

## RESOLUTION

### **RESOLUTION OF THE CITY MANAGER OF THE CITY OF OKLAHOMA CITY, AS AUTHORIZED BY OKLAHOMA CITY MUNICIPAL CODE AND THE RESOLUTION OF THE OKLAHOMA CITY COUNCIL ADOPTED ON APRIL 16, 2013, AUTHORIZING VARIANCES TO PROGRESSIVE WATER CONSERVATION MEASURES AS DESCRIBED IN EXHIBIT "A" HERETO.**

**WHEREAS**, the City of Oklahoma City owns and operates and the Oklahoma City Water Utilities Trust (OCWUT) leases and finances a water supply, procurement, treatment and delivery system (Oklahoma City Water System); and

**WHEREAS**, the primary purpose of the Oklahoma City Water System is to provide potable water to residents and customers; and

**WHEREAS**, potable water is a limited resource and is necessary for life; and

**WHEREAS**, the Comprehensive State Water Plan recommends that all Oklahomans practice and exercise water conservation measures and reduce use of water resources; and

**WHEREAS**, the City Manager recognizes the need to educate the public about water conservation and good water use practices; and

**WHEREAS**, the OCWUT has engaged Oklahoma State University to provide expertise and consultation regarding water conservation and education; and

**WHEREAS**, the Oklahoma City Municipal Code, Chapter 55, Section 55-82 and Chapter 57, Section 57-2 authorizes the City Manager to establish voluntary and mandatory water use restrictions; and

**WHEREAS**, on January 17, 2013, the City Manager, on behalf of the City of Oklahoma City and as authorized by ordinance, statute, and contract, instituted mandatory water conservation measures of odd/even water rotation for all outdoor landscape irrigation using sprinkler devices, with certain specifically stated exceptions; and

**WHEREAS**, on April 16, 2013 (Item No.V.E.2.) OCWUT and on April 30, 2013 (Item No. VIII.H.) the City of Oklahoma City adopted a resolution establishing Progressive Water Conservation Measures and authorized the City Manager or designee to implement appropriate water conservation measures as conditions warrant; and

**WHEREAS**, mandatory water conservation measures apply to outside Oklahoma City customers by contract and statute; and

**WHEREAS**, the Utilities Director appointed a Water Conservation Specialist in May 2013 to oversee the enforcement and other water conservation program efforts; and

**WHEREAS**, the City Manager encourages all customers to observe all City of Oklahoma City Code, policies, mandates and directives related to water conservation and encourage all customers to reduce water use and consumption; and

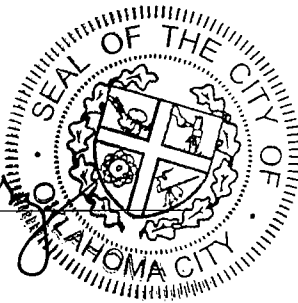
**WHEREAS**, the City Manager recognizes there may be certain limited circumstances where water conservation measures require adaptation for particular applications; and

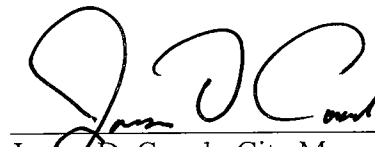
**WHEREAS**, in order to accommodate these limited circumstances the City Manager is establishing the variance program to the Progressive Water Conservation Measures as described in Exhibit "A"; and

**NOW THEREFORE BE IT RESOLVED** by the City Manager, on behalf of the City of Oklahoma City and as authorized by ordinance, statute and contract, does hereby authorize variances to the mandates and directives in the January 17, 2013 resolution and the April 16, 2013 resolution, which subject to the variances granted hereunder remain in full force and effect. Variances may be granted for the uses as set forth on Exhibit "A," as interpreted and applied by the City Manager or his designee. Variances, if granted, will be granted in the sole discretion of the City Manager or his designee and will be effective upon issuance. Variances, if granted, will not be retroactive in effective.

Attest:

  
City Clerk



  
James D. Couch, City Manager  
City of Oklahoma City, Oklahoma

Approved as to form and legality.

  
Assistant Municipal Counselor

**NOTE: Signed by City Manager on July 25, 2013, final execution by City Clerk on July 26, 2013. - LKH**

## Exhibit "A"

### **AUTHORIZED USES AND VARIANCES TO THE MANDATORY WATER CONSERVATION MEASURES**

The City of Oklahoma City encourages all accountholders and customers to reduce water consumption and use and to observe all mandatory water conservation measures related to landscape irrigation and outdoor water use commensurate with the progressive stages associated with prudent water management. As authorized by the Oklahoma Municipal Code, the City of Oklahoma City has issued water usage restriction directives on January 17, 2013 and April 30, 2013, implementing mandatory water conservation measures. However, there are circumstances wherein the mandatory watering limitations will place undue hardship on certain accountholders and which, in limited duration situations, may justify issuance of a temporary variance to the established mandatory water conservation measures. For this reason and in these limited situations, a variance to the mandatory water conservation measures may be requested by an accountholder for consideration by the City Manager or designee. The City Manager or designee is authorized to grant temporary variances in accordance herewith. Both of the previously referenced directives and the mandatory water conservation measures therein are hereby re-affirmed and continue to be applicable to all water accountholders and customers subject to the provisions of this resolution and any variance to the mandatory water conservation measures issued and effective as stated herein. In addition, whenever the City is in Stages I through 4 - Water Conservation, certain outdoor watering activities as expressly stated below are deemed permissible without a variance.

#### **Authorized Water Uses for which Variances are NOT required:**

*The following water uses and water applications methods are authorized during Water Conservation Stages 1 through 4.*

1. Operation of an in-ground irrigation system for the purposes of testing its operation as part of contemporaneous repairs to the in-ground water system, provided:
  - a. The accountholder or a licensed plumber must be on site while water is being used;
  - b. All required permits and licenses have been obtained and are in effect; and
  - c. Water use does not exceed 15 minutes per day and does not exceed two days per week.
2. Hand watering potted plants with a hose or watering can.
3. Pool filling with a hose or backwashing pool filters with a hand-held hose.

4. Washing vehicles with hand-held hose with an automatic shut-off nozzle affixed to the end to prevent continuous flow and waste of water.
5. Hosing off or power washing decks, buildings, windows, with hand-held hose with an automatic shut-off nozzle affixed to the end to prevent continuous flow and waste of water.
6. Operation of public and private ornamental fountains.
7. Irrigation using non-potable water source (reclaimed water, water wells, or septic system water) provided:
  - a. Accountholder must post a sign in the area that is being irrigated giving notice of the use of non-potable water from reclaimed, water well, or septic system source;
  - b. The property has notified the Utility Customer Service Division that non-potable water is used on the property;
  - c. Accountholder, property owner and property occupants permit City staff access to the property to confirm the source of the water; and
  - d. All required permits and licenses have been obtained and are in effect.
8. Drip irrigation, soaker hoses and hand-watering are permitted on any day.
9. Irrigating nursery stock at a commercial floral or plant nursery is permitted on any day.

**Variations will NOT be considered for:**

1. Inconvenience, i.e., scheduling conflicts with mowing days or personal preference.
2. Automatic irrigation controllers failing or incapable of being set to match mandatory irrigation schedules.

**Provision applicable to ALL Variations:**

- a. The variance will only apply after issuance;
- b. The variance will only apply to the property specifically listed in the variance;
- c. The variance will only apply to the accountholder applying for and granted the variance;
- d. The variance may be terminated or suspended at any time and for any reason by the City Manager or his designee;
- e. No person or entity has any property or personal right or interest in the continuance or the continuing operation of the variance;
- f. No additional property will be added to the property specifically described in the variance;

- g. All variances will be automatically suspended should Stage 5 Water Conservation be implemented either by the City Manager or City Council or automatically as a result of diminished lake level;
- h. Applicants do not have any right to the issuance of a variance;
- i. The City may adopt a fee for the application, review, issuance, and regulation of variances; and
- j. Should a variance be suspended or revoked, then the accountholder may appeal such suspension or revocation utilizing the procedures set forth in Oklahoma City Municipal Code section 55-82 (e) and (f).

**Variances will be considered for:**

1. **Existing In-ground Water Irrigation System is Determined to Make Compliance Physically Impossible** - A variance may be granted as to the days and hours a particularly described property may be watered with treated drinking water from the Oklahoma City Water System utilizing an in-ground water irrigation system, if the City Manager or designee determines that the accountholder's existing in-ground water system makes compliance physically impossible.

The accountholder has the duty to make the application demonstrating that adequate water irrigation for plant health (without overwatering and surface runoff) cannot be applied within the allotted day(s) per week to a specific described properties with the in-ground water irrigation system existing at the time of this resolution. The accountholder must include a diagram of the property and existing in-ground water irrigation system, the make and model number of the existing irrigation controller and a description of the proposed irrigation schedule demonstrating a plan for a ten percent (10%) reduction in water use and consumption.

Should a variance be issued under this section, the following requirements and limitations shall also apply:

- a. The variance will only apply to the existing in-ground water irrigation system as it exists at this time this resolution is issued.
- b. The existing in-ground water irrigation system must be operated in a manner that complies with the all of City's mandatory conservation measures in place at the time of issuance of the variance and thereafter, less and except the watering days or hours as expressly stated in the variance;
- c. Failure to have reduced consumption by 10 % in any one month, as compared to the same month in the pre-variance year, may result in revocation or suspension of the variance by the City Manager or designee;
- d. Accountholder, property owner and property occupants permit City staff access to the property to check for compliance with all applicable requirements; and
- e. If a variance is granted, a Variance Permit (the "Permit") will be made available to the accountholder and the accountholder must post the Permit at the property listed

on the Permit in a City Manager or designee approved location accessible to City enforcement personnel and conspicuous to the general public.

