

**BASTROP COUNTY WATER CONTROL
AND IMPROVEMENT DISTRICT NO. 2**

DROUGHT CONTINGENCY PLAN

**ARTICLE I
POLICY AND PURPOSE**

Section 1.01 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 Bastrop County Water Control and Improvement District (the “District”) hereby adopts the following regulations and restrictions on the delivery and consumption of water.

Water uses regulated or prohibited under this Drought Contingency Plan (the Plan) are considered to be 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 Article V of this Plan.

Section 1.02 Public Involvement

Opportunity for the public to provide input into the preparation of the Plan was provided by the District by means of scheduling and providing public notice of a public meeting of the Board of Directors of the District during preparation of the Plan.

Section 1.03 Public Education

The District 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 letters to residents, notices in utility bills, placement of signs in the District, posting on the District’s website, or other similar measures, as appropriate.

Section 1.04 Coordination with Regional Water Planning Groups

The service area of the District is located within the Lower Colorado Region and the District has provided a copy of this plan to the Region K Water Planning Group.

Section 1.05 Authorization

The President of the Board of Directors 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 President of the Board of Directors 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 1.06 Application

The provisions of this plan shall apply to all persons, customers, and property utilizing water provided by the District. The terms “person” and “customer” as used in the plan include individuals, corporations, partnerships, associations and all other legal entities. Utilization of a water resource other than District potable water is exempt from the provisions of this plan.

Section 1.07 Permanent Water Restrictions

This section establishes permanent water conservation regulations and applies year-round regardless of drought stage.

- (A) Landscape irrigation using automatic in-ground or hose-end sprinkler systems is prohibited between the hours of 10:00 a.m. and 6:00 p.m.
- (B) The time restrictions do not apply to:
 - (1) The irrigation of commercial plant nurseries.
 - (2) Irrigation using reclaimed water or other nonpotable water sources.
 - (3) New landscape installation during planting and the first ten (10) days after planting.
 - (4) The testing of new irrigation systems or systems that are under repair.
 - (5) Irrigation using a hand-held bucket or hose equipped with a positive shut-off valve, pressure washer system, or other device that automatically shut off water flow when the hose is not being held by the water user.
 - (6) Irrigation by drip irrigation or soaker hoses.
- (C) The following constitute a waste of water and are prohibited:
 - (1) Washing sidewalks, walkways, driveways, parking lots, tennis courts, patios or other hard-surfaced areas except with a pressure-washing system or to alleviate immediate health or safety hazards.

- (2) Allowing water to run off a property or allowing water to pond or pool in the street, parking lot or sidewalk.
 - (3) Operating an irrigation system with sprinkler heads that are broken or out of adjustment.
 - (4) Failure to repair a controllable leak(s) within one (1) week after having been given notice directing the repair of such leak(s).
- (D) Ornamental fountains or ponds for aesthetic or scenic purposes must be equipped with a recirculation device. This restriction does not apply to ornamental fountains or ponds that use reclaimed water, nonpotable water, or water provided by sources other than the District.

ARTICLE II DEFINITIONS

For the purposes of this plan, the following definitions shall apply in addition to the definitions from Section 1 of the Order Establishing and Amending Utility Rates, Adopting Rules and Regulations Relating to the Administration of Its Utility Services, and Establishing Penalties for Violations of Those Rules and Regulations:

Aesthetic water use. Water used 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 nonprofit 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 District.

Daily water demand. The total amount of water pumped or otherwise released into distribution system(s) for customer use. Expressed in gallons, which are metered in a given 24-hour period (gallons per day).

Declaration of disaster. That action taken by the Board of Directors of the District or its designee, when the Board or its designee determines that the public health, safety, and welfare may be threatened by a disastrous event, or the imminent threat of such an event.

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.

Drip irrigation. Also known as trickle irrigation or micro-irrigation is an irrigation method which minimizes the use of water and fertilizer by allowing water to drip slowly to the roots of plants through a network of valves, pipes, tubing, and emitters.

Even number address. Street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.

Hose-end sprinkler. Designed to screw into a standard hose and rest on the ground wherever you drag it and set it down; it then delivers water in a spray pattern in the immediate area.

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, parks, and rights-of-way and medians.

