

ORDINANCE NO. 2019 - 16

AN ORDINANCE AMENDING INGLESIDE CODE OF ORDINANCES CHAPTER 66- UTILITIES, ARTICLE II WATER, DIVISION 4, WATER CONSERVATION AND PROVIDING FOR EFFECTIVE DATE, READING, SEVERANCE, AND PUBLICATION.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF INGLESIDE, COUNTY OF SAN PATRICIO, STATE OF TEXAS:

Section 1. Amendment of Chapter 66, Article II, Division 4. The existing Water Conservation Plan located in the Ingleside Code of Ordinances is hereby repealed and shall be replaced with the new Water Conservation Plan submitted as Attachment "A".

Section 2. Codification. This Attachment "A" will be Codified using previously appropriate section numbers.

Section 3. Effective Date. As provided by Article 111, Section 3.11.C of the Charter of the City of Ingleside, this ordinance shall be effective upon adoption and, in addition, if any penalty, fine or forfeiture is imposed by this ordinance, then this ordinance shall be effective only after publication of this ordinance in its entirety or in summary form once in the official newspaper of the City of Ingleside.

Section 4. Reading. As provided by Article III, Section 3.11.B of the Charter of the City of Ingleside, this ordinance or the caption of it shall be read at two city council meetings with at least two weeks elapsing between each reading.

Section 5. Severance. If any part of this ordinance is invalid or void or is declared to be so, then said part shall be severed from the balance of this ordinance and said invalidity shall not affect the balance of this ordinance, the balance of the ordinance to be read as if said invalid or void portion thereof were not included.

Section 6. Publication. If and as required by Article 111, Section 3.11.C of the Charter of the City of Ingleside, the caption of this ordinance shall be published one time in the official newspaper of the City of Ingleside, San Patricio County, Texas.


PASSED, ORDAINED, APPROVED, AND ADOPTED this 13 day of June, 2019

CITY OF INGLESIDE:

By: _____

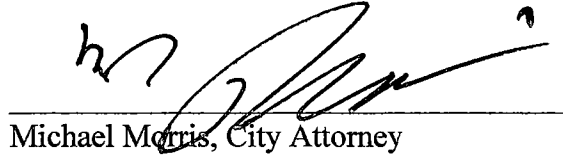
Ronnie Parker, Mayor

ATTEST:



Kimberly Sampson Henry, City Secretary

APPROVED AS TO FORM:



Michael Morris, City Attorney

First Reading: 5-28-19

Second Reading: 6-13-19

APPROVED AFTER
COUNCIL ACTION AND
AS TO FORM ONLY



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May 23, 2019

David Huseman
City Manager, City of Ingleside
2671 San Angelo
Ingleside, Texas 78362

Transmitted Via Email
dhuseman@inglesidetx.gov

Re: City of Ingleside
Drought Contingency Plan Update

Dear Mr. Huseman:

On April 3, 2019 the City of Ingleside received notice that an update to the Water Conservation Plan, Water Conservation Implementation Report, and/or Drought Contingency Plan was due to TCEQ.

Under Texas water Code Chapter 11 and Title 30 Texas Administrative Code Chapter 288, certain entities are required to submit an updated Water Conservation Plan (WCP), a Water Conservation Implementation Report (WCIR), and/or an updated Drought Contingency Plan (DCP) to the TCEQ every 5 years.

Based on the number of Retail Public Water Connections the City must submit a DCP to TCEQ and a WCP to TWDB.

In June 2018 the City submitted an updated WCP to the TWDB. The City is now required to submit an updated DCP to TCEQ. (The City's previous DCP was adopted in 2015)

The attached DCP has been prepared in accordance with Texas Administrative Code Title 30 Chapter 288 Subchapter B Rule §288.20 for Municipal Uses by Public Water Suppliers.

The purpose of a DCP is to outline Trigger Conditions initiated by a drought and the steps to be taken during each stage to conserve the available water supply, to protect the integrity of water supply facilities with particular regard for domestic water use, sanitation, and fire protection, to protect and preserve public health, welfare, and safety, and to minimize the adverse impacts of water-supply shortage or other water-supply emergency conditions.

By contract with the San Patricio Municipal Water District (SPMWD), the City is obligated to impose similar drought contingency and water conservation measures as those instituted by the SPMWD. Consequently, the City has adopted a DCP that is substantively similar to SPMWD.

The updated plan must be submitted to the TCEQ by June 1, 2019, otherwise an extension must be requested.

Should you have any questions, or require any additional information, please do not hesitate to call on us.

Sincerely,

HANSON PROFESSIONAL SERVICES
Melanie D. Gavlik, P.E.
Project Manager



2019 DROUGHT CONTINGENCY PLAN

City of Ingleside

Prepared by:



HANSON

Engineering | Planning | Allied Services

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Table of Contents

1. Introduction	1
2. Declaration of Policy and Reason	1
3. Public Education	2
4. Coordination with Regional Water Planning Groups	2
5. Authorization	2
6. Application	2
7. Definitions	3
8. Criteria for Initiation and Termination of Reservoir System Response Stages	4
8.1 Stage 1 – Mild Water Shortage Watch	4
8.2 Stage 2 – Moderate Water Shortage Condition	4
8.3 Stage 3 – Critical Water Shortage Condition	5
8.4 Stage 4 – Emergency Water Shortage Condition	5
9. Reservoir System Stages Response Notification	5
10. Reservoir System Best Management Practices Per Stage	6
10.1. Stage 1 Response – Mild Water Shortage Watch	6
10.2. Stage 2 Response – Moderate Water Shortage Conditions	7
10.3. Stage 3 Response – Critical Water Shortage Conditions	8
10.4. Stage 4 Response – Emergency Water Shortage Conditions	9
11. Surcharges for Reservoir System Stages 2-4 and Service Measures	11
12. Requests for Exemptions and Variances	18
13. Enforcement	19
14. Variances	20
15. Effluent Distributions; Permit and Regulations	20
16. Severability	23

Drought Contingency Plan

1. Introduction

This document serves as the **Drought Contingency Plan (DCP)** for the City of Ingleside (City). The DCP outlines trigger conditions initiated by a drought and the steps to be taken during each stage. This plan also addresses demand management measures, Initiation and terminations procedures, variances and enforcement, and measures to inform the public.

There is also information in this DCP which explains the steps to be taken in a water emergency, such as when supplies are cut off or contaminated.

This DCP is different from the Water Conservation Plan (WCP) because it only takes effect when there are drought conditions. The WCP is a year-round guide, regardless of the drought conditions, and contains several regular best management practices.

The DCP has been prepared in accordance with Texas Administrative Code Title 30 Chapter 288 Subchapter B Rule §288.20 for Municipal Uses by Public Water Suppliers.

2. Declaration of Policy and Reason

In order to conserve the available water supply, to protect the integrity of water supply facilities with particular regard for domestic water use, sanitation, and fire protection, to protect and preserve public health, welfare, and safety, and to minimize the adverse impacts of water-supply shortage or other water-supply emergency conditions, the City hereby adopts the following regulations and restrictions on the delivery and consumption of water. By contract with the San Patricio Municipal Water District, the City is obligated to impose similar drought contingency and water conservation measures as those instituted by the San Patricio Municipal Water District and subsequently, the City's contractual partners are required to do the same. Consequently, the City has adopted a Water Conservation and a Drought Contingency Plan that is substantively identical to San Patricio Municipal Water District.

Water uses regulated or prohibited under this DCP are considered to be non-essential, and continuation of such uses during times of water shortage or other emergency water-supply conditions are deemed to constitute a waste of water, which may subject the offender(s) to penalties as defined in Section 13 of this DCP.

Because of the frequency of drought in south Texas, the following DCP has been developed. This DCP adopts measures that will dramatically cut water consumption in order to conserve water supplies.

3. Public Education

A meeting of the City Council was held on May 28, 2019. The review and adoption of the revised DCP was included in the agenda. The Public has the opportunity to comment on any item listed on the City Council Agenda.

The City will periodically provide the public with information about the DCP, including information about the conditions under which each stage of the DCP is to be initiated or terminated, and the drought response measures to be implemented in each stage. This information will be provided by utility bill inserts, and notice on the City's website (www.inglesidetx.gov).

Notification to the public about when reservoir system stages go into effect or when restrictions are lifted is explained in more detail in Section 9.

4. Coordination with Regional Water Planning Groups

The service area of the City is located within the Coastal Bend Regional Water Planning Area (Region N) and the City has provided a copy of this DCP to Region N in care of the Nueces River Authority.

The San Patricio Municipal Water District shall review and update, as appropriate, the DCP at least every five years based on new or updated information, such as the adoption or revision of the regional water plan. Subsequently, the City will review and update, as appropriate, the DCP.

5. Authorization

The City Manager, or designee, is hereby authorized and directed to implement the applicable provisions of the DCP upon determination that such implementation is necessary to protect public health, safety, and welfare. The City Manager, or designee, shall have the authority to initiate or terminate drought or other water supply emergency responses as described in this DCP. However, the City manager, in the exercise of the City Manager's discretion, may initiate or terminate any stage when the City Manager deems necessary at any particular time. The City Manager shall notify the City Council before implementing any measures.

6. Application

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

7. Definitions

For the purposes of this Chapter in this DCP, 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, 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 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 and paying a retail water bill.

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 use.

Institutional water use: the use of water by an establishment dedicated to public service, such as a school, university, church, hospital, nursing home, prison, or government facility. All facilities dedicated to public service are considered institutional regardless of ownership.

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, rights-of-way, and medians.

Non-essential water use: water uses that are not essential or not required for the protection of public health, safety, and welfare, including:

- irrigation of landscape areas, including parks, athletic fields, and golf courses, except as otherwise provided under this DCP;
- use of water to wash any motor vehicle, motorbike, boat, trailer, or other vehicle;
- use of water to wash down any impervious cover including sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- use of water to wash down buildings or structures for purposes other than immediate fire protection or health reasons;
- flushing gutters or permitting water to run or accumulate in any gutter or street;

- use of water to fill, refill, or add to any indoor or outdoor swimming pools or jacuzzi-type pools;
- use of water in an aesthetic feature including fountain or pond except where necessary to support aquatic life;
- failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak; and
- use of water from hydrants for construction purposes or any other purposes other than fire fighting or flushing needed to maintain chlorination levels and protect public health.

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

Reservoir Capacity: the combined reservoir storage levels of Choke Canyon Reservoir and Lake Corpus Christi, as measured in percentage of the full combined volume.

8. Criteria for Initiation and Termination of Reservoir System Response Stages

The City Manager, or designee, shall monitor the San Patricio Municipal Water District's actions, water supply and/or demand conditions on a weekly basis and shall determine when conditions warrant initiation or termination of each stage of the DCP, that is, when the specified "triggers" are reached. However, the City Manager, in the exercise of the City Manager's discretion, may initiate or terminate any stage when the City Manager deems necessary at any time. This section explains the triggers of each stage. Best management practices and water use restrictions for each reservoir system stage are described in Section 10.

The triggering criterion to be monitored for determining reservoir system response stages is the combined reservoir storage levels of Choke Canyon Reservoir and Lake Corpus Christi.

8.1. Stage 1 – Mild Water Shortage Watch

Requirements for initiation – Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses described in Section 10 when the combined storage level declines to below 40%.

Requirement for termination – Stage 1 of the DCP may be rescinded when the combined storage level increases above 50%.

8.2. Stage 2 – Moderate Water Shortage Condition

Requirements for initiation – Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 2 of this DCP when the combined storage level declines to below 30%.

Requirement for termination – Stage 2 of the DCP may be rescinded when the combined storage level increases above 40% for a period. Upon termination of Stage 2, Stage 1 becomes operative.

8.3. Stage 3 – Critical Water Shortage Condition

Requirements for initiation – Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 3 of this DCP when the combined storage levels declines to below 20%.

Requirement for termination – Stage 3 of the DCP may be rescinded when the combined storage level increases above 30%. Upon termination of Stage 3, Stage 2 becomes operative.

8.4. Stage 4 – Emergency Water Shortage Condition

Requirements for initiation – Customers shall be required to comply with requirements and restrictions for Stage 4 of this DCP when the City Manager, or designee, determines that a water supply emergency exists based on:

- A major water line breaks, or pump or system failures occur, which causes unprecedented loss of capability to provide water service; or
- Water production or transmission system limitations; or
- Natural or man-made contamination of the water supply source occurs.

Requirement for termination – The emergency water shortage condition may be rescinded when the City Manager, or designee, deems appropriate.

9. Reservoir System Stages Response Notification

The City Manager, or designee, shall monitor San Patricio Municipal Water District's actions, water supply and/or demand conditions on a weekly basis and, in accordance with the triggering criteria set forth in Section 8 of this Plan, shall determine that a mild, moderate, critical, or emergency water shortage condition exists and shall implement the following notification procedures.

Notification of the Public:

The City Manager, or designee, shall notify the public for every change in reservoir system stage status by any or all of the following:

- City's website (www.inglesidetx.gov)
- Publication in local newspaper
- Notice on the monthly billing
- Public Service Announcements
- Signs posted in public places

Additional Notification:

The City Manager, or designee shall, at a minimum, notify directly, or cause to be notified directly, the following individuals and entities for every change in drought stage status:

- Mayor and City Council Member
- Major water users (such as industries)
- Texas Commission on Environmental Quality (TCEQ) – note TCEQ executive director MUST be informed within five (5) business days of mandatory water use restrictions being imposed

10. Reservoir System Best Management Practices Per Stage

A summary of water use reduction targets for each reservoir system stage response is presented in the following table. Further discussion on best management practices and implementation practices associated with each stage of response is included below. During Stages 1, 2, and 3, requests for exceptions may be presented to the City Manager or designee.

Reservoir System Stage Response	CCR/LCC Combined Reservoir Storage Level	Target Demand Reduction Levels
Stage 1- Mild	<40%	2%
Stage 2- Moderate	<30%	3%
Stage 3 - Critical	<20%	6%
Stage 4 - Emergency	Not Applicable	7%

10.1. Stage 1 Response – Mild Water Shortage Watch

Target: During Stage 1, achieve a 2% reduction in daily treated water demand relative to treated water demand with the water use restrictions below.

Best Management Practices for Supply Management:

Under Stage 1, the City will:

- Use more repair crews if necessary to allow for a quicker response time for water-line leak repair; and
- City crews begin monitoring customers' compliance with Stage 1 restrictions during the course of their daily rounds.

Water Use Restrictions for Reducing Demand

Under threat of penalty for violation, the following water use restrictions shall apply to all persons during Stage 1:

- a) Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to **once per week**. The watering schedule will be determined by the City Manager or designee. Customers will be made aware of their designated watering day in accordance with Section 9. However, irrigation of landscaped areas is permitted on any day if it is by means of a hand-held hose (with positive shutoff nozzle), a faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system with a positive shutoff device. Exceptions for this restriction may be permitted, upon review and approval by the City Manager or designee, for the following uses: new plantings (for up to 60 days), vegetable gardens, athletic playing fields, and botanical gardens. In addition, this restriction does not apply to customers irrigating with well water or an aerobic septic system. Customers irrigating with well water or an aerobic septic system should provide a legible sign prominently posted on the premises within two (2) feet of the street number located on the premises.
- b) 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 applicable city.
- c) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days. However, if the golf course utilizes a water source other than that provided through the City, the facility shall not be subject to these regulations.
- d) The use of water to maintain integrity of building foundations is limited to designated watering days and is only permitted by use of hand-held hose or drip irrigation.

10.2. Stage 2 Response – Moderate Water Shortage Conditions

Target: During Stage 2, achieve a 3% reduction in total daily treated water demand relative to treated water demand with the water use restrictions below.

