



DROUGHT CONTINGENCY PLAN

FOR

THE CITY OF MERCEDES

400 S. OHIO AVE

MERCEDES, TEXAS 78570

WATERCCN #12811

PWS #1080007

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Section I: 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 Mercedes (the City) hereby adopts the following regulations and restrictions on the delivery and consumption of water through an ordinance/or resolution.

Water uses regulated or prohibited under this Drought Contingency Plan (the Plan) are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in Section X of this Plan.

Section II: Public Involvement

Opportunity for the public to provide input into the preparation of the Plan was provided by the City by scheduling and providing public notice of public meetings considering adoption of the Plan.

Section III: Public Education

The City will periodically provide the public with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by means of utility bill inserts or mail-outs.

Section IV: Coordination with Regional Water Planning Groups

The service area of the City is located within the Rio Grande Regional Water Planning Group Region M and the City has provided a copy of this Plan to its administrative agent, the Lower Rio Grande Valley Development Council, 301 W. Railroad St., Weslaco, Texas 78596, to ensure consistency with the appropriate approved regional water plans.

Section V: Authorization

The City Manager or his/her designee is hereby authorized and directed to implement the applicable provisions of this Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The City Manager, or his/her designee, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

Section VI: Application

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

Section VII: 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.

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

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 not essential or required for the protection of public, health, safety, and welfare, including:

- (a) irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this Plan;
- (b) use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- (c) use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- (d) use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (e) flushing gutters or permitting water to run or accumulate in any gutter or street;

(f) use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;

(g) use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;

(h) failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and

(i) use of water from hydrants for construction purposes or any other purposes other than firefighting.

Odd numbered address: street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

Wholesale Treated Water Customer: any water supplier that receives all or a portion of its treated water supply directly or indirectly from City of Mercedes.

Section VIII: Criteria for Initiation and Termination of Drought Response Stages

The City Manager or his/her designee shall monitor water supply and/or demand conditions on a daily basis and shall determine when conditions warrant initiation or termination of each stage of the Plan, that is, when the specified "triggers" are reached.

The triggering criteria described below are based on the levels of U.S. water stored in the Falcon Reservoir as reported by the Texas Commission on Environmental Quality (TCEQ) watermaster or when the demand on the City's water system increases.

Stage 1 Triggers--MILD Water Shortage Conditions

Requirements for initiation

Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain water uses, defined in Section VII-Definitions, when water use has reached 60% of maximum daily supply capacity (>3.3 MGD).

Requirements for termination

Stage I of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 3 consecutive days.

Stage 2 Triggers -- MODERATE Water Shortage Conditions

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain nonessential water uses provided in Section IX of this Plan when drought conditions are officially declared for the county, water levels in Falcon Lake Reservoir drop below 25% of conservation levels and the daily water consumption exceeds 70% of daily supply capacity (>3.85 MGD) for 10 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 3 consecutive days. Upon termination of Stage 2, Stage 1 becomes operative.

Stage 3 Triggers - SEVERE Water Shortage Conditions

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain nonessential water uses provided in Section IX of this Plan when extreme drought conditions are officially declared for the county, water levels in Falcon Lake Reservoir drop below 15% of conservation levels, raw water supply drops 10% below projected needs and the daily water consumption exceeds 80% of daily supply capacity (>4.4 MGD) for 10 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 3 consecutive days. Upon termination of Stage 3, Stage 2 becomes operative.

Stage 4 Triggers -- CRITICAL Water Shortage Conditions

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain nonessential water uses provided in Section IX of this Plan when emergency drought conditions are officially declared for the county, water levels in Falcon Lake Reservoir drop below 15% of conservation levels, raw water supply drops 30% below projected needs and the daily water consumption exceeds 90% of daily supply capacity (>4.95 MGD) for 10 days.

Requirements for termination

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

Stage 5 Triggers -- EMERGENCY Water Shortage Conditions

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions for Stage 5 of this Plan when the City Manager or his/her designee determines that a water supply emergency exists based on:

1. When the total daily demand equals or exceeds 100% of the system plant capacity.
2. Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; or
3. Natural or man-made contamination of the water supply source.

Requirements for termination

Stage 5 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 3 consecutive days.

Section IX: Drought Response Stages

The City Manager or his/her designee shall monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in Section VIII of this Plan, shall determine that a mild, moderate, severe, critical, emergency or water shortage condition exists and shall implement the following notification procedures:

Notification

Notification of the Public:

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

Written notice to each customer prior to implementation or termination of each stage of the water restriction program. Mailed notice will be given to each customer 72 hours prior to the stage of water restriction. If notice is hand delivered, the utility will not enforce the provisions of the plan for 24 hours after notice is provided. The written notice to customers will contain the following information:

1. the date restrictions will begin;
2. the circumstances that triggered the restrictions;

4. the stages of response and explanation of the restrictions to be implemented; and
5. an explanation of the consequences for violations.

Additional Notification:

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

City Commission

TCEQ (when mandatory restrictions are imposed)

Stage 1 Response -- MILD Water Shortage Conditions

Target: Achieve a voluntary reduction of water use to less than 90% of maximum daily supply capacity.

Best Management Practices for Supply Management:

Reduction in the flushing of water mains to the minimum requirement of once a month.

Voluntary Water Use Restrictions for Reducing Demand:

Water customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes. Water customers are to practice water conservation by implementing the following suggested measures:

1. Water customers are requested to voluntarily limit the irrigation of landscaped areas to even numbered days for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and to odd-numbered days for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and to irrigate landscapes only between the hours of midnight and 10:00 a.m. and 8:00 p.m. to midnight on designated watering days.
2. Irrigate lawns and landscaping only between the hours of 6:00 p.m. and 10:00 a.m.
3. Irrigation and watering of lawns and landscaped areas should occur without significant runoff.
4. Wash vehicles using the same daily numbering system and only use hoses equipped with flow control attachments.
5. Do not use potable water for washing sidewalks, driveways, or for dust control.

Handheld hose watering of lawns and landscaped areas will be allowed at any time of the day.

Wholesale Water Customer:

Require implementation of like procedures by wholesale water customers in accordance with their water contracts, state mandated drought and conservation plans, state law and TCEQ regulations.

Stage 2 Response -- MODERATE Water Shortage Conditions

Target: Achieve a reduction of water use to less than 80% of maximum daily supply capacity

Best Management Practices for Supply Management:

Flushing of water mains on as needed basis to maintain water quality.

Water Use Restrictions for Demand Reduction:

Under threat of penalty for violation, the following water use restrictions shall apply to all persons:

Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Tuesdays and Fridays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Mondays and Thursdays 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 6:00 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 5 gallons or less, or drip irrigation system.

Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicles prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 6:00 p.m. and 12:00 midnight. Such washing, when allowed, shall be done with a handheld bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Furthermore, 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, or Jacuzzi-type pools is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 6:00 p.m. and 12:00 midnight.

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 circulation system.

Use of water from hydrants shall be limited to firefighting, related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under special permit from the City.

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; and
5. failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

Wholesale Water Customer:

Require implementation of like procedures by wholesale water customers in accordance with their water contracts, state mandated drought and conservation plans, state law and TCEQ regulations.

Require water demand reductions in accordance with contract obligations for wholesale water customers.

Wholesale Water Contracts:

Every offer for a new wholesale contract shall be reviewed. An assessment of the current and future water delivery capacity of City of Mercedes for the contract terms will be performed to ensure the sustainability of City of Mercedes commitments to current customers.

Stage 3 Response -- SEVERE Water Shortage Conditions

Target: Achieve a reduction of water use to less than 70% of maximum daily supply capacity.

Best Management Practices for Supply Management:

The City will take all measures necessary to acquire or secure a secondary water source. These measures will include acquiring treated water from adjoining water supplier, City of Weslaco, North Alamo Water Supply Corporation, and constructing any emergency interconnection facilities needed to accomplish the transfer of the acquired water resources.

Water Use Restrictions for Demand Reduction:

All requirements of Stage 2 shall remain in effect during Stage 3 except:

Irrigation of landscaped areas shall be limited to designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 6:00 p.m. and 12:00 midnight and shall be by means of hand-held hoses, hand-held buckets, drip irrigation, or permanently installed automatic sprinkler system only. The use of hose-end sprinklers is prohibited at all times.

The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued.

Wholesale Water Customer:

Require implementation of like procedures by wholesale water customers in accordance with their water contracts, state mandated drought and conservation plans, state law and TCEQ regulations.

Require water demand reductions in accordance with contract obligations for wholesale water customers.

Wholesale Water Contracts:

No new wholesale contracts shall be entertained unless there is an emergency situation. Every request for a new wholesale contract shall be reviewed. An assessment of the current and future water delivery capacity of City of Mercedes for the contract terms will be performed to ensure the sustainability of City of Mercedes' commitments to current customers.

Water Allocation:

Wholesale Water Customers- In the event that the triggering criteria specified in Section VIII of the Plan for Stage 3 have been met, the City Manager is hereby authorized to initiate allocation of water supplies on a pro rata basis in accordance with the latest revision of Texas Water Code Section 11.039, which states:

§11.039. Distribution of Water During Shortage:

- (a) If a shortage of water in a water supply not covered by a water conservation plan prepared in compliance with Texas Commission on Environmental Quality or Texas Water Development Board rules results from drought, accident, or other cause, the water to be distributed shall be divided among all customers pro rata, according to the amount each may be entitled to, so that preference is given to no one and everyone suffers alike.
- (b) If a shortage of water in a water supply covered by a water conservation plan prepared in compliance with Texas Commission on Environmental Quality or Texas Water Development Board rules results from drought, accident, or other cause, the person,

association of persons, or corporation owning or controlling the water shall divide the water to be distributed among all customers pro rata, according to:

- (1) the amount of water to which each customer may be entitled; or
 - (2) the amount of water to which each customer may be entitled, less the amount of water the customer would have saved if the customer had operated its water system in compliance with the water conservation plan.
- (c) Nothing in Subsection (a) or (b) precludes the person, association of persons, or corporation owning or controlling the water from supplying water to a person who has a prior vested right to the water under the laws of this state.

City of Mercedes may curtail water deliveries or reduce diversions in accordance with the terms and conditions of its wholesale water supply contracts. If necessary, or if specific contract provisions are not provided for, City of Mercedes may curtail water deliveries or reduce diversions in accordance with Texas Water Code Section 11.039. City of Mercedes will have authority to restrict flow to its wholesale water customers through the rate-of-flow controllers.

Pro rata water allocations, determined as a percentage reduction of the wholesale customer's water usage, will be established by the City Manager at the time of implementation. The total volume reduction for each wholesale customer will be calculated on a monthly basis, based on average water usage for the previous three years. The City Manager will establish the percentage reduction based on an assessment of the severity of the water shortage condition and the need to curtail water diversions and/or deliveries, and the percentage reduction may be adjusted periodically by the City Manager. Once pro rata allocation is in effect, water diversions by or deliveries to each wholesale water customer will be limited to the allocation established for each month.

Stage 4 Response -- CRITICAL Water Shortage Conditions

Target: Achieve a reduction of water use to less than 60% of maximum daily supply capacity.

Best Management Practices for Supply Management:

The filling, refilling, or adding of water to swimming pools, wading pools, and Jacuzzi-type pools is prohibited.

Water Use Restrictions for Demand Reduction:

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 6:00 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. Furthermore, 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 10:00 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 circulation 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.

