

Chapter 6-4

Paraphrased Version of Proposed Code Revisions

ARTICLE I: GENERAL PROVISIONS

DEFINITIONS: The following definitions are proposed in the revised code.

ACTION of THE UTILITY means actions taken by Austin Water Utility in accordance with this Chapter

AQUATIC LIFE means a vertebrate organism dependent upon an aquatic environment to sustain life.

AUXILIARY WATER means a water supply from a source other than Austin Water Utility's potable water supply.

AWU AUTHORIZED IRRIGATOR means any person licensed as a Landscape Irrigator by the Texas Commission on Environmental Quality and having completed a landscape irrigation course approved by the Austin Water Director and who has asserted AWU Authorized Irrigator status in accordance with rules adopted pursuant to this Chapter.

COMMERCIAL FACILITY means a site with five or more dwelling units, or a municipal, business, or industrial building and the associated landscaping.

COMMERCIAL NURSERY means a facility where plant nursery stock, trees, turf, shrubs, and other plant materials are grown, maintained prior to end user purchase, or stored prior to installation into a landscape.

COMMON AREA means an area held, designed, or designated for the common use of the owners or occupants of a townhouse project, planned unit development, apartment, condominium, mobile home park, or subdivision.

COSMETIC POWER WASHING means cleaning with specialized equipment that uses a spray or of water for the cosmetic cleaning of buildings, vehicles or other mobile equipment, or outdoor surfaces. It does not include industrial cleaning, cleaning associated with manufacturing activities, hazardous or toxic waste cleaning, cleaning to remove a potential health threat, or cleaning necessary to remove graffiti.

DESIGNATED OUTDOOR WATER USE DAY means the day prescribed by rule on which a person is permitted to irrigate outdoors.

DESIGNEE OF THE DIRECTOR means an employee of the City of Austin authorized by his/her employment to perform tasks necessary for the function of the Utility.

DIRECTOR means the Executive Director of the Austin Water Utility

DRIP IRRIGATION means a method of irrigation which is typically installed below ground and consists of porous piping or emitters that allow the application of water at a slow and constant rate.

DROUGHT CONTINGENCEY PLAN means a document as required by Texas Administrative Code Title 30, Chapter 288, Subchapter B, which outlines strategies for supply and demand management responses to temporary and potentially recurring water supply shortages and other water supply emergencies

FOUNDATION WATERING means an application of water to the soils directly abutting the foundation of a single or multi-family dwelling, or a municipal or commercial building.

HOSE-END SPRINKLER means an above ground water distribution device commonly attached to the end of a garden hose.

MULTI-FAMILY PROPERTY means property containing 5 or more dwelling units.

MUNICIPAL PROPERTY means property owned by a governmental entity and operated for business with the general public

NEW LANDSCAPE means vegetation:

- (a) installed at the time of the construction of a residential or commercial facility;
- (b) installed as part of a governmental entity's capital improvement project; or
- (c) that alters more than 500 contiguous square feet of an existing landscape

ORNAMENTAL FOUNTAIN means an artificially created structure from which a jet, stream, or flow of water emanates.

PERMANENTLY INSTALLED IRRIGATION SYSTEM means a custom-made, site-specific system of delivering water via a system of pipes or other conduits to a landscape for the purpose of irrigation. These systems commonly, but not universally, utilize, at least in part, PVC pipe in their construction and utilize water distribution devices.

PERSON means any individual, partnership, association, firm, public or private corporation, governmental authority, or other legal entity that receives or is responsible for water Utility service at a service address.

PREMISE means the outdoor area of property not enclosed by fencing or walls or containing living areas or areas for storing vehicles or other motorized equipment.

RECLAIMED WATER means reclaimed municipal wastewater that is under the direct control of the City treatment plants, satellite facilities, or a treatment plant with which the City contracts, and that has been treated to a quality that meets or exceeds 30 Texas Administrative Code, Chapter 210 requirements

RESIDENTIAL FACILITY means a site with four or fewer dwelling units.

SOAKER HOSE means a perforated or permeable garden-type hose or pipe that is laid above ground that provides irrigation at a slow and constant rate

TEMPORARILY INSTALLED IRRIGATION SYSTEM means a universally-applicable above ground irrigation system that commonly uses a flexible hose or hardened pipe to deliver water to a moveable water distribution device.

THE UTILITY means the Austin Water Utility

VEHICLE WASH FACILITY means a permanently-located facility that washes vehicles or other mobile equipment with water or water-based products, including but not limited to self-service car washes, full service car washes, roll-over/in-bay style car washes, and facilities managing vehicle fleets or vehicle inventory.