Best Management Practices for Supply Management:

In addition to the best management practices for supply management listed under Stage 1, the City will also do the following during Stage 2:

- Eliminate the flushing of water mains unless required for decontamination and/or public safety; and
- Review customers' water usage for compliance based on the previous month's water use and notify violators verbally or in writing as the situation dictates

Water Use Restrictions for Demand Reduction

All requirements of Stage 1 shall remain in effect during Stage 2 except as modified below:

- a) Irrigation of landscaped areas shall be limited to **once every other week**. The watering schedule will be determined by the City Manager or designee. Customers will be made aware of their designated watering day. However, irrigation of landscaped areas is permitted on any day if it is by means of a hand-held hose (with positive shutoff nozzle), a faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system with a positive shutoff device. Exceptions for this restriction may be permitted, upon review and approval by the City Manager or designee, for the following uses: new plantings (for up to 60 days), vegetable gardens, athletic playing fields, and botanical gardens. In addition, this restriction does not apply to customers irrigating with well water or an aerobic septic system. Customers irrigating with well water or an aerobic septic system should provide a legible sign prominently posted on the premises within two (2) feet of the street number located on the premises.
- b) The watering of golf course fairways with potable water is prohibited. The watering of greens and tees are limited to once every other week unless the golf course utilizes a water source other than that provided through the City or done by means of hand-held hoses, hand-held buckets, or drip irrigation.

Optional Measures:

During Stage 2, the following measures are optional water use restrictions that may be implemented by the City Manager, or designee, following similar actions implemented by the San Patricio Municipal Water District and with prior City Council notification, as conditions warrant:

- a) For residential and multi-unit customers, a drought surcharge of up to and including 100% of the total monthly water bill over the monthly allocation may be added to the customers' bill to deter discretionary water use, as explained in Section 11.

10.3. Stage 3 Response – CRITICAL Water Shortage Conditions

Target: During Stage 3, achieve a 6% or greater reduction in daily treated water demand relative to treated water demand with the water use restrictions below. An additional surcharge will be added to each utility bill during Stage 3 water shortage conditions to discourage discretionary water use, as described in Section 11.

Best Management Practices for Supply Management:

In addition to the best management practices for supply management listed under Stage 2, the City will also do the following during Stage 3:

- Upon written notice, disconnect the water meters of willful violators if absolutely necessary to prevent the deliberate wasting of water.

Water Use Restrictions for Demand Reduction:

All requirements of Stage 1 and 2 shall remain in effect during Stage 3 except as modified below:

- Irrigation of landscaped areas shall be **prohibited at all times**.
- Use of water to wash any motor vehicle, motorbike, boat, trailer, or other vehicle not occurring on the premises of a commercial car wash stations and not in the immediate interest of public health, safety, and welfare is prohibited.
- The filling, refilling, or adding of water to swimming pools, wading pools, and jacuzzi-type pools, and water parks (unless non-city, alternative source) is prohibited.
- The use of water to maintain the integrity of a building foundation is still permitted on the designated Stage 2 watering day and shall be done by hand or drip irrigation method.
- All fountains shall only operate to circulate water in order to maintain equipment.

Optional Measures:

During Stage 3, the following measures are optional water use restrictions that may be implemented by the City Manager, or designee, following similar actions implemented by the San Patricio Municipal Water District and with prior City Council notification, as conditions warrant:

- 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 reservoir system response stage shall be in effect.
- For residential and multi-unit customers, a surcharge of up to and including 100% of the total monthly water bill over the monthly allocation may be added to the customers' bill to deter discretionary water use, as explained in Section 11.

10.4. Stage 4 Response – EMERGENCY Water Shortage Conditions

Target: During Stage 4, achieve a 7% or greater reduction in daily treated water demand relative to treated water demand with the below water use restrictions. Surcharges and reduced allocations are enforceable during Stage 4 water shortage conditions, as described in Section 13.

During emergency conditions such as system outage or supply source contamination, or supply sources draining empty, alternative water sources and/or alternative delivery mechanisms may be necessary with prior approval of the City Manager or designee. During emergency conditions the City will contact the San Patricio Municipal Water District.

Best Management Practices for Supply Management:

In addition to the best management practices for supply management listed under Stage 3, the City will also do the following:

- Call the 10 largest water customers in the area affected by the emergency condition, and if necessary, use runners in key areas to begin spreading the message of a major outage.

Water Use Restrictions for Demand Reduction:

During Stage 4, all requirements of Stage 1, 2, and 3 shall remain in effect except as modified below:

- a) Irrigation of landscaped areas is absolutely prohibited.
- b) Use of water to wash any motor vehicle, motorbike, boat, trailer, or other vehicle is absolutely prohibited.
- c) Associated uses of water not related to business process which are discretionary, such as equipment washing, shall be deferred until the Stage 4 emergency has been terminated.

Optional Measure:

During Stage 4, the following measure is an optional water use restriction that may be implemented by the City Manager, or designee, following similar actions implemented by the San Patricio Municipal Water District (when appropriate) and with prior City Council notification, as conditions warrant:

- a) For residential and multi-unit customers, a drought surcharge of up to and including 100% of the total monthly water bill over the monthly allocation may be added to the customers' bill to deter discretionary water use, as explained in Section 11.