Nonessential water use. Water uses that are neither essential nor required for the protection of public, health, safety, and welfare, including:

- (1) Irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this plan;
- (2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- (3) Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- (4) Use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (5) Flushing gutters or permitting water to run or accumulate in any gutter or street;
- (6) Use of water to fill, refill, or add indoor or outdoor swimming pools or Jacuzzi-type pools;
- (7) Use of water in a fountain or pond for aesthetic water use or scenic purposes except where necessary to support aquatic life;

- (8) Failure to repair a controllable leak(s) within one (1) week after having been given notice directing the repair of such leak(s); and
- (9) Use of water from hydrants for construction purposes or any other purposes other than fire fighting.

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

Total production capability. The total net aggregate amount of water that can be produced from all water wells capable of supplying water to the system in any given 24-hour period.

Trigger. A threshold level to be used as an initiation or termination point for actions based on certain mathematical criteria.

**ARTICLE III
CRITERIA FOR INITIATION AND TERMINATION OF DROUGHT
RESPONSE STAGES**

Daily water demand will be monitored for emergency conditions by the President of the Board of Directors or his/her designee. Trigger conditions will be based on an emergency situation caused by a natural disaster, equipment or system failure, natural or manmade contamination, high daily average water demand, or any other condition that substantially and negatively affects the District's potable water supply. President of the Board of Directors or his/her designee, on recommendations of the Operations Manager, shall determine when conditions warrant initiation or termination of each stage of the plan.

The triggering criteria described below are based on a statistical analysis of the vulnerability of the water source under drought of record condition, and on known system capacity limits.

Section 3.01 Stage I Triggers – Mild Water Shortage Conditions

A. Requirements for Initiation

Customers shall be requested to voluntarily conserve water and adhere to the prescribed requirements and restrictions on certain non-essential water uses, defined in Article II – Definitions, when daily water demand exceeds 85% of total production capability for three (3) consecutive days or water demand approaches a reduced delivery capacity for all or part of the system, and President of the Board of Directors or his/her designee determines that no circumstances exist that will decrease the demand except conservation by customers.

B. Requirements for Termination

Stage 1 of the plan may be terminated or rescinded when stage 1 conditions no longer exist for a period of three (3) consecutive days and would be unlikely to recur upon termination, or until such time as determined by the President of the Board of Directors or his/her designee.

Section 3.02 Stage 2 Triggers – Moderate Water Shortage Conditions

A. Requirements for Initiation

Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses, defined in Article II – Definitions, when daily water demand exceeds 90% of total production capability for three (3) consecutive days or water demand approaches a reduced delivery capacity for all or part of the system, and that response measures required by Stage 1 Trigger – Mild Water Shortage Conditions have been implemented and the President of the Board of Directors or his/her designee determines that no circumstances exist that will decrease the demand below the Stage 2 Trigger except conservation by customers.

B. Requirements for Termination

Stage 2 of the plan may be terminated or rescinded when stage 2 conditions no longer exist for a period of three (3) consecutive days and would be unlikely to recur upon termination, or until such time as determined by the President of the Board of Directors or his/her designee. Upon termination of Stage 2, Stage 1 becomes operative.

Section 3.03 Stage 3 Triggers – Critical Water Shortage Conditions

A. Requirements for Initiation

Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses, defined in Article II – Definitions, when daily water demand exceeds 95% of total production capability for three (3) consecutive days or water demand approaches a reduced delivery capacity for all or part of the system, and that response measures required by Stage 2 Trigger – Mild Water Shortage Conditions have been implemented and the President of the Board of Directors or his/her designee determines that no circumstances exist that will decrease the demand below the Stage 3 Trigger except conservation by customers.

B. Requirements for Termination

Stage 3 of the plan may be terminated or rescinded when stage 3 conditions no longer exist for a period of three (3) consecutive days and would be unlikely to recur upon termination, or until such time as determined by the President of the Board of Directors or his/her designee. Upon termination of Stage 3, Stage 2 becomes operative.

Section 3.04 Stage 4 Triggers – Emergency Water Shortage Conditions

A. Requirements for Initiation

Customers shall be required to comply with the prescribed requirements and restrictions for Stage 4 of this plan when the President of the Board of Directors or his/her designee determines that a water supply emergency exists based on:

- (1) Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; or
- (2) Natural or manmade contamination of the water supply source(s); or
- (3) Daily water demand equals 100% of the total production capability for three (3) consecutive days.

B. Requirements for Termination

Stage 4 of the plan may be terminated or rescinded when stage 4 conditions no longer exist for a period of three (3) consecutive days and would be unlikely to recur upon termination, or until such time as determined by the President of the Board of Directors or his/her designee. Upon termination of Stage 4, the President of the Board of Directors or his/her designee may impose requirements of Stage 1, 2 or 3 of the plan if circumstances exist that require continued abatement of the effects of the emergency water shortage condition.

Section 3.05 Stage 5 Triggers – Water Allocation

A. Requirements for initiation

Customers shall be required to comply with the water allocation plan prescribed in Article IV of this Plan and comply with the requirements and restrictions for Stage 5 of this Plan when the District has received notice from the county, in accordance with Texas Water Code Section 16.055(g)(2)(B), as amended, that a state of disaster in the county has been declared.

B. Requirements for termination

Water allocation may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days.

**ARTICLE IV
DROUGHT RESPONSE STAGES**

The President of the Board of Directors 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 Article III of this plan, shall determine if conditions exist that would trigger any of the designated drought stages and, if so, shall implement the following notification procedures:

Section 4.01 Notification

- A. Notification of the Public.** The President of the Board of Directors shall notify the public by means of:
- (1) Publication in a newspaper of general circulation, and/or direct mail to customers;
 - (2) Public service announcements;
 - (3) Signs posted in public places; or
 - (4) Posting on the District’s website.
- B. Additional notification.** The President of the Board of Directors or his/her designee shall notify directly, or cause to be notified directly, the following individuals and entities:
- (1) Members of the Board of Directors
 - (2) Fire chief for the City of Bastrop.
 - (3) City and/or county emergency management coordinator(s).
 - (4) County Judge and Commissioners.
 - (5) State Disaster District/Department of Public Safety.
 - (6) TCEQ (required when mandatory restrictions are imposed).
 - (7) Major water users.
 - (8) Critical water users; i.e. hospitals, clinics and nursing homes.

Section 4.02 Stage 1 response-Mild water shortage conditions/water awareness.

- A. **Goal.** To raise public awareness of water demand conditions and achieve a voluntary reduction in daily water demand to 85% or less of the total production capability.
- B. **Supply management measures.** The President of the Board of Directors or his/her designee shall implement supply management measures that include reduction in flushing of water mains, visually inspect lines and repair leaks on a daily basis, monthly review of customer use/consumption records and follow-up on any that have unusually high usage, as well as conservation of incidental water usage at water and wastewater plants. Activities shall be implemented which include increased monitoring of meters, gauges, water levels in tanks, and water well production data. Attached hereto as Exhibit 1 is a sample notice to customers of the implementation of the voluntary water use restrictions.
- C. **Voluntary Water Use Restrictions for Reducing Demand.** Water customers are requested to voluntarily limit the use of water for nonessential purposes and to practice water conservation:
- (1) **Restricted Days/Hours.** Water customers are requested to voluntarily limit the irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and to irrigate landscapes only between the hours prior to 8:00 a.m. and the hours after 8:00 p.m. on designated watering days. However, irrigation of landscaped areas is permitted at any time if it is by means of a hand-held hose, a faucet-filled bucket or watering can of five (5) gallons or less or drip irrigation system.
 - (2) All operations of the District shall adhere to water use restrictions prescribed for Stage 2 of the Plan.
 - (3) Water customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes.

Section 4.03 Stage 2 response-Moderate water shortage conditions/water watch.

- A. **Goal.** Achieve a reduction in daily water demand to 90% or less of the total production capability.
- B. **Supply management measures.** The President of the Board of Directors or his/her designee shall implement supply management measures that discontinue flushing of water mains, irrigation of public landscaped areas and all water usage at water and wastewater plants not required for direct operations of the facilities. Attached hereto

as Exhibit 2 is a sample notice to customers of the implementation of the water use restrictions.

C. **Mandatory water use restrictions.** Under threat of penalty for violation, the following water use restrictions shall apply to all District water utility customers:

- (1) **Restricted Days/Hours.** Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and to irrigate landscapes only between the hours prior to 8:00 a.m. and the hours after 8:00 p.m. on designated watering days. However, irrigation of landscaped areas is permitted at any time if it is by means of a hand-held hose, a faucet-filled bucket or watering can of five (5) gallons or less or drip irrigation system.
- (2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days during the hours prior to 10:00 a.m. and the hours after 8:00 p.m. Such washing, when allowed, shall be done with a faucet-filled bucket or a hand-held hose equipped with a positive shutoff nozzle. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.
- (3) 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 during the hours prior to 8:00 a.m. and the hours after 8:00 p.m.
- (4) Use of water from hydrants shall be limited to fire fighting, related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under special permit from the President of the Board of Directors or his/her designee.
- (5) Use of water for the irrigation of athletic fields is prohibited except on designated watering days during the hours prior to 8:00 a.m. and the hours after 8:00 p.m. However, if the athletic field utilizes a water source other than that provided by the District, the facility shall not be subject to these regulations.

- (6) The following uses of water are defined as nonessential and are prohibited:
- (a) Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
 - (b) Use of water to wash down buildings or structures for purposes other than immediate fire protection;
 - (c) Use of water for dust control;
 - (d) Flushing gutters or permitting water to run or accumulate in any gutter or street; and
 - (e) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

Section 4.04 Stage 3 response-Critical water shortage conditions/water warning.

- A. **Goal.** Achieve a reduction in daily water demand to 95% or less of the total production capability.
- B. **Supply management measures.** The President of the Board of Directors or his/her designee shall implement supply management measures that discontinue flushing of water mains, irrigation of public landscaped areas and all water usage at water and wastewater plants not required for direct operations of the facilities. Water usage at all District buildings shall be restricted to health, sanitation, cleanliness or firefighting purposes. Attached hereto as Exhibit 3 is a sample notice to customers of the implementation of the water use restrictions.
- C. **Mandatory water use restrictions.** Under threat of penalty for violation, the following water use restrictions shall apply to all District water utility customers.
- (1) **Restricted days/hours.** Irrigation of landscaped areas by means of handheld hoses, hand-held buckets or drip irrigation shall be limited to designated watering days, as outlined in phase 2 of this plan and between the hours of 4:00 a.m. and 8:00 a.m. and between 8:00 p.m. and midnight. The use of hose-end sprinklers or automatic sprinkler systems are prohibited at all times.
 - (2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial car wash and commercial service stations and not in the immediate interest of public health, safety and welfare is prohibited. Further, such vehicle washing at commercial car washes and commercial service stations shall occur only between the hours of 6:00 a.m. and 6:00 p.m.

- (3) The filling, refilling, or adding of water to indoor or outdoor swimming pools, wading pools, and Jacuzzi-type pools is prohibited.
- (4) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
- (5) No 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 or installed for such time as this drought response stage or a higher-numbered stage shall be in effect.
- (6) Use of water from hydrants shall be limited to fire fighting, related activities, or other activities necessary to maintain public health, safety, and welfare. Use of water from fire hydrants for construction purposes is prohibited.
- (7) Use of water for the irrigation of athletic fields is prohibited. However, if the athletic field utilizes a water source other than that provided by the District, the facility shall not be subject to these regulations.
- (8) All nonessential uses of water as defined in stage 2 of this plan are prohibited.

Section 4.05 Stage 4 response-Emergency water shortage conditions/water emergency.

- A. **Goal.** Achieve a reduction in daily water demand sufficient to assure the water system for the protection of public health, safety, and welfare until the stage 4 trigger criteria(s) can be abated.
- B. **Supply management measures.** The President of the Board of Directors or his/her designee shall implement supply management measures that discontinue flushing of water mains, irrigation of public landscaped areas and all water usage at water and wastewater plants not required for direct operations of the facilities. Water usage at all District buildings shall be restricted to health, sanitation, cleanliness or firefighting purposes. Attached hereto as Exhibit 4 is a sample notice to customers of the implementation of the water use restrictions.
- C. **Mandatory water use restrictions.** Under threat of penalty for violation, all requirements of stage 3 shall remain in effect during stage 4 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.
- (3) Curtailment of service to persons shown to be of violation of prohibited uses of water may be ordered by the President of the Board of Directors or his/her designee, if the President of the Board of Directors or his/her designee determines that such curtailment would not be detrimental to the public health, safety, and welfare, and determines that such curtailment would benefit the mitigation of stage 4 conditions.

Section 4.06 Stage 5 response-Water allocation.

In the event that water shortage conditions threaten public health, safety, and welfare due to the duration, type, effect or magnitude of such conditions, and a declaration of disaster has been issued relating to such conditions, the President of the Board of Directors or his/her designee is hereby authorized to allocate water according to the following plan. In addition to other restrictions required in stage 2, 3, or 4 response, a monthly water allocation may be established by the President of the Board of Directors or his/her designee for single-family residential water customers.

- A. **Single-family residential customers.** The allocation to residential water customers residing in a single-family dwelling shall be as follows:

Persons per Household	Gallons per Month
1 or 2	4,500
3 or 4	5,500
5 or 6	6,500
7 or 8	7,500
9 or 10	8,500
11 or more	10,000

"Household" means the residential premises served by the customer's meter.

"Persons per household" includes only those persons currently physically residing at the premises and expected to reside there for the entire billing period. It shall be assumed that a particular customer's household is comprised of two (2) persons unless the customer notifies the District of a greater number of persons per household on a form prescribed by the President of the Board of Directors or his/her designee. It shall be the customer's responsibility to go to the District offices to complete and sign the form claiming more than two (2) persons per household. When the number of persons per household increases so as to place the customer in a different allocation category, the customer may notify the District on such form and the change will be implemented in the next practicable billing period. If the number of persons in a household is reduced, the customer shall notify the District in writing. Any person who knowingly, recklessly, or with

criminal negligence falsely reports the number of persons in a household or fails to timely notify the District of a reduction in the number of persons in a household shall be subject to penalties set forth in Article V of this plan. Residential water customers shall pay the following surcharge:

125% of the normal and routine charge for water billed in excess of allocation.

- B. Master-metered multifamily residential customers.** In addition to other restrictions in stage 2, 3 or 4 responses, a monthly water allocation may be established by the President of the Board of Directors or his/her designee for master-metered multifamily water customers. The allocation to a customer billed from a master meter which jointly measures water to multiple permanent residential dwelling units (e.g., apartments, mobile homes) shall be allocated 6,000 gallons per month for each dwelling unit. A dwelling unit may be claimed under this provision whether it is occupied or not. Any person who knowingly, recklessly, or with criminal negligence falsely reports the number of dwelling units served by a master meter shall be subject to penalties set forth in section 13.06.011 of this plan. Customers billed from a master meter under this provision shall pay the following monthly surcharge:

125% of the normal and routine charges for water billed in excess of allocation.

- C. Commercial customers.** In addition to other restrictions in stage 2, 3 or 4 responses, a monthly water allocation may be established by the President of the Board of Directors or his/her designee for each commercial customer. The commercial customer's allocation shall be no less than 75 percent of the customer's usage for corresponding month's billing period for the previous 12 months. If the customer's billing history is shorter than 12 months, the monthly average for the period for which there is a record shall be used for any monthly period for which no history exists. However, a customer for which 75 percent of the monthly usage is less than 6,000 gallons, shall be allocated 6,000 gallons. Upon request of a customer or at the initiative of the President of the Board of Directors or his/her designee, the allocation may be reduced or increased if, (1) the designated period does not accurately reflect the customer's normal water usage or (2) other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the Board of Directors. Nonresidential commercial customers shall pay the following surcharges:

150% of the normal and routine charges for water billed in excess of allocation.

- D. Industrial customers.** In addition to other restrictions in stage 2, 3 or 4 responses, a monthly water allocation may be established by the President of the

Board of Directors or his/her designee for each industrial customer, which uses water for processing purposes. The industrial customer's allocation shall be no less than 85 percent of the customer's water usage baseline. However, a customer of which 85 percent of the monthly usage is less than 6,000 gallons, shall be allocated 6,000 gallons. The industrial customer's water use baseline will be computed on the average water use for the three month period ending prior to the date of implementation of stage 2 of the plan. If the industrial water customer's billing history is shorter than 3 months, the monthly average for the period for which there is a record shall be used. Upon request of the customer or at the initiative of the President of the Board of Directors or his/her designee, the allocation may be reduced or increased if, (1) the designated period for baseline calculation does not accurately reflect the customer's normal water usage, (2) the customer has added or is in the process of adding significant additional processing capacity, (3) the customer has shut down or significantly reduced the production of a major processing unit, (4) the customer has previously implemented significant permanent water conservation measures such that the ability to further reduce water use is limited, or (5) if other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the Board of Directors. Industrial customers shall pay the following surcharges:

150% of the normal and routine charges for water billed in excess of allocation.

ARTICLE V ENFORCEMENT

- A. No person shall 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 the drought response stage in effect at the time pursuant to action taken by the District in accordance with provisions of this Plan.
- B. **First Violation.** Any person or entity who violates this Plan shall receive written notification of such violation, which notice shall set forth (i) the date of the violation, (ii) the nature of the violation, (iii) the Drought Stage measures then in effect, and (iv) the penalties applicable for any further violations of this Plan; provided, however, that if such person or entity has ever previously violated this Plan, the penalties set forth below may, in the discretion of the Board, be imposed. The letter attached as Exhibit 5 may be used for the written notification of a first violation of the provisions of the Plan.
- C. **Subsequent Violations.**
 - 1. **Disconnection for Noncompliance.** If any person or entity violates any provision of this Plan more than one time (which violation shall constitute

an unauthorized use of District services and/or facilities), then in addition to any other remedies, penalties, sanctions, and enforcement procedures provided for herein, the District or its designee shall have the right to terminate water service to such person or entity after notice and any other procedural requirements in the District's Consolidated Rate Order are satisfied. The letter attached as Exhibit 6 may be used to notify the person or entity of the termination of services.

2. **Monetary Penalties for Noncompliance.** Any person who violates this Plan is guilty of a misdemeanor and, upon conviction shall be punished by a fine of not less than two hundred fifty dollars (\$250) and not more than five hundred dollars (\$500). Each day that one or more of the provisions in this Plan is violated shall constitute a separate offense.

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

The District, police officer, or other person(s) designated by the District, may issue a citation, as set forth in Exhibit 7, attached hereto, to a person he/she reasonably believes to be in violation of this plan. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, the offense charged, and shall direct him/her to appear in the Justice of the Peace Court on the date shown on the citation for which the date shall not be less than 3 days nor more than 5 days from the date the citation was issued. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over 14 years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in the Justice of the Peace Court to enter a plea of guilty or not guilty for the violation of this Plan. If the alleged violator fails to appear in the Justice of the Peace Court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant. These cases shall be expedited and given preferential setting in the Justice of the Peace Court before all other cases If any

person or entity violates any provision of this Plan more than one time (which violation shall constitute an unauthorized use of District services and/or facilities), then, in addition to disconnection as provided in this Section, the Board of the District or its designee, after providing required notice shall impose a penalty of \$250.00 for each violation of this Plan and for each subsequent violation a penalty of \$500 will be assessed.

Each day that a breach of any provision of this Plan continues shall be considered a separate violation. This penalty shall be in addition to any other legal rights and remedies of the District as may be allowed by law.

- D. Remedies Cumulative.** All rights, remedies, sanctions, penalties, and enforcement procedures provided for in this Plan are cumulative. In addition, the District shall have and may exercise and enforce any and all rights and remedies provided by law or in equity.

ARTICLE VI VARIANCES

- A.** The President of the Board of Directors or his/her designee, may, in writing, grant temporary variance for existing water uses otherwise prohibited under this plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:
- (1) Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.
 - (2) Alternative methods can be implemented which will achieve the same level of reduction in water use.
- B.** Persons requesting an exemption from the provisions of this plan shall file a petition for variance with the District within 5 days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the President of the Board of Directors or his/her designee, and shall include the following:
- (1) Name and address of the petitioner(s).
 - (2) Purpose of water use.
 - (3) Specific provision(s) of the Plan from which the petitioner is requesting relief.
 - (4) 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.
 - (5) Description of the relief requested.

- (6) Period of time for which the variance is sought.
 - (7) 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.
 - (8) Other pertinent information.
- C. Variances granted by the District shall be subject to the following conditions, unless waived or modified by the District:
- (1) Variances granted shall include a timetable for compliance.
 - (2) Variances granted shall expire when the Plan is no longer in effect, unless the petitioner has failed to meet specified requirements.

No variance shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance.