

**WATER CONSERVATION AND  
DROUGHT CONTINGENCY PLAN  
FOR  
BRUSHY CREEK MUNICIPAL UTILITY DISTRICT  
Amended 5-24-01  
Amended 11-9-06  
Amended 04-23-09  
Amended 02-25-10**

**Section I: Declaration of Policy, Purpose, and Intent**

In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, Brushy Creek Municipal Utility District (herein, the “District”) hereby adopts the following regulations and restrictions on the delivery and consumption of water.

Water uses regulated or prohibited under this Water Conservation and Drought Contingency Plan (herein, 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 unauthorized water service which subjects the offender(s) to penalties as defined in Section X of this Plan.

**Section II: Public Education**

The District hereby institutes an educational program to provide the public with information about this Plan, including information regarding the conditions under which each Stage of this Plan will be initiated or terminated, and the drought response measures to be implemented in each Stage. Information will be provided by public meetings, press releases, utility bill inserts, the District’s website and the District’s marquees.

**Section III: Coordination with Regional Water Planning Groups**

The service area of the District is located within the Region G Regional Water Planning Group. The District has provided a copy of this Plan to the Region G Regional Water Planning Group.

**Section IV: Authorization**

The General Manager of the District 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 General Manager shall have the authority to initiate or terminate drought or other water supply emergency response measures and enforcement provisions as described in this Plan, subject to review by the Board of Directors of the District.

## **Section V: Application**

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

## **Section VI: Definitions**

For the purposes of this Plan, the following definitions shall apply:

Aesthetic water use: water use for ornamental or decorative purposes such as fountains, reflecting pools and water gardens.

Board: Brushy Creek Municipal Utility District Board of Directors.

BRA: Brazos River Authority.

Commercial and institutional water use: water use which is integral to the operations of commercial and non-profit establishments and governmental entities.

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 .

District: Brushy Creek Municipal Utility District.

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-numbered address: street addresses ending in 0, 2, 4, 6, or 8 and locations without addresses.

General Manager: the person employed as the General Manager of the District or his/her designee.

Hand watering: outdoor water use utilizing a water hose that is held in the hand at all times.

Industrial water use: the use of water in processes designed to convert material 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, rights-of-ways and medians.

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

- (a) Irrigation of landscaped areas, including parks, athletic fields, and golf courses, except otherwise provided under this Plan;
- (b) Use of water to wash any motor vehicle, motorcycle, boat, trailer, airplane or other vehicle;
- (c) Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts or other hard-surfaced areas;
- (d) Use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (e) Flushing gutters or permitting water to run or accumulate in any gutter or street;
- (f) Use of water to fill any indoor or outdoor swimming pools or jacuzzi-type pools;
- (g) Use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- (h) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
- (i) Use of water from hydrants for construction purposes or any other purposes other than fire fighting.

Odd-numbered address: street addresses ending in 1,3,5,7, or 9.

User: any person or entity that uses water supplied by the District.

## **Section VII: BRA Drought Contingency Plan Requirements**

The District diverts raw water from Lake Georgetown pursuant to a water supply agreement with BRA. The District will comply with and implement any applicable drought contingency requirements set forth in the water supply contract with BRA, or that may be implemented pursuant to BRA's Drought Contingency Plan.

## **Section VIII: Voluntary Conservation**

At all times when mandatory conservation requirements are not in effect, Users are requested to voluntarily limit the use of water for non-essential purposes and to practice water conservation in accordance with the following voluntary watering schedule:

<b>Property Address</b>	<b>Recommended Watering Day</b>
Odd-Numbered Addresses	Odd-Numbered Days
Even-Numbered Addresses	Even-Numbered Days

In the event no address number exists for the outdoor water use location, Users are requested to voluntarily restrict water use to even-numbered days only.

The goal of such voluntary measures is to increase public awareness of limited water resources and to voluntarily reduce water demands that would have occurred in the absence of any mandatory water conservation measures.