11. Surcharges for System Stages 2 – 4 and Service Measures

(a) General

1. The surcharges established herein are solely intended to regulate and deter the use of water during a period of serious drought in order to achieve necessary water conservation. The City expressly finds that the drought poses a serious and immediate threat to the public and economic health and general welfare of this community, and that the surcharges and other measures adopted herein are essential to protect said public health and welfare.
2. This section, and the surcharges and measures adopted herein are an exercise of the City's regulatory power, and the surcharges and connection fees are conservation rates intended to meet fixed costs as a result of lost revenue.
3. Following similar actions of the San Patricio Municipal Water Supply Corporation and with prior City Council notification, the City Manager is authorized to determine trigger points or allocations and surcharges during Stages 2, 3, and 4 Emergency Water Shortage conditions.
4. In this section, institutional customer means district/city utility customer which operates as a not-for-profit entity.
5. A customer may appeal an allocation or reservoir system surcharge triggering point established under this Section to the City Manager or designee on grounds of unnecessary hardship, through the process outlined in Section 12.
6. System surcharge funds will first be applied towards annual debt service as reflected in the City's operating budget to offset revenue loss due to drought conditions. Additional funds will be reported to the City Council for direction.

(b) Residential water customers, who are not billed through a master water meter.

1. A monthly base amount of 3,000 gallons shall be established as a trigger point for each customer. Water consumption up to and including this amount will not include a drought surcharge.
2. Above the 3,000 gallon consumption trigger point, following similar actions of the San Patricio Municipal Water District and with prior City Council notification, a system surcharge shall be added up to and including 100% of the customer's total monthly water bill over the allocation.

(c) Residential customers who are billed from a master water meter.

1. Once Stage 1 condition has been declared, property managers of multi-tenant units shall notify the City Manager and confirm of the number of residential units in their facility for determination of allocations. Until so notified, the City shall calculate the allocation based on the number of residential units recorded for the meter. If a breakdown of residential units has not been provided, the City shall calculate the allocation based on two residential units per master

water meter. A monthly base amount of 3,000 gallons shall be established as a trigger point for each residential unit.

2. When consumption for the month is less than or equal to 3,000 gallons times the number of residential units, there will be no surcharge.
3. Following similar actions of the San Patricio Municipal Water District and with prior City Council notification, when consumption is above the 3,000 gallons times the number of units, a drought surcharge shall be added up to and including 100% of the customer's total monthly water bill over the allocation.
4. The customer is responsible for passing the demand charge onto the tenant.

(d) Commercial or institutional customer

1. A monthly water usage allocation shall be established by the City Manager or designee for each commercial or institutional customer.
2. Method of establishing allocation:
 - a. When the combined reservoir capacity is less than 20% of total capacity (Stage 3), the commercial or institutional customer's allocation shall be 90% of the customer's usage for the corresponding month's billing period during previous 12 months prior to the implementation of Stage 2.
 - b. 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.
 - c. Provided, however, a customer, 90% of whose monthly usage is less than 6,000 gallons, shall be allocated 6,000 gallons.
 - d. The City Manager shall give best effort to see that notice of each commercial or institutional customer's allocation is mailed to such customer.
 - e. If, however, the customer does not receive such notice, it shall be the customer's responsibility to contact the City's Billing Office to determine the allocation, and the allocation shall be fully effective notwithstanding lack of receipt of written notice.
 - f. Upon request of the customer or at the initiative of the City Manager, the allocation may be reduced or increased,
 - (1) if one nonresidential customer agrees to transfer part of its allocation to another nonresidential customer, or
 - (2) if other objective evidence demonstrates that the designated allocation is inaccurate under present conditions.

(e) Industrial customers, who use less than 100,000 gallons of water per day for processing.

1. A monthly water usage allocation shall be established by the City Manager or designee for each an industrial customer, which uses less than 100,000 gallons of water per day for processing (e.g., an industrial customer).
2. Method of establishing allocation.
 - a. When the combined reservoir capacity is less than 20% of total capacity (Stage 3), the industrial customer allocation shall be 90% of the customer's usage for the corresponding month's billing period during the previous 12 months prior to the implementation of Stage 1.
 - b. If the customer's billing history is shorter than 12 months, the monthly allocation shall be 1/12 of 90% of the customer's maximum annual contracted amount until 12 months of billing history are established. However, if the industrial customer does not have a water contract and does not have at least 12 months of billing history, then the new industrial customer will provide data regarding expected water use and the City will determine allocation based on 90% of expected use to determine initial allocation until 12 months of billing history are established.
 - c. The City Manager shall give his best effort to see that notice of each industrial customer's allocation is mailed to such customer.
 - d. If, however, the customer does not receive such notice, it shall be the customer's responsibility to contact the City Billing Office to determine the allocation, and the allocation shall be fully effective notwithstanding lack of receipt of written notice.
 - e. Upon request of the customer or at the initiative of the City Manager, the allocation may be reduced or increased, if:
 1. The designated period does not accurately reflect the customer's normal water usage because customer had shut down a major processing unit for overhaul during the period.
 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.
 5. The customer agrees to transfer part of its allocation to another industrial customer.

6. Other objective evidence demonstrates that the designated allocation is inaccurate under present conditions.

(f) Commercial customers, institutional customers, and industrial customers who use less than 100,000 gallons of water per day for processing shall pay the following surcharges:

1. Customers whose allocation is 6,000 gallons through 20,000 gallons per month:
 - a. \$5.00 per 1,000 gallons for the first 1,000 gallons over allocation.
 - b. \$8.00 per 1,000 gallons for the second 1,000 gallons over allocation.
 - c. \$16.00 per 1,000 gallons for the third 1,000 gallons over allocation.
 - d. \$40.00 for each additional 1,000 gallons over allocation.
2. Customers whose allocation is 21,000 gallons per month or more:
 - a. One times the block rate for each 1,000 gallons in excess of the allocation up through 5% above allocation.
 - b. Three times the block rate for each 1,000 gallons from 5% through 10% above allocation.
 - c. Five times the block rate for each 1,000 gallons from 10% through 15% above allocation.
 - d. Ten times the block rate for each 1,000 gallons more than 15% above allocation.
 - e. The surcharges shall be cumulative.
 - f. As used herein, "block rate" means the charge to the customer per 1,000 gallons at the regular water rate schedule at the level of the customer's allocation.

(g) Industrial customers, who use 100,000 gallons or more of water per day for processing.

1. A monthly water usage allocation shall be established by the City Manager or designee for each industrial customer, which uses water for processing (e.g., an industrial customer).
2. Method of establishing allocation.
 - a. When the combined reservoir capacity of Choke Canyon Reservoir and Lake Corpus Christi is less than thirty (30) percent of total capacity (Stage 2), the industrial customer allocation shall be eighty (80) percent of the customer's usage for the corresponding month's billing period

during the previous twelve (12) months prior to the implementation of Stage 1 condition.

- b. If the customer's billing history is shorter than twelve (12) months, the monthly allocation shall be one-twelfth of eighty (80) percent of the customer's maximum annual contracted amount until twelve (12) months of billing history are established. However, if the industrial customer does not have a water contract and does not have at least twelve (12) months of billing history, then the new industrial customer will provide data regarding expected water use and the City will determine allocation based on eighty (80) percent of expected use to determine initial allocation until twelve (12) months of billing history are established.
 - c. The City Manager shall give his best effort to see that notice of each industrial customer's allocation is mailed to such customer.
 - d. If, however, the industrial customer does not receive such notice, it shall be the customer's responsibility to contact the City utilities billing office to determine the allocation, and the allocation shall be fully effective notwithstanding lack of receipt of written notice.
 - e. Upon request of the industrial customer or at the initiative of the City Manager, the allocation may be reduced or increased by the City Manager, if:
 - 1. The designated period does not accurately reflect the customer's normal water usage because customer had to shut down a major processing unit for overhaul during the period.
 - 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.
 - 5. The customer agrees to transfer part of its allocation to another industrial customer.
 - 6. Other objective evidence demonstrates that the designated allocation is inaccurate under present conditions.
- (h) Industrial customers using 100,000 gallons or more of water per day for processing shall pay the following drought surcharges:
- 1. Customers whose allocation is Eighty thousand (80,000) gallons per month or more:
 - a. Three (3) times the block rate for each one thousand (1,000) gallons in excess of the allocation up through five (5) percent above allocation.

- b. Six (6) times the block rate for each one thousand (1,000) gallons from five (5) per cent through ten (10) percent above allocation.
- c. Nine (9) times the block rate for each one thousand (1,000) gallons from ten (10) per cent through fifteen (15) percent above allocation.
- d. Twelve (12) times the block rate for each one thousand (1,000) gallons more than fifteen (15) percent above allocation.
- e. The surcharges shall be cumulative.
- f. As used herein, "block rate" means the charge to the customer per one thousand (1,000) gallons at the regular water rate schedule at the level of the customer's allocation.

(i) Nonresidential customer is billed from a master meter.

1. When a nonresidential customer is billed from a master meter which jointly measures water to multiple residential dwelling units (for example: apartments, mobile homes), the customer may pass along any surcharges assessed under this DCP to the tenants or occupants, provided that:

- a. The customer notifies each tenant in writing:
 - 1. That the surcharge will be passed along.
 - 2. How the surcharge will be apportioned.
 - 3. That the landlord must be notified immediately of any plumbing leaks.
 - 4. Methods to conserve water (which shall be obtained from the City).
- b. The customer diligently maintains the plumbing system to prevent leaks.
- c. The customer installs water saving devices and measures (ideas for which are available from the City) to the extent reasonable and practical under the circumstances.

(j) Water service to the retail water customer may be terminated under the following conditions:

- a. Monthly residential water usage exceeds allocation by 4,000 gallons or more two or more times for any individual month after the implementation of Stage 3. Also, the two months need not be consecutive months.
- b. Monthly water usage on a master meter which jointly measures water usage

to multiple residential dwelling units exceeds allocation by 4,000 gallons times the number of dwelling units or more two or more times (which need not be consecutive months).

- c. Monthly nonresidential water usage for a customer whose allocation is 6,000 gallons through 20,000 gallons exceeds its allocation by 7,000 gallons or more two or more times (which need not be consecutive months).
- d. Monthly nonresidential water usage for a customer whose allocation is 21,000 gallons or more exceeds its allocation by 15% or more two or more times (which need not be consecutive months).
- e. For residential customers and nonresidential customers whose allocation does not exceed 20,000 gallons, after the first disconnection water service shall be restored upon request for a fee of \$50.
- f. For such customers, after the second disconnection, water service shall be restored within 24 hours of the request for a fee of \$500.
- g. If water service is disconnected a third time for such customer, water service shall not be restored until the City re-enters a level of water conservation less than Stage 2.
- h. For master meter customers, the service restoration fees shall be the same as above times the number of dwelling units.
- i. For nonresidential customers whose allocation is 21,000 gallons per month or more:
 - a. After the first disconnection water service shall be restored upon request for a fee in the amount of "X" in the following formula:
$$X = \$ 50 \times \text{Customer's Allocation in gallons} / 20,000 \text{ gallons}$$
 - b. After the second disconnection for said customers, water service shall be restored within 24 hours of the request for a fee of 10 times "X".
 - c. If water service is disconnected a third time for such customer, water service shall not be restored until the City re-enters a level of water conservation less than Stage 2.
 - d. The City Manager is directed to institute written guidelines for disconnection of water service under this provision, which will satisfy minimum due process requirements, if any.

