

**ORDER ADOPTING REVISED WATER CONSERVATION  
AND DROUGHT CONTINGENCY PLAN**

June 3, 2010

THE STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS           §

**WHEREAS**, Wilbarger Creek Municipal Utility District No. 1 (the "District") is a political subdivision of the State of Texas, created and operating under Chapters 49 and 54 of the *Texas Water Code*; and

**WHEREAS**, under Section 11.1272, *Texas Water Code*, the Board of Directors of the District (the "Board") is required to establish and enforce a drought contingency plan; and

**WHEREAS**, as required by Section 11.1272, *Texas Water Code*, and in an effort to ensure that water supplied to the District is used reasonably and to its maximum beneficial use, the Board adopted a Drought Contingency Plan by Order dated April 3, 2008, as subsequently revised in accordance with 30 *Texas Administrative Code* Section 288.30, pursuant to an Order Establishing Revised Drought Contingency Plan and Adopting Water Conservation Plan dated April 2, 2009, and as further revised pursuant to an Order Adopting Revised Water Conservation and Drought Contingency Plan dated September 3, 2009 (collectively, the "Prior Plan"); and

**WHEREAS**, following the severe drought conditions experienced during 2009 and in anticipation of a continuation of hot and dry weather patterns, the Board now desires to revise the Prior Plan in order to, among other things, address inconsistencies between the District's requirements and those of Metro H2O, Ltd., its wholesale water provider, in an effort to reduce public confusion about the triggering criteria for drought response stages, water schedules and requirements, and increase compliance with water conservation measures;

**IT IS, THEREFORE, ORDERED BY THE BOARD OF DIRECTORS OF WILBARGER CREEK MUNICIPAL UTILITY DISTRICT NO. 1 that:**

Section 1: The Water Conservation and Drought Contingency Plan attached as **Exhibit "A"** (the "Plan") is hereby established and will be implemented during periods of water shortage and drought in an effort to reduce water loss, waste or consumption and increase the efficiency of water use. The Plan replaces and supersedes the Prior Plan.

Section 2: If any provision, section, sentence, clause, or phrase of this Order, or its application to any person or set of circumstances, is for any reason held to be unconstitutional, void, invalid, or for any reason unenforceable, the validity of the remaining portions of this Order and its application to other persons or sets of circumstances will not be affected, it being the intent of the Board in adopting this Order that no portion hereof or provision contained

herein will become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion or provision.

Section 3: The Secretary of the Board is directed to file a copy of this Order in the principal office of the District, with the Executive Director of the Texas Commission on Environmental Quality, and with the Lower Colorado Regional Water Planning Group (Region K). This Order will remain in full force and effect from the date of its adoption until amended or replaced by the Board.

PASSED AND APPROVED this 3rd day of June, 2010.

**WILBARGER CREEK MUNICIPAL UTILITY  
DISTRICT NO. 1**

By:   
\_\_\_\_\_  
Bill Kochwelp  
President, Board of Directors

ATTEST:

  
\_\_\_\_\_  
Scott Sams  
Secretary, Board of Directors

**EXHIBIT "A"**

**WATER CONSERVATION AND  
DROUGHT CONTINGENCY PLAN**

**I. *Approval of the Plan***

The Board of Directors (the "Board") of Wilbarger Creek Municipal Utility District No. 1 (the "District") hereby establishes the Water Conservation and Drought Contingency Plan (the "Plan"), as set forth below. The Board commits to implement this Plan according to the procedures set forth below.

**II. *Water Conservation Plan***

**2.01 *Water and Wastewater Utility System Profile.***

**A. *Service Area Population.*** As of March 2010, the District had 51 occupied residences, and 12 residences either unoccupied, owned by builders, or under construction, and three irrigation connections. The estimated population of the District's service area is 178, based on 51 living unit equivalents ("LUEs") multiplied by 3.5 persons/unit. At full build-out, the estimated population of the District's service area is 5,092.

**B. *Water Utility Data.***

1. <i>Type</i>	<i>Existing</i>
Residential	63 LUEs
Irrigation	3 LUEs
Commercial	0 LUEs
Public/School	0 LUEs
Industrial	0 LUEs

2. The average monthly use per occupied residential connection from May 2009 through April 2010 was approximately 6,897 gallons.

3. The District receives its wholesale water supply from Metro H2O, Ltd. ("Metro") under the Amended and Restated Regional Water Capacity and Supply Agreement for a Portion of Northeastern Travis County, Texas dated February 12, 2002 (the "Regional Water Contract") between Metro, the District, Cottonwood Creek Municipal Utility District No. 1 ("CCMUD#1"); Travis County Municipal Utility District No. 2 ("TCMUD#2"); Wilbarger Creek Municipal Utility District No. 2 ("WCMUD#2"); and Cottonwood Creek Water Control and Improvement District No. 3 ("CCWCID#3"). Under the Regional Water Contract, the District has been allocated a total of 1,455 living unit equivalents ("LUEs") of water supply capacity, which is distributed through

facilities constructed by WCMUD#2 in its capacity as the "Master District" under the Amended and Restated Contract for Financing and Operation of Regional Waste Collection, Treatment and Disposal Facilities; Regional Water Supply and Delivery Facilities; and Regional Drainage, Including Water Quality, Facilities dated March 6, 2003 (the "Master District Contract") between the District, CCMUD#1, TCMUD#2, and WCMUD#2, (collectively, the "Participant Districts"). In accordance with express authority under the Regional Water Contract, the Participant Districts have assigned their rights to water supply capacity under the Regional Water Contract to the Master District, which, in turn has reserved water supply capacity in favor of the Participant Districts at the full build-out figures established in the Regional Water Contract and is obligated to allocate that capacity on an interim basis, fairly and equitably among the Participant Districts.

C. *Wastewater Service.* The District receives wastewater treatment and disposal services from the Master District under the Amended and Restated Regional Sewage Disposal Capacity and Services Agreement for a Portion of Northeastern Travis County, Texas dated February 12, 2002 (the "Regional Sewage Contract") between the Master District, as the assignee of Metro, the Participant Districts, and CCWCID#3. Under the Regional Sewage Contract, the District has been allocated a total of 1,310 LUEs of wastewater treatment capacity. In accordance with express authority under the Regional Sewage Contract, the Participant Districts have assigned their rights to wastewater treatment capacity under the Regional Sewage Contract to the Master District, which, in turn has reserved wastewater treatment capacity in favor of the Participant Districts at the full build-out figures established in the Regional Sewage Contract and is obligated to allocate that capacity on an interim basis, fairly and equitably among the Participant Districts.

D. *Financial Data.* The District's water and wastewater rates and connection/impact fees are set forth in the District's Amended Order Establishing Rates and Charges, and Adopting Rules with Respect to District Water, Wastewater and Drainage, Including Water Quality, Systems. The rates and fees are comparable to surrounding adjacent developments and are cost-based.

## 2.02 *Conservation Strategies.*

### A. *Minimum Measures.*

1. Water Conservation Goals. The District's five-year target for water savings is to reduce daily water consumption in gallons per capita by 3%, and the District's 10-year target for water savings is to reduce daily water consumption in gallons per capita by an additional 3% over the five-year target. The District will attempt to achieve these targets and goals by:

- a. Encouraging and supporting efficient water use and reduced waste by including water conservation information in new homeowner packets;
- b. Taking measures to maintain per capita water usage below the median of the previous five years' gallons per capita per day consumption for similarly situated water providers;
- c. Striving to limit unaccounted-for water from the District's system to no more than 10% of the volume of water delivered based on a moving five year average;
- d. Implementing and maintaining a program of universal metering and meter replacement and repair;
- e. Encouraging decreasing waste in landscape irrigation;
- f. Raising public awareness of water conservation and encouraging responsible public behavior;
- g. Developing a system specific strategy to conserve water during peak demands, thereby reducing peak use;
- h. Encouraging the development of a program for the reuse/recycling of wastewater/greywater; and
- i. Encouraging and supporting efficient water use and reduced waste.