XERISCAPE means a method of landscaping using certain principles of design and installation which conserve water and energy. The low water plant list may be amended as needed and shall be located on the Austin Water Utility website or otherwise made available by Austin Water Utility.

1. APPLICABILITY:

This code will apply to anyone who uses potable water supplied by Austin Water

2. FEES AND CHARGES:

There will be fees charged for variances and other similar programs. There will be charges for violations assessed on a customer's bill. The customer will be notified as to what the charges mean and will have opportunity through an administrative process to contest the charges. The fee and charge amounts will be set by Council under a separate rule or through the annual budget process.

3. INSPECTIONS AND RIGHT OF ENTRY:

The Utility is given the authority to inspect properties for violations if there is cause to believe a violation exists. The inspection is limited to outdoor areas and /or common areas and provides the ability to obtain law enforcement to gain access if necessary.

4. ADMINISTRATIVE:

This section gives the Director the authority to adopt rules necessary to implement the Code. These rules are a separate regulatory instrument but have the same enforceability as the Code. Rules that will be adopted in concert with this code will include:

- Establishment of designated outdoor water use days/ watering schedule
- Requirement for commercial facility irrigation evaluations and the management of an Austin Water Authorized Irrigator list.
- Vehicle washing equipment efficiency standards

ARTICLE II: WATER USE MANAGEMENT

Division 1: Regulated Activities

5. FACILITIES REGULATED:

- This section establishes that commercial properties greater or equal to one acre must provide documentation of an irrigation system evaluation. The frequency of the evaluation will be determined by adopted rules (proposing once every two years). Section requires the evaluation to be performed by an AWU Authorized Irrigator and requires the irrigation system to be in compliance with this Code.
- This section also establishes that vehicle washing facilities will provide an evaluation of all vehicle-washing equipment. The frequency of the evaluation (proposing annual) and the equipment efficiency standards will be determined by adopted rules. This section requires the evaluation to be performed by a licensed plumber.
- This section also requires restaurants, bars, and other commercial eating establishments to only serve water supplied by Austin Water to customers upon specific request by the customer.
- Effective January 1, 2013, hotel, motels and other businesses offering overnight guest accommodations must offer towel and linen reuse programs in guest rooms and supply each room with informational signage to allow for guest participation.

6. GENERAL REGULATIONS:

This section prescribes the following general regulations in effect year-round:

- All charity car washes must be conducted at vehicle washing facilities.
- Commercially operated cosmetic power/pressure washing equipment must be fitted with a spray nozzle that does not use more than 3.5 gallons of water per minute and has a trigger shut-off.
- All ornamental fountains must recirculate water.
- Foundation watering must be conducted on a designated outdoor water use day during the irrigation time period prescribed by this chapter.
- This section requires all new commercial developments located within 250 feet of a reclaimed water distribution line to complete permitted connections to reclaimed water for irrigation and other feasible process and cooling uses.

7. WATER WASTE PROHIBITED:

The subsection prohibits the waste of water and is in effect year-round. However, it does not apply to irrigation during repair or testing of an irrigation system as long as the person operating the test is present.

A person is not allowed to:

- fail to repair a controllable leak, including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet; or
- operate an irrigation system with:
 - (a) a broken head;
 - (b) a head that is out of adjustment and the arc of the spray head is over a street or parking area; or
 - (c) a head that is misting because of high water pressure; or
- during irrigation, allow water:
 - (a) to develop a stream of water extending in a street or parking area for a distance of 50 feet or greater; or
 - (b) to pond to a depth greater than 0.25 inch.

8. WATER CONSERVATION GUIDELINES:

This section gives authority to the City Manager to adopt policies that facilitate compliance with this Code by other City departments and to set criteria for determining when to enact a drought stage to protect public health and welfare.

9. EXEMPTIONS:

This section sets forth all exemptions from application of restrictions in the watering stages.

(9-A) Water Conservation Stage, Stage One, Stage Two, Stage Three and Stage Four

- The use of water necessary to protect the health, safety, or welfare of the public.
- The use of reclaimed or auxiliary water provided potable water from Austin Water Utility is not used as a supplement to or mixed with this auxiliary water source.
- Necessary use of water for repair of a water distribution facility, flushing of utility lines or residential or commercial plumbing lines.
- Necessary use of water, other than for landscape irrigation, for a governmental entity performing a governmental function, including or a capital improvement construction project; or

- Necessary use of water, other than for landscape irrigation, to meet requirements of specific federal, state, and local permits required for land development that include but are not limited to roadway base preparation, dust control, concrete or asphalt work, and building construction, provided that if reclaimed water is available within one mile of the construction site, reclaimed water must be used for roadway base preparation and dust abatement.
- Vehicle washing of garbage trucks and vehicles used to transport food and perishables.
- The irrigation of athletic fields used for organized sports.
- Water use necessary for immediate fire prevention where the threat of fire is to a building or some other constructed structure.

(9-B) Water Conservation Stage, Stage One, Stage Two, and Stage Three:

- Outdoor irrigation:
 1. using a hand-held hose or refillable watering vessel; or
 2. using drip irrigation; or
 3. of trees using an automatic bubbler system or soaker hose placed within the drip-line of the tree canopy; or
 4. of vegetable gardens using a soaker hose; or
 5. immediately following a commercial lawn treatment application including but not limited to fertilizer, pesticides, and herbicides, provided receipts for such application are provided upon request by a designee of the Director; or
- Water use:
 1. necessary for repair of a permanently installed landscape irrigation system
 2. associated with a variance granted by Austin Water

(9-C) Exemption from the Water Conservation Stage and Water Conservation Stage One:

- water use necessary to comply with federal, state, and/or local land development permits that require the establishment of new landscaping .

10. WATER CONSERVATION STAGE:

- A person may not irrigate outdoors at a residential facility or a commercial facility except on a designated outdoor water use day.
- A person may not irrigate outdoors at a residential facility or a commercial facility between the hours of 10:00 a.m. and 7:00 p.m.
- Commercial patio misters may not operate between the hours of midnight and 4:00 p.m.

11. WATER CONSERVATION STAGE ONE REGULATIONS:

- A person may not irrigate outdoors at a residential facility or a commercial facility except on a designated outdoor water use day.
- A person may not irrigate outdoors at a residential facility or a commercial facility between the hours of 5:00 a.m. and 7:00 p.m.
- Commercial patio misters may not operate between the hours of midnight and 4:00 p.m.
- A person may not wash an automobile, truck, trailer, boat, airplane, or other mobile equipment on a residential property or a commercial property other than a vehicle wash facility except on a designated outdoor water use day.

12. WATER CONSERVATION STAGE TWO REGULATIONS:

- A person may not irrigate outdoors at a residential facility or a commercial facility except on a designated outdoor water use day.
- A person may not irrigate outdoors at a residential facility or a commercial facility between the hours of 5:00 a. m. and 7:00 p.m.
- Charity car washes are prohibited
- A person may not wash an automobile, truck, trailer, boat, airplane, or other mobile equipment on a residential property or a commercial property other than a vehicle wash facility.
- A person may not irrigate a golf fairway, except on a designated outdoor water use day between the hours of midnight to 5:00 a.m. and between the hours of 7:00 p.m. to midnight.
- A person may irrigate a golf course green or tee every other day provided a noticed exception establishing the irrigation schedule is completed on forms developed by the Utility and filed with the director.
- A person may not operate an ornamental fountain with an aerial emission of water or aerial fall of water greater than 4 inches other than for aeration necessary to preserve habitat for aquatic life.
- Commercial patio misters may not operate between the hours of midnight and 4:00 p.m.

13. WATER CONSERVATION STAGE THREE REGULATIONS:

- A person may not irrigate outdoors at a residential facility or a commercial facility except on a designated outdoor water use day.
- A person may not irrigate outdoors at a residential facility or a commercial facility between the hours determined by rules adopted pursuant to this chapter.
- Charity car washes are prohibited
- A person may not wash an automobile, truck, trailer, boat, airplane, or other mobile equipment on a residential property or on a commercial property other than a vehicle washing facility.
- A person may not irrigate a golf fairway, except on a designated outdoor water use day between the hours of midnight to 5:00 a.m. and between the hours of 7:00 p.m. to midnight.
- A person may irrigate a golf course green or tee every other day provided a noticed exception establishing the irrigation schedule is completed on forms developed by the Utility and filed with the director.
- The filling of spas and operation of splash pads is prohibited
- Commercial patio misters may not operate between the hours of midnight and 4:00 p.m. or between the hours of 8:00 p.m. and midnight.
- A person may not operate an ornamental fountain with an aerial emission of water or aerial fall of water greater than 4 inches in distance other than for aeration necessary to preserve habitat for aquatic life.