- (k) It shall be a defense to imposition of a surcharge hereunder, or to termination of service, that water used over allocation resulted from loss of water through no fault of the customer (for example, a major water line break) for the following conditions:
1. The customer shall have the burden to prove such defense by objective evidence (for example, a written certification of the circumstances by a plumber).
 2. A sworn statement may be required of the customer.
 3. This defense shall not apply if the customer failed to take reasonable steps for upkeep of the plumbing system, failed to reasonably inspect the system and discover the leak, failed to take immediate steps to correct the leak after discovered, or was in any other way negligent in causing or permitting the loss of water.
- (l) When this section refers to allocation or water usage periods as "month," monthly," "billing period," and the like, such references shall mean the period in the City's ordinary billing cycle which commences with the reading of a meter one month and concludes with the next reading of that meter which is usually the next month.
1. The goal for the length of such period is 30 days, but a variance of two days, more or less, will necessarily exist as to particular meters.
 2. If the meter reader system is prevented from timely reading a meter by any obstacle which is attributable to the customer, the original allocation shall apply to the longer period without modification.

12. Requests for Exemptions and Variances

- (a) The City Manager or designee may, in writing, grant a temporary variance to any of the provisions for water users found in this DCP upon determination that failure to grant such variance would cause an emergency condition adversely affecting the public health, sanitation, or fire protection for the public or person requesting such a variance.
- (b) A person requesting an exemption or variance from the provisions of this DCP shall file request on a City-provided application for exemption/variance with the City within 5 days after a particular drought response stage has been invoked. All request forms shall be reviewed by the City Manager or designee, and shall include the following:

1. Name and address of the water user(s).
 2. Purpose of water use.
 3. Specific provision(s) of the Drought Contingency Plan from which the water user is requesting relief.
 4. Detailed statement as to how the specific provision of the Drought Contingency Plan adversely affects the water user or what damage or harm will occur to the water user or others if water user complies with this DCP.
 5. Description of the exemption requested
 6. Period of time for which the exemption is sought.
 7. Alternative water use restrictions or other measures the water user is taking or proposes to take to meet the intent of this DCP and the compliance date.
 8. Other pertinent information; or as required on permit application
- (c) No exemption nor variance shall be retroactive or otherwise justify any violation of this DCP occurring prior to the issuance of the exemption/variance.
- (d) The City Manager or designee shall consider requests of water users for special consideration to be given as to their respective particular circumstances and is hereby authorized to, in special cases, grant such variance from the terms of this DCP if such compliance would cause an emergency condition adversely affecting the public health, sanitation, or fire protection for the public or person requesting such a variance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this DCP will result in unnecessary hardship, and so that the spirit of this DCP shall be observed and substantial justice done.
- (e) Should a permit for special exception be granted, it shall be in effect from the time of granting through the termination of the then current stage, unless revoked by the City Manager or designee for noncompliance; provided, that the permit is prominently posted on the premises within two (2) feet of the street number located on the premises.
- (f) A person denied request for permit or exception from these rules may appeal the decision to the City Council by submitting written request for appeal to the City Council within five business days from issuance of denial. The decision of the City Council shall be final.
- (g) Violations of any permit conditions may be enforced under Section 13.

13. Enforcement

- (a) No person or entity may 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 DCP, or in an amount in excess of that permitted by any drought response stage in effect at the time.

- (b) The provisions of this Plan constitute rules adopted under the authority set forth in Section 11.1272 of the Texas Water Code and 30 Texas Administrative Code 288.2. 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 City for any costs incurred by the City in connection with any violation. Compliance with this DCP may also be sought through injunctive relief in the District court. In accordance with the foregoing authority, any person that violates any provision of this DCP shall be subject to a fine of not more than five hundred dollars (\$500.00) per violation per day.
- (c) If any person or a second person in the same household or premises commits a second violation of this article, the City Manager shall be authorized to discontinue water service to the premises where such violation occurs.
- (d) Any person, including a person classified as a customer of the City, 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.

14. Variances

A temporary variance for existing water uses otherwise prohibited under this DCP may be obtained through the process outlined in Section 12.

15. Effluent Distributions; Permit and Regulations

- (a) Upon implementation of the plan as provided in this division, the city may make available effluent water discharged from its sewage treatment plants for the purpose of watering lawns, grass, and other plants, dust control and similar uses. Such effluent water shall be made available only under the terms and conditions herein provided and only to such persons as are duly permitted as distributors as provided in this section. The city shall be under no obligation to provide such effluent and reserves the right to discontinue such service at any time and to limit the volume and to establish or alter loading procedures and/or locations as necessary for the efficient administration of the wastewater division.