2. Meters. The District will strive to implement the following with respect to metering and meter repair/replacement:

- a. The supply of water from the District's water supplier(s) will be metered with water meters capable of accuracy within  $\pm 5\%$ ;
- b. Each connection will be metered with a water meter capable of accuracy within  $\pm 5\%$ ;
- c. Each connection on the system will be metered, including landscape irrigation and public facilities; and
- d. A regularly scheduled maintenance program of meter repair and replacement will be established in accordance with the following time intervals:
  - i. Master Meters: Test once/year;

- ii. 1" + Meters: Test once/year; and
- iii. Meters <1": Test once/10 years.

3. Education and Public Information Programs. The District will attempt to undertake a coordinated water conservation public education and information program with its customers that will include:

- a. Providing a conservation message that may be included with water bills or posted on a website;
- b. Encouraging local media coverage of water conservation issues and the importance of water conservation; and
- c. Making water conservation information and materials available.

**B. Other Measures.** Other measures may include system operation requirements and rules that promote water conservation such as use of new water conserving technology in construction, landscape watering management, and appropriate use of updated plumbing fixtures that conserve water. In addition, the District will regularly review this Plan in accordance with applicable rules to ensure that it is effective and efficient.

**2.03 Coordination with Regional Water Planning Group.** The service area of the District is located within the Lower Colorado Regional Water Planning Area (Region K) of the State of Texas, and the District has provided a copy of this water conservation plan to the regional planning group.

### **III. Drought Contingency Plan**

**3.01 Declaration of Policy, Purpose, and Intent.** Because of the water conditions prevailing within the District, the water resources available to the District must be put to the maximum beneficial use and the waste, unreasonable use, or unreasonable method of use of water must be prevented, with a view to the reasonable and beneficial use thereof in the interests of the residents of the District and for the public health and welfare.

Non-essential water uses, as defined below, which are regulated or prohibited under this Article III are considered to be non-essential and the continuation of such uses during times of water shortage or other emergency water supply conditions are deemed to constitute a waste of water, which will subject the offender to a penalty in accordance with Section 3.12 of this Plan.

**3.02 Public Involvement.** An opportunity for the public to provide input into the preparation of this Plan was provided through the District's scheduling and providing public

notice of a public meeting at which members of the public were afforded an opportunity to provide input to the Board on this Plan.

**3.03 Public Education.** The District will periodically provide the public with information about this Plan, including information about the conditions under which each stage of the drought contingency measures of this 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 publication of notice in a newspaper of general circulation, posting notification signs in public places, mailing utility bill inserts or postcards, press releases, web page notices, or other means as determined necessary by the District Manager or his/her designee.

**3.04 Coordination with Regional Planning Group.** The service area of the District is located within the Lower Colorado Regional Water Planning Area (Region K) of the State of Texas, and the District has provided a copy of this drought contingency plan to the regional planning group.

**3.05 Notification.**

**A. TCEQ.** The District will notify the executive director of the Texas Commission on Environmental Quality within five business days of the implementation or termination of any mandatory provisions of this Plan.

**B. Customers.** The District will provide written notice to each of its Customers, including builders, by mail or hand delivery as promptly as practicable in connection with the implementation or termination of each stage of this Plan. The notice will include: (i) the date the applicable restrictions will begin/end; (ii) the triggering circumstances; (iii) a summary of the applicable restrictions; and (iv) an explanation of the consequences for a violation. The District will not enforce the provisions of a particular stage until at least 72 hours after the applicable notice has been mailed or hand delivered.

**3.06 Authorization.** The District's Manager or another consultant or employee specifically designated by the Board (for purposes of this Plan, the appointed party is designated the "District Manager"), in consultation with the Board President or Vice President, is hereby authorized and directed to implement the applicable provisions of the drought contingency measures of this Plan upon determination that implementation is necessary to protect the public health, safety, and welfare. The District Manager, or his/her designee, in consultation with the Board President or Vice President, will have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

**3.07 Application.** The provisions of this Article III will apply to all persons, entities, customers, and property utilizing water provided by the District.

**3.08 Definitions.** For the purpose of this Section, the following definitions will apply:

A. **Commercial Customer:** a Customer that uses water as an integral part of the operations of commercial and non-profit establishments and associations, such as retail establishments, hotels and motels, restaurants, office buildings, and home owner associations.

B. **Customer:** any person, company, or organization using water supplied by the District.

C. **Designated outdoor watering days:**

1. For residential Customers with street addresses, box numbers, or rural postal route numbers ending in an even number (0, 2, 4, 6 or 8) and locations without addresses – Sundays and Thursdays;

2. For residential Customers with street addresses, box numbers, or rural postal route numbers ending in an odd number (1, 3, 5, 7 or 9) – Saturdays and Wednesdays.

3. For Commercial Customers (including common areas) – Tuesdays and Fridays.

D. **Landscape Irrigation Use:** water used for the irrigation and maintenance of landscaped areas, whether privately or publicly owned, including residential and commercial lawns, gardens, golf courses, parks, rights-of-way, and medians.

E. **Non-Essential Water Uses:** water uses that are not essential or required for the protection of the public health, safety, and welfare, including:

1. irrigation of landscaped areas, including parks, athletic fields, and golf courses, except as otherwise provided by this Article;

2. use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;

3. use of water to wash-down any sidewalk, walkway, driveway, parking lot, tennis court, or other hard-surfaced area;

4. use of water to wash-down any building or structure for any purpose other than immediate fire protection;

5. flushing any gutter or permitting water to run or accumulate in any gutter or street;

6. use of water to fill, refill, or add to any indoor swimming pool or jacuzzi-type pool;



7. use of water in a fountain or pond maintained for aesthetic or scenic purposes, except where necessary to support aquatic life;

8. failure to repair any controllable leak within a reasonable period after being given notice directing that the leak be repaired; and

9. use of water from any hydrant for construction purposes or any use other than fire-fighting.

**F. Water Use Reduction Measures:** practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve efficiency in the use of water, or increase the recycling and reuse of water so that water supply is conserved and made available for future or alternative uses.

**3.09 Triggering and Termination Criteria for Drought Response Stages.** The District Manager, or his/her designee, will monitor water supply and demand conditions on a monthly basis and, in consultation with the Board President or Vice President, determine when conditions warrant the initiation or termination of any stage of this Article. During the months of May through September, water supply conditions may be monitored on a more frequent basis if deemed necessary. Weather conditions will be considered in determining a drought classification. If long cold or dry periods are predicted, such conditions will be considered in making an impact analysis. Generally, the District expects that the drought response stages outlined in this Plan will be triggered and terminated sequentially; however, unusual conditions (such as a sudden drop/increase in aquifer levels, a reduction/increase in water availability or production or system capacity, or to comply with the requirements of a court order or regulatory authority) may justify the implementation or termination of a stage out of sequence. Additionally, the District may modify the water use restrictions specified under this Plan in order to match the restrictions of its wholesaler, in which event the District will notify its customers of the modifications in accordance with Section 3.05.

**A. Stage 1 – Mild Water Shortage Conditions**

1. Requirements for initiation. Customers will be required to comply with Stage 1 requirements:

a. from May 1<sup>st</sup> through September 30<sup>th</sup>;

b. when the District Manager or his/her designee, in consultation with the Board President or Vice President, considers it necessary; or

b. when required under any District water supply contract.

2. Requirements for termination. Stage 1 may be rescinded by the District Manager or his/her designee, in consultation with the Board President or Vice President, if Stage 1 is no longer required under any District water supply

contract or, if Stage 1 is not required under any District water supply contract, at the Manager's discretion, in consultation with the Board President or Vice President.