Wholesale Water Customer:

Require implementation of like procedures by wholesale water customers in accordance with their water contracts, state mandated drought and conservation plans, state law and TCEQ regulations.

Require water demand reductions in accordance with contract obligations for wholesale water customers.

Wholesale Water Contracts:

No new wholesale contracts shall be entertained unless there is an emergency situation. Every request for a new wholesale contract shall be reviewed. An assessment of the current and future water delivery capacity of City of Mercedes for the contract terms will be performed to ensure the sustainability of City of Mercedes' commitments to current customers.

Water Allocation:

Wholesale Water Customers- In the event that the triggering criteria specified in Section VIII of the Plan for Stage 4 have been met, the City Manager is hereby authorized to initiate allocation of water supplies on a pro rata basis in accordance with the latest revision of Texas Water Code Section 11.039, which states:

§11.039. Distribution of Water During Shortage:

- (d) If a shortage of water in a water supply not covered by a water conservation plan prepared in compliance with Texas Commission on Environmental Quality or Texas Water Development Board rules results from drought, accident, or other cause, the water to be distributed shall be divided among all customers pro

rata, according to the amount each may be entitled to, so that preference is given to no one and everyone suffers alike.

- (e) If a shortage of water in a water supply covered by a water conservation plan prepared in compliance with Texas Commission on Environmental Quality or Texas Water Development Board rules results from drought, accident, or other cause, the person, association of persons, or corporation owning or controlling the water shall divide the water to be distributed among all customers pro rata, according to:
 - (1) the amount of water to which each customer may be entitled; or
 - (2) the amount of water to which each customer may be entitled, less the amount of water the customer would have saved if the customer had operated its water system in compliance with the water conservation plan.
- (f) Nothing in Subsection (a) or (b) precludes the person, association of persons, or corporation owning or controlling the water from supplying water to a person who has a prior vested right to the water under the laws of this state.

City of Mercedes may curtail water deliveries or reduce diversions in accordance with the terms and conditions of its wholesale water supply contracts. If necessary, or if specific contract provisions are not provided for, City of Mercedes may curtail water deliveries or reduce diversions in accordance with Texas Water Code Section 11.039. City of Mercedes will have authority to restrict flow to its wholesale water customers through the rate-of-flow controllers.

Pro rata water allocations, determined as a percentage reduction of the wholesale customer's water usage, will be established by the City Manager at the time of implementation. The total volume reduction for each wholesale customer will be calculated on a monthly basis, based on average water usage for the previous three years. The City Manager will establish the percentage reduction based on an assessment of the severity of the water shortage condition and the need to curtail water diversions and/or deliveries, and the percentage reduction may be adjusted periodically by the City Manager. Once pro rata allocation is in effect, water diversions by or deliveries to each wholesale water customer will be limited to the allocation established for each month.

Stage 5 Response -- EMERGENCY Water Shortage Conditions

Target: Achieve a reduction of water use to less than 50% of maximum daily supply capacity.

Best Management Practices for Supply Management:

Discontinue flushing of water mains.

Water Use Restrictions for Demand Reduction:

All requirements of Stage 2, 3, and 4 shall remain in effect during Stage 5 except:

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

Wholesale Water Customer:

Require implementation of like procedures by wholesale water customers in accordance with their water contracts, state mandated drought and conservation plans, state law and TCEQ regulations.

Require water demand reductions in accordance with contract obligations for wholesale water customers.

Wholesale Water Contracts:

No new wholesale contracts shall be entertained unless there is an emergency situation. Every request for a new wholesale contract shall be reviewed. An assessment of the current and future water delivery capacity of City of Mercedes for the contract terms will be performed to ensure the sustainability of City of Mercedes' commitments to current customers.

Water Allocation:

Wholesale Water Customers- In the event that the triggering criteria specified in Section VIII of the Plan for Stage 5 have been met, the City Manager is hereby authorized to initiate allocation of water supplies on a pro rata basis in accordance with the latest revision of Texas Water Code Section 11.039, which states:

§11.039. Distribution of Water During Shortage:

- (g) If a shortage of water in a water supply not covered by a water conservation plan prepared in compliance with Texas Commission on Environmental Quality or Texas Water Development Board rules results from drought, accident, or other cause, the water to be distributed shall be divided among all customers pro rata, according to the amount each may be entitled to, so that preference is given to no one and everyone suffers alike.
- (h) If a shortage of water in a water supply covered by a water conservation plan prepared in compliance with Texas Commission on Environmental Quality or Texas Water Development Board rules results from drought, accident, or other cause, the person, association of persons, or corporation owning or controlling the water shall divide the water to be distributed among all customers pro rata, according to:

- (1) the amount of water to which each customer may be entitled; or
 - (2) the amount of water to which each customer may be entitled, less the amount of water the customer would have saved if the customer had operated its water system in compliance with the water conservation plan.
- (i) Nothing in Subsection (a) or (b) precludes the person, association of persons, or corporation owning or controlling the water from supplying water to a person who has a prior vested right to the water under the laws of this state.

City of Mercedes may curtail water deliveries or reduce diversions in accordance with the terms and conditions of its wholesale water supply contracts. If necessary, or if specific contract provisions are not provided for, City of Mercedes may curtail water deliveries or reduce diversions in accordance with Texas Water Code Section 11.039. City of Mercedes will have authority to restrict flow to its wholesale water customers through the rate-of-flow controllers.

Pro rata water allocations, determined as a percentage reduction of the wholesale customer's water usage, will be established by the City Manager at the time of implementation. The total volume reduction for each wholesale customer will be calculated on a monthly basis, based on average water usage for the previous three years. The City of Mercedes will establish the percentage reduction based on an assessment of the severity of the water shortage condition and the need to curtail water diversions and/or deliveries, and the percentage reduction may be adjusted periodically by the City Manager. Once pro rata allocation is in effect, water diversions by or deliveries to each wholesale water customer will be limited to the allocation established for each month.

Section X: Enforcement

No person shall knowingly or intentionally allow the use of water from the City 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 Manager, or his/her designee, in accordance with provisions of this Plan.

Any person, including a person classified as a water customer of the City, 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.

Violations of this Plan will be handled as follows:

First violation:

The customer will be notified by written notice of their specific violation and there will be a \$25.00 fine imposed on the following utility bill. This fine will be due at the same time as the bill that it is attached to, unless payment terms are presented to, and accepted by the City.

Second violation:

The customer will be notified by written notice of their specific violation and there will be a \$200.00 fine imposed on the following utility bill. This fine will be due at the same time as the bill that it is attached to unless payment terms are presented to, and accepted by the City.

Third violation:

The customer will be notified by a hand-delivered written notice of their specific violation and service will be suspended, after notice has been delivered, for a period of 7 calendar days. or until the end of the month, whichever is LESS. A \$250.00 fine will imposed and noted on the delivered notice. This fine will be paid prior to re-establishment of service, unless payment terms are presented to, and accepted by the City.

Section XI: Variances

The City may grant any customer an exemption or variance from the drought contingency plan for good cause upon written request. A customer who is refused an exemption or variance may appeal such action in writing to the TCEQ. The City will treat all customers equally concerning exemptions and variances, and shall not discriminate in granting exemptions and variances. No exemption or variance shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance.

The written request shall demonstrate 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:

- (a) Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is ineffect.
- (b) 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 within 5 days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the City Manager, or his/her designee, and shall 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 Ordinance.
- (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.
- (h) Other pertinent information.

Section XII: Wholesale Water Contracts

Every wholesale water contract, (treated and untreated water) entered into or renewed after the adoption of this Plan, including any contract extensions, will contain language notifying parties to the contract, that in a case of shortage of water resulting from a drought, the water to be distributed shall be divided in accordance with Texas Water Code Section 11.039.