2. **Newly-installed Landscapes** – Accountholders installing landscaping, including lawns and/or plants, may apply for a variance to allow additional watering days for up to five calendar weeks following installation of the landscape. Unless a variance is requested and granted by the City Manager or designee, watering landscaping other than assigned day(s) and times will be subject to citation. The following conditions must be met in order to qualify for a newly-installed landscape variance:
  - a. The newly-installed landscape area must be greater than 250 square feet of contiguous land area;
  - b. The soil must have been appropriately amended with compost and prepared to efficiently retain water and support survival of the plantings to at least 2 percent organic matter;
  - c. If a variance is granted, a Variance Permit (the “Permit”) will be made available to the accountholder and the accountholder must post the Permit at the property listed on the Permit in a City Manager or designee approved location accessible to City enforcement personnel and conspicuous to the general public indicating the Permit and the expiration date;
  - d. Accountholder , property owner and property occupants permit City staff access to the property to check for compliance with all applicable requirements;
  - e. Newly-installed Landscape variances for turf sod may be granted for up to 21 consecutive days immediately following planting date; and
  - f. Newly-installed Landscape variances for turf seed may be granted for up to 30 consecutive days immediately following planting date.
  
3. **Special Circumstances** – Variances may be granted for other special circumstances, if the City Manager or his designee determines that extenuating circumstances and extreme hardship exists. Special Circumstances variances are limited to sixty (60) days or such less time as stated in the special circumstances variance. Unless a variance is requested and granted by the City Manager or designee, watering landscaping other than assigned day(s) and times will be subject to citation. All of the following conditions must be met:
  - a. Granting of a special circumstance variance must not cause an immediate significant reduction in the City’s water supply;
  - b. The health, safety, or welfare of other persons will not be adversely affected by granting of the variance;
  - c. The accountholder as applicant must demonstrate special circumstances and extreme hardship to the satisfaction of the City Manager or his designee;
  - d. Accountholder , property owner and property occupants permit City staff access to the property to check for compliance with all applicable requirements and
  - e. If a variance is granted, a Variance Permit (the “Permit”) will be made available to the accountholder and the accountholder must post the Permit at the property listed on the Permit in a City Manager or designee approved location accessible to City enforcement personnel and conspicuous to the general public.

## **How to Submit a Variance Form:**

1. Go to the website <http://www.squeezeverydrop.com> and download the respective application for a Newly-Installed Landscape Variance, Special Circumstance Variance, or Existing In-ground Water Irrigation System Variance. All applications must be filed by the accountholder and must include a diagram of the in-ground water irrigation system and a specific description of the property. Note that the Existing In-ground Water Irrigation System Variance application MUST also be accompanied by the make and model number of the existing irrigation controller and a description of the proposed irrigation schedule.
2. Complete the application and return it to the Utilities Department, Water Conservation Office, 420 West Main, Suite 500, Oklahoma City, OK 73102.
3. The processing time required for the review of variance applications is typically fifteen (15) business days. Requests for Existing In-ground Water Irrigation System variances may be longer depending on the size and complexity of the request and plan. Variance applications will be reviewed in the order received and timing is subject to the completeness of the application, associated plan (where applicable), and responsiveness of accountholder to requests that may occur during the review process.
4. Submission of an application does NOT guarantee the issuance of a variance.
5. Variances will not be backdated and will not be retroactively effective. Variances are only effective after issuance and posting. Variances are not effective until posted in accordance with this resolution.

## **Compliance requirements for all variances:**

Throughout the period of any approved variance, the accountholder (and property manager or tenant as applicable) and the customer shall remain responsible for compliance with all provisions of the City's mandatory water conservation measures in this and the January 17, 2013 resolution and the April 16, 2013 resolution and the Oklahoma City Municipal Code. If a property for which a variance has been requested or approved is found to be non-compliant with any of the City's mandatory water conservation measures in effect upon the issuance of the variance, or subsequently issued measures, the variance may be suspended or revoked immediately. In addition, all accountholders and customers must comply with these requirements:

1. Accountholder must maintain all automatic irrigation systems serving its property to prevent water waste.
2. Compliance checks will be performed periodically throughout the term of the variance and failure to comply with the conditions of this variance may cause it to be suspended or revoked. Should the accountholder, property owner, occupants, or their agents refuse to

allow City officials to conducting such compliance checks refuse to provide reasonable access to conduct such compliance checks, then the variance will be suspended or revoked.

3. Variances will expire upon:

- a. The expiration date in the variance; or
- b. The issuance of a notice revoking all variances of a particular type, or
- c. The implementation of Stage 5 of the progressive mandatory water conservation program or by act of the City Manager or designee, whichever occurs first.

*No person or entity has any interest or right in the continuation of this resolution or any variance granted hereunder. In addition, this resolution is subject to subsequent revision and/or repeal by the City Manager or City Council at any time.*

*To the extent the specific and express terms of this resolution may conflict with the January 17, 2013 resolution or the April 16, 2013 resolution, this resolution shall control; otherwise the January 17, 2013 resolution and the April 16, 2013 resolution remain in full force and effect.*