**B. Stage 2 – Moderate Water Shortage Conditions.**

1. Requirements for initiation. Customers will be required to comply with Stage 2 requirements when:

a. daily water consumption reaches 90% of the District's water supply/distribution capacity, as reflected on the most current quarterly water supply report from the District's wholesale supplier, for two consecutive days;

b. an essential component of the District's or its wholesale supplier's water supply/distribution facilities is out of service;

c. compliance is required under any District water supply contract; or

d. otherwise approved by the Board.

2. Requirements for termination. Stage 2 water restrictions may be rescinded by the District Manager or his/her designee, in consultation with the Board President or Vice President, when none of the conditions listed in B.1 has existed for a period of three consecutive days. Upon termination of Stage 2, Stage 1 will become operative.

**C. Stage 3 – Alarm Water Shortage Conditions.**

1. Requirements for initiation. Customers will be required to comply with Stage 3 requirements when:

a. daily water consumption reaches 95% of the District's water supply/distribution capacity, as reflected on the most current quarterly water supply report from the District's wholesale supplier, for three consecutive days;

b. system demand exceeds available high service pump capacity;

c. the water system is contaminated, whether accidentally or intentionally (alarm condition is reached immediately upon detection of contamination);

d. the water system fails due to an act of God (tornadoes, hurricanes) or man (alarm condition is reached immediately upon detection of the failure);

e. any mechanical failure of pumping equipment which will require more than 12 hours to repair and which causes unprecedented loss of capability to provide water service;

g. required under any District water supply contract; or

h. otherwise approved by the Board.

2. Requirements for termination. Stage 3 may be rescinded by the District Manager or his/her designee, in consultation with the Board President or Vice President, when none of the conditions listed in C.1 has existed for a period of three consecutive days. Upon termination of Stage 3, Stage 2 will become operative.

***D. Stage 4 – Critical Water Shortage Conditions.***

1. Requirements for initiation. Customers will be required to comply with Stage 4 requirements when:

a. there is a failure of water treating facilities;

b. there is a contamination of water source;

c. required under any District water supply contract;

d. the District Manager or his/her designee, in consultation with the Board President or Vice President, considers it necessary; or

e. otherwise approved by the Board.

2. Requirements for termination. Stage 4 may be rescinded by the District Manager or his/her designee, in consultation with the Board President or Vice President, when none of the conditions listed in D.1 has existed for a period of one day. Upon termination of Stage 4, Stage 3 will become operative.

**3.10 Drought Response Stages.** The District Manager or his/her designee will monitor water supply and/or demand conditions on a daily basis. In accordance with the triggering criteria set forth in Section 3.09, the District Manager or his/her designee, in consultation with the Board President or Vice President, will determine if a mild, moderate, alarm, or critical condition exists and implement the following actions:

**A. Stage 1 – Mild Water Shortage Conditions.** The goal for Stage 1 is to achieve a 5% reduction in average daily water use.

1. Supply Management Measures. During Stage 1, the District will endeavor to (a) reduce or discontinue flushing of water mains; (b) reduce or discontinue irrigation of public landscaped areas; (c) where possible, use alternative water supply sources and/or alternative delivery mechanisms with the prior approval of Texas Commission on Environmental Quality, if appropriate; and (d) use reclaimed water for non-potable purposes, where possible. Additionally, all District operations will adhere to the Stage 1 water use restrictions prescribed below.

2. Required Water Use Restrictions.

a. Landscape Irrigation Use is prohibited between the hours of 10:00 a.m. and 7:00 p.m. except with hand-held hoses equipped with a positive pistol grip nozzle or other device that automatically shuts off water flow or hand-held buckets. This prohibition does not apply to irrigation: (i) using treated wastewater effluent or raw water; (ii) during landscape installation and within the first ten days after installation is complete; (iii) during repair or testing of a new or existing irrigation system; and (iv) at a commercial plant nursery.

b. The following uses will constitute a waste of water and will be prohibited:

i. washing sidewalks, walkways, driveways, parking lots, tennis courts, patios or other hard-surfaced areas except to alleviate immediate health or safety hazards;

ii. using water for dust control;

iii. allowing water to run off a property or to pond in the street or on a parking lot;

iv. operating a permanently installed irrigation system that includes broken heads, heads that are missing, or heads that are out of adjustment and spray more than 10% of the spray on the street or a parking lot;

v. failing to repair a controllable leak within a reasonable period after having been given notice to repair the leak;

vi. flushing gutters or permitting water to run into or accumulate in any gutter or street; and

vii. use of water to wash down buildings or structures for purposes other than immediate fire protection.

c. Any additional or alternative restrictions imposed by a water supplier of the District or otherwise determined to be necessary by the District Manager or the Board may be imposed by the District.

3. Voluntary Water Use Measures.

a. All Customers will be requested to voluntarily limit Landscape Irrigation Use to Designated Outdoor Watering Days before 10:00 a.m. and after 7:00 p.m., except with hand-held hoses equipped with a positive pistol grip nozzle or other device that automatically shuts off water flow or hand-held buckets.

b. Customers will be requested to reduce water use and to minimize or discontinue Non-Essential Water Uses not otherwise prohibited under Section 3.10.A.2.b. Customers will also be encouraged to insulate pipes and fittings to prevent freezing rather than leaving faucets running or dripping.

c. Commercial Customers will be requested to reduce water use where possible.

**B. Stage 2 – Moderate Water Shortage Conditions.** The goal for Stage 2 is to achieve a 10% reduction in average daily water use.

1. Supply Management Measures: During Stage 2, the District will endeavor to (a) reduce or discontinue flushing of water mains; (b) reduce or discontinue irrigation of public landscaped areas; (c) where possible, use alternative water supply sources and/or alternative delivery mechanisms with the prior approval of Texas Commission on Environmental Quality, if appropriate; and (d) use reclaimed water for non-potable purposes, where possible. The District will also comply with the water use restrictions for Stage 2 when those restrictions are implemented.

2. Water Use Restrictions. During Stage 2, the following water use restrictions will apply to all Customers, and violators will be subject to the penalty specified in Section 3.12:

a. Landscape Irrigation Use will be limited to Designated Outdoor Watering Days before 10:00 a.m. and after 7:00 p.m. except with hand-held hoses equipped with a positive pistol grip nozzle or other device that automatically shuts off water flow or hand-held buckets. These time restrictions will not apply to: (i) irrigation of commercial plant nurseries, (ii) irrigation using treated wastewater effluent,

(iii) irrigation of new landscape installation during installation and for the first ten days thereafter, and (iv) testing of new irrigation systems or existing irrigation systems under repair.

b. The washing of automobiles, trucks, motorbikes, boats, trailers, airplanes, or other vehicles will be prohibited except on Designated Outdoor Watering Days before 10:00 a.m. and after 7:00 p.m. Such washing, when permitted, must be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle. This restriction does not apply to (i) individual vehicles washed on the immediate premises of a commercial car wash or commercial service station or (ii) the washing of vehicles or any other mobile equipment such as garbage trucks or vehicles used to transport perishables, which relates to the public health, safety or welfare. Charity car washes will be prohibited.

c. The use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or jacuzzi-type pools will be prohibited except on Designated Outdoor Watering Days before 10:00 a.m. and after 7:00 p.m.

d. Operation of any ornamental or decorative fountain or pond will be prohibited unless operation is necessary to support aquatic life or such fountains or ponds are equipped with a recirculation system.

e. Use of water from hydrants will be limited to fire-fighting and other activities necessary to maintain public health, safety, and welfare, except that the use of water from designated fire hydrants may be allowed for construction purposes with prior written permission from the District as provided in Section 3.11.

f. The uses constituting a waste of water under Section 3.10.A.2.b will be prohibited.

g. Any additional or alternative restrictions imposed by a water supplier of the District or otherwise determined to be necessary by the District Manager or the Board may be imposed by the District.

During Stage 2, the District Manager, or his/her designee, in consultation with the Board President or Vice President, will make available information regarding current water supply and/or demand conditions, projected water supply and demand conditions if drought conditions persist, and consumer information on Water Use Reduction Measures. This information may be provided by means of publication of notice in a newspaper of general circulation, posting notification signs in public places, mailing utility bill inserts or postcards, press releases, web page notices, or other means.