- (b) No effluent distribution permit shall be issued except upon application filed with the wastewater division of the city. Every such application shall contain the following information:
- a. Name of applicant.
 - b. Name of authorized representative (e.g., president of corporation; partner; etc.) if applicant is other than an individual.
 - c. Business address and phone number.
 - d. Residence address and phone number of authorized individual representative.
 - e. Description of each vehicle and container unit to be used in the transportation or distribution of effluent water, including the make, year, model, type, weight and gross vehicle weight, container unit capacity in gallons, vehicle registration number, and the state safety inspection certificate number and expiration date.
 - f. Names and driver's license number of every proposed driver of such vehicles.
 - g. Statement of previous use of container units and any proposed use after or concurrently with such units use for effluent distribution.
 - h. Statement of the proposed uses of any effluent water, including whether the use is proposed for residential, commercial, or industrial purpose
- (c) Upon the filing of the required application, and payment of the permit fee specified herein for each container unit, the director of the public utilities department, or his designee, shall upon his determination that the applicant and vehicles and container units are in compliance with all applicable provisions of this division, issue a permit for each such container unit. Said permit shall identify the particular unit for which it is issued and shall be displayed in a prominent place upon the unit. Each unit shall be separately permitted.
- (d) The permit fee shall be in an amount to be set by resolution of the city council and listed in appendix A of this Code. Permits shall be issued on a quarterly basis from the effective date of this section; fee proration shall be on a monthly basis.
- (e) Provisions to the contrary notwithstanding, the permit fee herein required and the liability insurance requirements of subsection (f)(8) shall be waived for receipt of effluent water from the city treatment plant only. Every such restricted permit so issued shall be prominently marked to indicate such restriction.
- (f) Every effluent distribution permit shall be subject to the following terms and conditions and no person shall receive or distribute effluent water except in compliance herewith:
- a. Container units or tanks shall have a minimum capacity of 500 gallons; shall be capable of being closed watertight and shall be so closed during transport of effluent water; and shall be maintained in a leak-proof condition; provided, however, that special permits may be issued for container units with a capacity of less than 500 gallons upon the determination by the wastewater division superintendent that all other container unit specifications herein required have been met and that the particular container unit does not create an increased risk to the public health and safety.
 - b. No vehicle may be used in connection herewith which has not been reported on the application and approved for such use.
 - c. The city health department shall establish a course of instruction on the handling of wastewater effluent and shall issue a certificate to each driver or handler who completes such course. Every driver or handler shall be so certified prior to receiving any effluent water from the city.

- d. Effluent water shall be used as soon as possible to prevent regrowth of bacteria. Permittees shall check effluent water in their units not less than every four hours for chlorine residual and bacteria levels, except for effluent stored in fixed-site containers which shall be checked not less than every eight hours.
- e. Chlorine residuals shall be maintained at one milligram per litre (parts per million)[1 mg/l(ppm)], consistent throughout the effluent container.
- f. Average fecal coliform (bacteria) levels shall not exceed 200 counts/100 ml.
- g. Effluent containers, including those used for storage, shall be subject to inspection and approval of the city health department, whose inspectors are hereby authorized to prohibit the use of any container or effluent water which is determined to be outside the parameters established in this section or is otherwise determined to present a danger to the public health.
- h. Every permittee shall provide proof of and shall maintain in force a policy of comprehensive general liability insurance covering personal injury and property damage with minimum limits of liability for personal injury in the amounts of \$100,000.00 per person and \$300,000.00 per occurrence and for property damage in the amount of \$50,000.00; or shall maintain a policy of general business liability insurance with a contractual liability endorsement; and shall maintain a policy of automobile liability insurance in the minimum amounts set by state law.
- i. By acceptance of a permit under this section and/or receipt of effluent water from the city system, the permittee and/or recipient of such effluent agree to fully indemnify, save and hold harmless, the city, its agents and employees, from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, based upon or arising out of damages or injuries to person or property in any way related to or in connection with the use or distribution of effluent water under this section.
- j. Permittees shall provide a written notice to every person to whom effluent is furnished which shall state in not less than ten-point type, substantially as follows:

CAUTION

You are hereby advised that effluent water is the discharged water from a sewage treatment plant. The Director of Public Health has determined that improper use or handling could be harmful and recommends the following precautions:

1. Do not use effluent water for drinking, bathing, or personal hygiene purposes.
2. Do not use effluent water for washing autos, clothes, or other personal contact items.
3. Do not use effluent water in swimming pools or for similar recreational uses.
4. Do not allow children to play on grass wet with effluent water, wait until it dries.
5. Do not use effluent which has been stored for more than four hours unless the chlorine residual level has been tested and is not less than, one part per million [1 mg/l(ppm)].

6. Application of effluent shall be by coarse stream and shall not be by fine spray.

- (g) Violation of any of the cautions herein set forth, by any person, shall be a violation of this division.

Violation of any of the provisions of this section, in addition to the general penalties provided in this division, shall result in denial or revocation of any such violator's effluent distribution permit.

16. Severability

It is hereby declared to be the intention of the City that the sections, paragraphs, sentences, clauses, and phrases of this DCP are severable and, if any phrase, clause, sentence, paragraph, or section of this DCP shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such declaration shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this DCP, since the same would not have been enacted by the City without the incorporation into this DCP of any such unconstitutional phrase, clause, sentence, paragraph, or section.