vernia of a greater number on a form prescribed by the Director of Public Works. The Director of Public Works 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 La Vernia 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 only those occupying the dwelling unit at the time of applying for water service on the form prescribed by the Director of Public Works. If the number of dwelling units served by a master meter is reduced, the customer shall notify the City of La Vernia in writing within two (2) days. In prescribing the method for claiming more than two (2) dwelling units, the Director of Public Works shall adopt methods to insure the accuracy of the claim. Any person who knowingly, recklessly, or with criminal negligence false reports the number of dwelling units served by a master meter or fails to timely notify the City of La Vernia of a reduction in the number of persons in a household shall be fined shall be fined not less than two hundred dollars (\$200.00). Customers billed from a master meter under this provision shall pay the following monthly surcharges:

\$2.00	For the first 1,000 gallons over allocation.
\$3.00	For the second 1,000 gallons over allocation.
\$4.00	For the third 1,000 gallons over allocation.
\$5.00	For each additional 1,000 gallons over allocation.

Surcharges shall be cumulative.

**3. Commercial Customers**

A monthly water usage allocation shall be established by the City Administrator or Director of Public Works, or his/her assignee, 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 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. The Director of Public Works 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 La Vernia to determine the allocation. Upon request of the customer or at the initiative of the Director of Public Works, 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:

\$2.00	For the first 1,000 gallons over allocation.
\$3.00	For the second 1,000 gallons over allocation.
\$4.00	For the third 1,000 gallons over allocation.
\$5.00	For each additional 1,000 gallons over 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.

#### **4. Industrial Customers and Commercial Nurseries**

A monthly water usage allocation shall be established by the City Administrator or Director of Public Works, or his/her assignee, for each industrial customer, which uses water for processing purposes. The industrial customer's and commercial nurseries 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 and commercial nurseries, the industrial customer's and commercial nurseries allocation shall be further reduced to eighty five percent (85%) of the customer's water usage baseline. The industrial customer's and commercial nurseries 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 and commercial nurseries 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 Director of Public Works shall give his/her best effort to see that notice of each industrial customer and commercial nurseries 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 La Vernia 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 Director of Public Works, the allocation may be reduced or increased if, (1) the designated period does not accurately reflect the customer's normal water usage because the customer had shutdown 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 usage is limited, (5) the customer agrees to transfer part of its allocation to another industrial customer and commercial nurseries, 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 and commercial nurseries shall pay the following surcharges:

Customers whose allocation is 90% of their twelve month average.

\$2.00	For the first 1,000 gallons over allocation.
\$3.00	For the second 1,000 gallons over allocation.
\$4.00	For the third 1,000 gallons over allocation.
\$5.00	For each additional 1,000 gallons over 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.

**Sec. 36-201.5 Enforcement**

- (a) No person shall knowingly or intentionally allow the use of water from the City of La Vernia 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 up to two hundred dollars (\$200.00).
- (c) Each day that one or more of the provisions in the Plan is violated shall constitute a separate offense.
- (d) If a person is convicted of three or more distinct violations of this Plan, the Director of Public Works shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur.
- (e) Services discontinued under such circumstances shall be restored only upon payment of a reconnection charge, hereby established at one hundred fifty dollars (\$150.00), and any other costs incurred by the City of La Vernia in discontinuing service.
- (f) In addition, suitable assurance must be given to the Director of Public Works that the same action shall not be repeated while the Plan is in effect.
- (g) Compliance with this Plan may also be sought through injunctive relief in the District Court.

- (h) Any person including a person classified as a water customer of the City of La Vernia, 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.
- (i) 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 in violation of this Plan and that the parent could not have reasonably known of the violation.
- (j) Any police officer, code enforcement officer, or other City of La Vernia employee designated by the Director of Public Works, may issue a citation to a person he/she reasonably believes to be in violation of this Ordinance.
- (k) The citation shall be prepared in duplicate and shall contain the name and addresses of the alleged violator, if known, the offense charged, and shall direct him/her to appear in the municipal court on or before the 14<sup>th</sup> day following the date the citation was issued.
- (l) The alleged violator shall be served a copy of the citation.
- (m) 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 immediately family or is a resident of the violator's residence.
- (n) The alleged violator shall appear in municipal court to enter a plea of guilty or not guilty for the violation of this Plan.
- (o) 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.

### **Sec. 36-201.6 Variances**

- (a) The City Administrator, or his/her designee, may, in writing, grant temporary variance for existing water uses 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:
  1. 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.

2. Alternative methods can be implemented which will achieve the same level of reduction in water use.
- (b) Persons requesting an exemption from the provisions of this Drought Contingency shall file a petition for variance with the City of La Vernia within five (5) days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the Director of Public Works, or his/her designee, and shall include the following:
1. Name and address of the petitioner(s).
  2. Purpose of water use.
  3. Specific provision(s) of the Plan from which the petitioner is requesting relief.
  4. Detailed statement as to how the specific provision of the Plan adversely affect the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Ordinance.
  5. Description of the relief requested.
  6. Period of time for which the variance is sought.
  7. 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.
  8. Other pertinent information.
- (c) Variances granted by the City of La Vernia shall be subject to the following conditions, unless waived or modified by the City Administrator or his/her designee:
1. Variances granted shall include an acceptable timetable for compliance.
  2. Variances granted shall expire when the Plan is no longer in effect, unless the petitioner has failed to meet specified requirements.
- (d) No variance shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance.