

ORDINANCE NO. 2022-334

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEVERS,
TEXAS, APPROVING A DROUGHT CONTINGENCY PLAN

WHEREAS, the City of Devers (the “City”) is a Type B, general law municipality that provides water utility services to its residents and citizens outside the city but within the city’s service area; and

WHEREAS, Texas law requires water utility providers to prepare a drought contingency plan; and

WHEREAS, the purpose of the plan is to set forth triggers, rules, and regulations to protect the water supply.

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

SECTION 1. The statements provided in the caption and the recitals are true and correct and are incorporated herein and made a part of this Ordinance.

SECTION 2. The City Council of the City of Devers, Texas hereby adopts the Drought Contingency Plan attached hereto as Exhibit “A”.

SECTION 3. This Ordinance shall become effective in accordance with the laws governing ordinances. The City Secretary is authorized to publish a summary of the Ordinance along with the penalty in accordance with the City of Devers’ Code of Ordinances and State law.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Devers, Texas this the 16th day of August, 2022.


STEVEN HORELICA, MAYOR

ATTEST:


Kristi Ayers, City Secretary

A
EXHIBIT

The City of Devers, Texas

Drought Contingency Plan

2022

Adopted by City Council through Ordinance on August 9, 2022:

DROUGHT CONTINGENCY PLAN FOR THE CITY OF DEVERS, TEXAS

Section I. Introduction

The City of Devers recognizes its fundamental responsibility to provide an adequate supply of safe drinking water for residents and businesses within its city limits. Because drinking water is a precious natural resource, careful planning is needed to ensure that water supplies are protected from contamination, are distributed effectively and efficiently to end users, and that procedures are in place to monitor consumption and to avoid waste.

Water conservation and consumption planning are integral elements for ensuring that the water supplies are not exhausted. To further this goal, the City Council has adopted this plan, via the passage of an Ordinance. This ordinance establishes the City's policies for promoting water conservation and emergency planning, and provides the vision, resource and overall methodologies for establishing an effective program.

This plan addresses the following elements:

- The City of Devers' water conservation
- Methods to reduce water consumption
- Methods to reduce loss or waste of water
- Methods to improve efficient water use
- Methods to increase recycling and reuse of water

Section II. Background

The City of Devers is located in Southeast Liberty County. It is a Texas Type B General Law Municipality with a population of 361 according to the 2020 census. The City's water service area includes areas outside the city's limits. The total service area includes approximately 786 users.

The City currently operates and maintains two water wells, one water plant, one booster station and a standalone elevated tank. All of the City's potable water is drawn from the Gulf Coast Aquifer in Liberty County at depths of 510 and 520 feet respectively at the two wells. Water is pumped at the rates of 285 gpm (Well No. 1) and 150 gpm (Well No. 2). Water treatment consists of simple chlorination, using chlorine gas. The City maintains storage capacity of approximately 114,000 gallons.

The City has approximately 275 equivalent metered connections. Average daily water usage is approximately 97,000 gallons, and the highest peak usage rate for any 24-hour period was recorded at 215,000 gallons.

According to regulations and minimum guidelines published by the Texas Natural Resource Conservation Commission (TNRCC), which is now Texas Commission on Environmental Quality (TCEQ) in Title 30 TAC Chapter 290;

- At least 200 gallons of storage capacity should be provided per connection. Based upon 275 connections, this computes to a total of 55,000 gallons. Since the available capacity is 114,000 gallons

in ground and elevated storage, and elevated storage capacity is 50,000 gallons, no additional ground or elevated storage is required at this time.

- A minimum 0.6 gpm per connection pumping capacity (or flow) must be provided. Based on 275 connections, this equates to 165 gpm of flow required. For maximum daily demand, TCEQ recommends a 2.4 multiplication factor, therefore the system should be capable of supplying (165 x 2.4) or 396 gpm. Since the existing pumping system is rated at 880 gpm, the existing pumping system is adequate for the number of connections currently being served.

Section III. 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 Devers hereby adopts this ordinance setting forth 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 nonessential 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 IX of this Plan.

Section IV. Public Involvement

Opportunity for the public to provide input into the preparation of the Plan was provided by the City of Devers by means of Public Notice posted and a Public Hearing was held on August 9, 2022. A copy of the plan is also provided on the city's website.

Section V. Public Education

A program of public education and information to promote water conservation by the public will be instituted. The program will include the following:

Educational materials including but not limited to water saving materials furnished by the Environmental Protection Agency and the Texas Water Development Board will be available to all customers.

Water saving materials furnished by the Environmental Protection Agency and the Texas Water Development Board will be available on the city's website.

Section VI. Authorization

The City Council's 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 Council's designee, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

Section VII. Application

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

Section VIII. 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.

Current Pumping Capacity: the combined current capacity of all water wells owned and operated by the City of Devers. For purposes of this drought plan, the pumping capacity is determined to be 880 gpm.

Customer: any person, company, or organization using water supplied by the City of Devers.

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 but not limited to:

- irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this Plan;
- use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- use of water to wash down buildings or structures for purposes other than immediate fire protection;

- flushing gutters or permitting water to run or accumulate in any gutter or street;
- use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pool;
- use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s);
- and 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 IX. Criteria for Initiation and Termination of Drought Response Stages

The City Council's designee shall monitor water supply and/or demand conditions on a (e.g., daily, weekly, monthly) 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 City will attempt to notify all water users when the average combined pumpage for the City of Devers's wells are at or above 250,000 mg per day for five (5) consecutive days. This notification will be done to alert the public that triggering events may occur in the near future. The triggering and regulatory criteria described below are based on known system capacity limits:

Stage 1 Triggers – MODERATE Water Shortage Conditions

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain nonessential water uses as prescribed in this Plan when the average combined pumpage for the City of Devers' wells are at or above 250,000 mg per day for five (5) consecutive days.

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 fourteen (14) consecutive days.

Stage 2 Triggers – SEVERE Water Shortage Conditions

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain nonessential water uses as prescribed in this Plan when the average pumpage for the City of Devers' wells are at or above 290,000 mg per day for five (5) consecutive 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 fourteen (14) consecutive days. Upon termination of Stage 2, Stage 1 becomes operative.

Stage 3 Triggers – CRITICAL Water Shortage Conditions

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain nonessential water uses as prescribed in this Plan when the average pumpage for the City of Devers' wells are at or above 350,000 mg per day for five (5) consecutive 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 fourteen (14) consecutive days. Upon termination of Stage 3, Stage 2 becomes operative.

Stage 4 Triggers – EMERGENCY Water Shortage Conditions

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions as prescribed in this Plan when the average pumpage for the City of Devers' wells are (a) at or above 380,000 per day for five (5) consecutive days, (b) or the City Council's 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 pursuant to (a)

Water allocation may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of fourteen (14) consecutive days. Upon termination of Stage 4, Stage 3 becomes operative.

Requirements for termination pursuant to (b)

Water allocation may be rescinded when all of the conditions listed as triggering events have ceased to exist.

Stage 5 Triggers – WATER ALLOCATION

Requirements for initiation

Customers shall be required to comply with the water allocation plan prescribed in this Plan when the average pumpage for the City of Devers' wells are (a) at or above 420,000 mg per day for five consecutive days (b) or water system failures have created a condition that is an imminent threat to health, safety and welfare of the public.

Requirements for termination pursuant to (a)

Water allocation may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of fourteen (14) consecutive days. Upon termination of Stage 5, Stage 4 becomes operative.

Requirements for termination pursuant to (b)

Water allocation may be rescinded when all of the conditions listed as triggering events have ceased to exist.

Section X. Drought Response Stages

The City Council's designee shall monitor water supply and/or demand conditions in accordance with the triggering criteria set forth in this Plan, shall determine that a moderate, severe, critical, emergency or water shortage condition exists and shall implement the following notification procedures:

Notification of the Public: The City Council's designee shall notify the public by means of any or all of the below:

- Publication in a newspaper of general circulation
- Direct mail to each customer
- Public service announcements
- Signs posted in public places
- Notification on city website
- Notification in water bill
- Notification via social media posts

Additional Notification: The City Council's designee shall notify directly, or cause to be notified directly, the following individuals and entities:

- Members of the City Council
- Fire Chief(s)
- Liberty County Emergency Management Coordinator(s)
- TCEQ (required when mandatory restrictions are imposed)
- Major water users
- Critical water users, i.e. hospitals, refineries

Stage 1 Response – MODERATE Water Shortage Conditions

Goal:

Achieve a fifteen percent (15%) reduction in daily water demand.

Supply Management Measures:

The City of Devers will reduce water demand by discontinuing the flushing of water mains and reducing irrigation of public landscaped areas.

Water Use Restrictions:

The following water use restrictions shall apply to all persons as a voluntary program:

- 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.

- 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 8:00 p.m. and 10:00 a.m. 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.
- Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, Jacuzzi type pools is prohibited except on designated watering days between the hours of 8:00 p.m. and 10:00 a.m.
- 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.
- Use of water from hydrants shall be limited to fire-fighting, related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under special permit from the City of Devers.
- All restaurants are prohibited from serving water to patrons except upon request of the patron.
- 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;

Stage 2 Response – SEVERE Water Shortage Conditions

Goal:

Achieve a twenty percent (20%) reduction in daily water demand.

Supply Management Measures:

The City of Devers will reduce water demand by discontinuing the flushing of water mains and reducing irrigation of public landscaped areas.