14. WATER CONSERVATION STAGE FOUR REGULATIONS:

- A person may not irrigate vegetation outdoors
- A person may not wash an automobile, truck, trailer, boat, airplane, or other mobile equipment.
- A person may not operate an outdoor ornamental fountain or structure making similar use of water, other than the aeration necessary to preserve habitat for aquatic life.
- A person may not add potable water to a water-jetted or air-jetted tub, fountain, pond, swimming pool or other container serving an aesthetic or recreational purpose. This does not apply to non-aerating birdbaths or animal watering containers.
- The operation of splash pads and other similar recreational devices using water are prohibited.
- A person may not wash any outdoor surface including but not limited to a sidewalk, driveway, parking area, street, tennis court, patio, or other paved area or outdoor building surface.

- A person may not operate a patio mister
- A person may not water- in a chemical lawn treatments unless specifically authorized in accordance with a variance granted by the Utility
- A person may not water the ground around a building foundation to prevent foundation cracking except as specifically authorized in accordance with a variance granted by the Utility

Division 2. Additional Restrictions

15. DIRECTOR'S AUTHORITY TO IMPOSE ADDITIONAL RESTRICTIONS:

This section gives the director to implement additional mandatory water restrictions to protect the health and safety in the event of an unusual water system operational event, catastrophic occurrence or severe weather event (prolonged drought)

Division 3. Variances; Alternative Compliance

16. VARIANCE:

This section gives the director authority to require, collect fees, and grant a variance under certain circumstances. Variance must be specifically requested and may be revoked by the director for failure to observe the requirements of the variance or the prohibition on water waste. Variance must also be posted at the facility and expire when another drought stage is implemented.

(16-A) General variances

Granted if the director determines that special circumstances exist which:

- adversely affect the health, sanitation, or safety of the public; or
- substantially threaten the applicant's primary source of income

(16-B) Conservation Stage, Stage One, Stage Two, and Stage Three:

- large property that cannot be watered with an average of 0.5 inches of water in the allowed timeframe on a designated outdoor water use day; or
- a documented medical hardship that prevents strict adherence to watering schedule; or
- irrigation for the purpose of watering-in chemical lawn treatments including but not limited to fertilizer, pesticides and herbicides.

(16-C) Conservation Stage and Stage One: New Landscape

The variance must abide by the following schedule:

- for the first 10 days after installation, watering is permitted daily;
- for the 11th through 20th days after installation, watering is permitted every other day before 10:00 a.m. and after 7:00 p.m.; and
- for the 21st through 30th days after installation, watering is permitted every third day before 10:00 a.m. and after 7:00 p.m.

**When the landscape installation is required for certificate of occupancy for newly constructed single family homes the person will be required to provide a completed notice to the Director.*

(16-D) Conservation Stage, Stage One, Stage Two, and Stage Three Water: Xeriscaping

The variance must abide by the following schedule, but a one-time extension may be granted upon the submittal of a written request which demonstrates the need for an additional irrigation period:

- For the first 10 days following installation, irrigation is permitted daily before 10:00 a.m. and after 7:00 p.m.; and
- For the 11th through the 40th day following installation, and irrigation is permitted twice per week before 10:00 a.m. and after 7:00 p.m.; and

**If the landscape installation is required for certificate of occupancy for newly constructed single family homes, the person shall provide a completed notice of irrigation variance to the Director.*

(16-E) Stage Four :

- When watering is required to prevent foundation cracking, variance approved pursuant to this subsection will specify a designated day for foundation watering and shall require the foundation watering to occur before 7:00 a.m. or after 7:00 p.m. ; or
- Immediately following chemical lawn applications.

17. ALTERNATIVE COMPLIANCE:

This section allows the director to allow an alternative measure for compliance with the Code. In this case the measure(s) must meet or exceed the intent of the code, must be requested in writing, demonstrate how compliance will be achieved, and be specifically approved by the director. Alternative Compliance approvals must also be posted on the property.

ARTICLE III: ENFORCEMENT

18. PRESUMPTION OF VIOLATION:

This section establishes that the person responsible for the water service account is responsible for a violation of this chapter.

19. PENALTY:

This section establishes that each act contrary to this Code is considered a separate violation. It also establishes the administrative process for resolution of violations by allowing the assessment of a charge on the customers billing statement. It allows the customer to challenge the charge through the administrative process identified in Chapter 15-9, Article 23 (Utility Service Regulation). This section also establishes that if resolution cannot be achieved through application of the administrative process, the customer can pursue resolution through the Municipal Court.

20. SEVERABILITY:

This section establishes that if any part of this chapter is determined to be unconstitutional, it shall not nullify the remainder of the Code.