C. *Stage 3 – Alarm Water Shortage Conditions.* The goal for Stage 3 is to achieve a 20% reduction in average daily water use.

1. Supply Management Measures. During Stage 3, the District will cease the flushing of water mains except when necessary for reasons of health or safety. The District will discontinue irrigating public landscaped areas except areas irrigated with treated wastewater effluent, ground water, or raw water.

2. Water Use Restrictions. All requirements of Stage 2 will remain in effect during Stage 3 except:

a. Landscape Irrigation Use will be limited to Designated Outdoor Watering Days before 4:00 a.m. and after 7:00 p.m.;

b. The washing of automobiles, trucks, trailers, boats, airplanes, and other types of mobile equipment will be prohibited other than (i) on the immediate premises of a commercial car wash or a commercial service station between 12:00 noon and 5:00 p.m. or at any time with the use of recycled water; and (ii) that which is in the immediate interest of the public health, safety and welfare;

c. Commercial plant nurseries may use only hand-held hoses equipped with a positive pistol grip nozzle or other device that automatically shuts off water flow or hand-held buckets;

d. The use of water to top off any indoor or outdoor swimming pools, wading pools, or jacuzzi-type pools will be permitted on Designated Outdoor watering Days before 10:00 a.m. and after 7:00 p.m.; otherwise, the filling, refilling, or adding of potable water to swimming, wading pools, or jacuzzi-type pools will be prohibited;

e. No new landscapes of any type may be installed;

f. Restaurants will be prohibited from serving water to their patrons except upon request; and

g. Any additional or alternative restrictions imposed by a water supplier of the District or otherwise determined to be necessary by the Board or the District Manager, in consultation with the Board President or Vice President, may be imposed by the District.

During Stage 3, the District Manager, or his/her designee, in consultation with the Board President or Vice President, will make available information regarding current water supply and/or demand conditions, projected water supply and demand conditions if drought conditions persist, and consumer information on Water Use Reduction Measures. This information may be provided by means of publication of

notice in a newspaper of general circulation, posting notification signs in public places, mailing utility bill inserts or postcards, press releases, web page notices, or other means.

If Stage 3 conditions persist for an extended period of time, the District Manager, upon recommendation of the Board, may order water rationing and/or terminate service to selected users of the system in accordance with the following sequence:

Recreational users  
Commercial users  
School users  
Residential users  
Hospitals, public health and safety facilities.

**D. Stage 4 – Critical Water Shortage Conditions.** The goal for Stage 4 is to achieve a 30% reduction in average daily water use.

1. Supply Management Measures. The District will continue the implementation of the Supply Management Measures set forth in Section 3.10.C.1.

2. Water Use Restrictions. All requirements of Stages 2 and 3 will remain in effect during Stage 4 except:

a. Landscape Irrigation Use will be prohibited, except by faucet-filled bucket or watering can of five gallons or less between 7:00 a.m. and 9:00 a.m. and between 7:00 p.m. and 9:00 p.m.;

b. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle will be prohibited;

c. The use of water to top off any swimming, wading pools, or jacuzzi-type pools will be prohibited; and

d. Any additional or alternative restrictions imposed by a water supplier of the District or otherwise determined to be necessary by the Board or the District Manager, in consultation with the Board President or Vice President, may be imposed by the District.

During Stage 4, the District Manager, or his/her designee, in consultation with the Board President or Vice President, will periodically report to the news media with information regarding current water supply and/or demand conditions, projected water supply and demand conditions if drought conditions persist, and consumer information on Water Use Reduction Measures.



If Stage 4 conditions persist for an extended period of time, the District Manager, upon recommendation of the Board, may order water rationing and/or terminate service to selected users of the system in accordance with sequence set forth in Section 3.10.C.

### 3.11 *Variances*

**A. *Granting Variances.*** A Review Board consisting of the District Manager, the Board President, and the Board Vice President is hereby established. The Review Board will review hardship and special cases that cannot strictly comply with this Plan to determine whether the cases warrant a variance, permit, or compliance agreement (collectively, "Variance").

**B. *Application for Variance.***

1. A Variance from a requirement of this Plan may be granted if the Review Board determines that special circumstances exist and that compliance with the Plan:

- a. adversely affects health, sanitation, or fire protection of the public or applicant;
- b. adversely affects pesticide or fertilizer application; or
- c. constitutes an economic hardship. "Economic hardship" means a threat to a person or entity's primary source of income. Inconvenience or the potential for damage to landscaping does not constitute an economic hardship. If the Review Board determines there is an economic hardship, it may authorize the implementation of alternative water use restrictions that further the purposes of the Plan. The alternative water use restrictions must be set forth on the face of the Variance and the Customer must keep a copy of the Variance in a location that is accessible by and visible to the public.

2. A Variance from the requirements of Stage 1 or Stage 2 of this Plan may be granted if the Review Board determines that:

- a. a property cannot be completely watered with an average of three-quarters of an inch of water in a single day and that the property should be divided into sections to be watered on different days;
- b. a property is a newly installed landscape; or
- c. a property is used as an athletic field that cannot feasibly be watered on the designated day.

3. All applications for a Variance will be reviewed by the Review Board and must include the following:

- a. Name and address of the petitioner(s);
- b. Purpose of water use;
- c. Specific provision(s) of the Plan from which the petitioner is requesting relief;
- d. 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 Plan;
- e. Description of the relief requested;
- f. Period of time for which the Variance is sought;
- g. 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; and
- h. Other pertinent information.

4. The Review Board will make its determination no later than the 15th working day after receipt of an application for variance.

***C. Application of Variance.***

1. Until the Review Board has acted on an application, the applicant must comply with all provisions of this Plan. The Review Board may not approve a Variance if the terms and conditions do not meet or exceed the purpose and intent of this Plan.

2. No Variance may be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the Variance.

***D. Conditions to Variance.*** Variances granted by the District are subject to the following conditions, unless waived or modified by the Review Board:

1. Variances granted must include a timetable for compliance;
2. Variances granted will expire when the Plan is no longer in effect, unless the petitioner has failed to meet specified requirements; and

3. Such other conditions as the Review Board determines necessary to meet or exceed the purpose and intent of this Plan, such as water schedules for newly installed landscapes.

**3.12. Enforcement.**

A. No person or entity may knowingly or intentionally allow the use of water from the District 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 any drought response stage in effect at the time pursuant to the provisions of this Plan.

B. The provisions of this Plan constitute rules adopted under the authority set forth in Section 54.205 of the *Texas Water Code*. Any person who violates any provision of this Plan will be subject to the payment of a fine in an amount per violation that does not exceed the jurisdiction of justice court, as provided by Section 27.031, Government Code, as permitted under Section 49.004 of the *Texas Water Code*. Each day of violation will constitute a separate offense. In addition, the offending party will be liable to the District for any costs incurred by the District in connection with any violation. Compliance with this Plan may also be sought through injunctive relief in the district court. In accordance with the foregoing authority, the following penalties are established:

1. First violation -- \$200 fine;
2. Second violation -- \$500 fine;

3. If any person or entity violates any three provisions of this Plan or violates one provision three or more times, the District Manager or his/her designee may, following written notice to the violator, discontinue water service to the premises where the violations occurred. Service discontinued under such circumstances may be restored only upon payment of all fines established under this Section, a re-connection charge of \$100, and any other costs incurred by the District in discontinuing or re-initiating service. In addition, the violator must provide assurance, acceptable to the District Manager, or his/her designee, that the violation will not be repeated.

C. Any person, including a person classified as a Customer of the District, who is in apparent control of the property where a violation occurs or originates is presumed to be the violator, and proof that a violation occurred on a person's property constitutes a rebuttable presumption that the person committed the violation. Parents are responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parents' control constitutes a rebuttable presumption that the parent committed the violation.