Water Use Restrictions:

Under threat of penalty for violation, all water use restrictions of Stage 1 shall remain in effect during Stage 2 except:

- Irrigation of landscaped areas shall be limited to designated watering days between the hours of 8:00 p.m. and 10:00 a.m. 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.

- The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued.
- The sale of bulk water shall be prohibited.

Stage 3 Response – CRITICAL Water Shortage Conditions

Goal:

Achieve a twenty-five percent (25%) reduction in daily water demand.

Supply Management Measures:

The City of Devers will reduce water demand by discontinuing the flushing of water mains and reducing irrigation of public landscaped areas.

Water Use Restrictions:

Under threat of penalty for violation, all requirements of Stage 1 and 2 shall remain in effect during Stage 3 except:

- 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.
- 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.
- The filling, refilling, or adding of water to swimming pools, wading pools, and Jacuzzi-type pools is prohibited.
- 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.
- 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 4 Response – EMERGENCY Water Shortage Conditions

Goal:

Achieve a thirty percent (30%) reduction in daily water demand.

Supply Management Measures:

The City of Devers will reduce water demand by discontinuing the flushing of water mains and reducing irrigation of public landscaped areas.

Water Use Restrictions:

All requirements of Stage 1, 2, and 3 shall remain in effect during Stage 4 except:

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

Stage 5 Response – WATER ALLOCATION

In the event that water shortage conditions threaten public health, safety, and welfare, the City Council’s designee 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:

Table A

| 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 Devers of a greater number of persons per household on a form prescribed by the City Council’s designee. The City Council’s designee 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 Devers 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 Council’s designee. 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 Devers 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 Devers in writing within two (2) days. In prescribing the method for claiming more than two (2) persons per household, the City Council’s designee shall adopt methods to insure 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 Devers of a reduction in the number of person in a household shall be fined not more than \$2,000.00. Residential water customers shall pay the following surcharges:

Double the current rates for uses over allowed amounts [see Table A].

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 Devers of a greater number on a form prescribed by the City Council's designee. The City Council's designee, 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 Devers 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 Council's designee. If the number of dwelling units served by a master meter is reduced, the customer shall notify the City of Devers in writing within two (2) days. In prescribing the method for claiming more than two (2) dwelling units, the City Council's designee shall adopt methods to insure the accuracy of the claim. Any person who knowingly, recklessly, or with criminal negligence falsely reports the number of dwelling units served by a master meter or fails to timely notify the City of Devers of a reduction in the number of person in a household shall be fined not more than \$2,000.00. Customers billed from a master meter under this provision shall pay the following monthly surcharges:

Double the current rates for uses over 6,000 gallons per dwelling unit.

Commercial Customers

The City Council's designee, for each non-residential commercial customer other than an industrial customer who uses water for processing purposes, shall establish a monthly water allocation. 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 City Council's designee 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 Devers to determine the allocation. Upon request of the customer or at the initiative of the City Council, 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 Council. Non-residential commercial customers shall pay the following surcharges:

Double the current rates for uses over 75% of the prior twelve month's average usage.

Industrial Customers

A monthly water allocation shall be established by the City Council's designee, for each industrial customer, which uses water for processing purposes. The industrial customer's allocation shall be approximately ninety percent (90%) of the customer's water usage baseline. Ninety (90) days after the initial imposition of the allocation for industrial customers, the industrial customer's allocation shall be further reduced to eighty-five

percent (85%) 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 twelve (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 twelve (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 Council's designee, 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 Devers 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 Council's designee 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 Council. Industrial customers shall pay the following surcharges:

Double the current rates for uses over 90% or 85% of the prior twelve month's average usage dependent on the allocation amount.

Section XI. Enforcement

- (a) No person shall knowingly or intentionally allow the use of water from the City of Devers 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 Council's designee in accordance with provisions of this Plan.
- (b) Any person who violates this Plan is guilty of a misdemeanor and, upon conviction shall be punished by a fine of not more than two thousand dollars (\$2,000.00). 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 Council's designee 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, hereby established at \$50.00, and any other costs incurred by the City of Devers in discontinuing service. In addition, suitable assurance must be given to the City Council's designee 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 Devers, 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 Devers may issue a citation to a person he/she reasonably believes to be in violation of this Ordinance. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, the offense charged, and shall direct him/her to appear in the 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.

Section XII. Variances

The Mayor 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:

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.

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

- Name and address of the petitioner(s)
- Purpose of water use
- Specific provision(s) of the Plan from which the petitioner is requesting relief
- 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
- Description of the relief requested
- Period of time for which the variance is sought
- 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
- Other pertinent information

Variances granted by the City of Devers shall be subject to the following conditions, unless waived or modified by the Mayor:

- Variances granted shall include a timetable for compliance
- 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.

END OF PLAN