**Section IX: Criteria for Initiation and Termination of Response Stages**

A. Conservation Conditions – For purposes of this Plan, the District hereby adopts the Conservation Conditions set forth below. These Conservation Conditions are for the purpose of responding to, but not limited to, the following situations: (i) reduction of available water supply; (ii) water production or distribution system limitations; (iii) supply source contamination; or (iv) water system outage due to the failure or damage of water system components. The General Manager shall monitor the water supply and demand conditions within the District for purposes of implementing the applicable Stage of this Plan.

- (a) Stage 1 Conservation Condition – This condition exists when: (i) the demand on the District’s water supply facilities reaches or exceeds eighty percent (80%) of the production or transmission capacity of such facilities for five (5) consecutive days, as determined by the District’s General Manager, or (ii) other criteria as deemed prudent by the General Manager or Board of Directors of the District.
- (b) Stage 2 Conservation Condition– This condition exists when: (i) the demand on the District’s water supply facilities reaches or exceeds ninety percent (90%) of the production or transmission capacity of such facilities for five (5) consecutive days, as determined by the District’s General Manager; (ii) BRA declares a Stage II Drought Condition; or (iii) other criteria as deemed prudent by the General Manager or Board of Directors of the District.
- (c) Stage 3 Conservation Condition– This condition exists when: (i) the demand on the District’s water supply facilities reaches or exceeds ninety five percent (95%) of the production or transmission capacity of such facilities for three (3) days, as determined by the District’s General Manager, (ii) BRA declares a Stage III Drought Condition; or (iii) other criteria as deemed prudent by the General Manager or Board of Directors of the District.
- (d) Stage 4 Conservation Condition– Emergency Water Shortage Condition – This condition exists in the event of a fire, flood, hurricane, lightning, tornado, windstorm; or any other act of God, riot, terrorist act, loss of power, or any other

occurrence which results in the inability of the District to provide water to Users or a likelihood thereof, as determined by the General Manager or Board of Directors of the District.

B. Notice of Commencement of Response Measures – Once one of the above Conservation Conditions has occurred, Users will be notified that such Conservation Condition has occurred and of the Response Measures (as defined below) to be taken. The process for notifying Users may include any of the following, as determined by the General Manager or Board of Directors of the District:

- (a) Notification to the press;
- (b) Posting of notice on the District’s website;
- (c) Posting notice on the District’s marquees;
- (d) Posting signs within the District;
- (e) Mailing, at least 48 hours prior to commencement of the required Response Measures, a written notice to each User;
- (f) Where appropriate, emailing a notice to the various Home Owners Associations for mass email to their association residents; and
- (g) For wholesale water customer (if any), the District General Manager shall contact wholesale water customers by written notice, and/or other means, prior to commencement of the required Response Measure.

Any mailed notice shall contain: (i) the date the Response Measures will begin, (ii) the date the Response Measures will terminate, if known, (iii) a list of Response Measures to be implemented and (iv) an explanation of penalties for violations of such Response Measures.

Upon the termination of a drought response stage, the General Manager will provide notice thereof to Users through one or more of the methods set forth above.

C. Response Measures – The District hereby establishes and adopts the following Response Measures (herein, Response Measures) for the respective Conservation Conditions. The Response Measures related to each Conservation Condition shall automatically become effective and shall be implemented by the District when such Conservation Condition occurs.

1. Stage 1 Conservation Conditions. In the event of Stage I Conservation Conditions, the following voluntary Response Measures shall be taken in an effort to achieve a ten percent (10%) reduction in daily water demand:

The public shall use its best effort to limit all non-essential water use, including, but not limited to, landscape, lawn and garden watering, car washing, and window washing, as follows:

- (a) Users are subject to the following voluntary watering schedule:

<b>Property Address</b>	<b>Recommended Watering Day</b>
Odd-Numbered Addresses	Odd-Numbered Days Only
Even-Numbered Addresses	Even-Numbered Days Only

In the event no address number exists for the outdoor water use location, Users are requested to voluntarily restrict water use to even-numbered days only.

- (b) Underground sprinkler systems shall be operated only between 12:00 a.m. and 7:00 a.m. on the authorized watering days.
- (c) Hose-end sprinklers shall be operated only before 10:00 am or after 5:00 pm on the authorized watering days.
- (d) Hand watering is permissible at any time.

2. Stage 2 Conservation Conditions. In the event of Stage 2 Conservation Conditions, the following Response Measures shall be taken in an effort to achieve an additional ten percent (10%) reduction in daily water demand:

- (a) Residential Users are subject to the following mandatory landscape watering schedule:

Odd-Numbered Addresses	Wednesday & Saturday only
Even-Numbered Addresses	Thursday & Sunday only

NOTES:

- 1. Underground sprinkler systems shall be operated only between 12 am and 7 am on the authorized watering days.
  - 2. Hose-end sprinklers shall be operated only before 10:00 am and after 5:00 pm on the authorized watering days.
  - 3. Hand watering is permissible before 10:00 am or after 5:00 pm on any day.
- (b) Commercial, municipal and all other non-residential Users are subject to the following mandatory landscape watering schedule:

Tuesday and/or Friday only

- (c) Non-essential water uses shall be curtailed as follows:

- discouraged.
1. The installation of new landscaping plants and turf grass is discouraged.
  2. Fire hydrant flushing, except as required by the Texas Commission on Environmental Quality to maintain water quality of the potable water system, is prohibited;
  3. Filling of new swimming pools is prohibited; and
  4. District and County parks shall discontinue irrigation of non-play areas.

(d) The General Manager will initiate contact as appropriate with wholesale water customers, to discuss water supply and/or demand conditions and the possibility or implementation of pro rata curtailment of water supplies.

3. Stage 3 Conservation Conditions. In the event of Stage 3 Conservation Conditions, the following Response Measures shall be taken in an effort to achieve an additional ten percent (10%) reduction in daily water demand:

(a) The Response Measures established for Stage 2 Conservation Conditions shall continue to be implemented except as modified or extended as follows.

(b) Users are subject to the following mandatory landscape watering schedule:

If your street addresses ends in ...	Then your watering day is...
0,9	Monday
1,8 and Commercial Users	Tuesday
2,7	Wednesday
3,6 and medians	Thursday
4,5	Friday

**Watering on Saturday or Sunday is prohibited.**

(c) All other non-essential water use, including but not limited to, car washing, including commercial car washes that do not use reclaimed water and window washing shall be prohibited except hand watering with a hand held hose shall be permitted from 5:00 am to 10:00 am or 5:00 pm to 10 pm.

- (d) All water use for construction, dust control and/or compaction is prohibited except where reclaimed or raw water is used.
  - (e) The Board of the District may prohibit water use by certain industrial or commercial users which uses are not essential to the health and safety of the community so that remaining water is available for essential health and safety issues.
  - (f) The Board of the District may utilize alternative water sources and/or alternative delivery mechanisms with prior approval of the Executive Director of the Texas Commission on Environmental Quality as applicable (e.g. interconnection with another water system, temporary use of a non-municipal water supply, use of reclaimed water for non-potable purposes, etc.).
  - (g) The District is authorized to ration water to District residents and other Users of water within the District on a pro rata basis, and to initiate allocation of water supplies to its wholesale water customers, if any, on a pro rata basis, in accordance with Texas Water Code.
4. Stage 4 Emergency Water Conservation Condition. In the event of an Emergency Water Shortage Condition, the General Manager or Board, in their respective discretion, may without prior notice, invoke all or any of the Response Measures set forth in this Plan as “Emergency Response Measures” to achieve a reduction in water use that results in a daily demand equivalent to sixty percent (60%) of the current production capacity of the available supply facilities. The General Manager or the Board may also prohibit all outdoor water use in the event of a Stage 4 Conservation Condition. The Board may establish any of the penalties set forth in Section X for violations of the Emergency Response Measures.

D. Termination of Conservation Conditions Notification – When a Conservation Condition occurs, the District shall enforce the Response Measures applicable to such Conservation Condition for a minimum of five (5) days after the last day the demand on the District’s water supply facilities reaches or exceeds the limits of such Conservation Condition. After such five (5) day period, the Response Measures prescribed may, in the discretion of the General Manager or Board, be continued for an additional five (5) day period. After the expiration of ten (10) days, and assuming no other Conservation Conditions have occurred, the Response Measures prescribed shall terminate and the District shall cease implementation and enforcement of such measures. The District will notify Users of the termination of the particular Response Measures and may utilize the same manner of notification used to inform Users of the occurrence of the Conservation Condition and implementation of the Response Measures.

## **Section X: Enforcement**

A. Without limitation to specific actions stated in this Plan to be taken by the General Manager, the General Manager will administer and enforce the Plan, and will oversee and be responsible for the execution and implementation of all elements of this Plan. The General Manager shall keep adequate records for plan verification. The District's General Manager shall report to the Board of the District regarding actions taken and which need to be taken under this Plan. Without limiting the foregoing, the District's General Manager shall advise the Board as soon as reasonably practicable when a particular Trigger Condition has been reached under this Plan and when a particular drought condition no longer exists.

B. All notices of Violations for medians shall be delivered to the billing address.

## **Section XI: Penalties**

Pursuant to and in accordance with the authority set forth at Section 49.004 of the Texas Water Code, the following penalties shall apply to anyone violating the mandatory provisions of this Plan or the Response Measures implemented pursuant hereto:

- A. First Violation – Any persons or entity who violates the mandatory provisions of 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 Response Measures then in effect, and (iv) the penalties applicable for any further violations of this Plan, (v) action required to correct the violation including a time period required to correct the violation; provided, however, that if such person or entity has previously violated this Plan during the same conservation cycle (i.e., Stages 1 through 4) , the penalties set forth below may be imposed. The District's Staff will document the date and time of the violation, and photograph the offense, if practicable.
- B. Second Violation – Any person or entity who violates a mandatory requirement of the Plan a second time (which violation shall constitute unauthorized water service) during the same conservation cycle (i.e., Stages 1 through 4) shall receive a door hanger notification of such violation, which notice shall set forth: (i) the date of the violation, (ii) the nature of the violation, (iii) the water conservation measures then in effect under the application Conservation Condition Stage; (iv) the penalty associated with violation of the Plan (if applicable); and (v) that the person or entity shall have the right to appeal the penalty to the Board of Directors of the District. Any person or entity that violates the Plan a second time shall be subject to a penalty of \$200.00. The penalty shall be in addition to any other legal rights and remedies of the District as may be allowed by law. District personnel will document and photograph in the same manner as set forth above for first violations.
- C. Third Violation – Any person or entity who violates a mandatory requirement of the Plan a third time (which violation shall constitute unauthorized water service) during the same conservation cycle (i.e., Stages 1 through 4) shall receive a door hanger notification of such violation, which notice shall set forth: (i) the date of the violation, (ii) the nature of the violation, (iii) the water conservation measures then in effect under the application Conservation Condition Stage; (iv) the penalty associated with violation of the Plan (if

applicable); and (v) that the person or entity shall have the right to appeal the penalty to the Board of Directors of the District. Any person or entity that violates the Plan a third time shall be subject to a penalty of \$500.00. The penalty shall be in addition to any other legal rights and remedies of the District as may be allowed by law. District personnel will document and photograph in the same manner as set forth above for first and violations.

D. Subsequent Violations –

1. Disconnection for Noncompliance. If any person or entity violates any provisions of this Plan more than three (3) times (which violation shall constitute an unauthorized use of District services and/or facilities) during the same conservation cycle (i.e., Stages 1 through 4), then in addition to any other remedies, penalties, sanctions and enforcement procedures provided for herein or by applicable law, the District shall have the right to terminate water service to such person or entity after written notice. All reconnection fees and charges shall be paid as a condition of restoration of water service. District personnel will document and photograph such violations in the same manner as set forth above for prior violations.
2. Monetary Penalties for Noncompliance. If any person or entity violates any provision of this Plan more than three (3) times during the same drought declaration cycle then, in addition to (or in lieu of) the disconnection as provided in Subsection 1 above, the General Manager of the District, after providing required notice, may impose a penalty of up to \$750 for each violation of this Plan. Each day that a breach of any provision of this Plan continues shall be considered a separate and subsequent violation. This penalty shall be in addition to any other legal rights and remedies of the District as may be allowed by law.

E. Appeals – Appeals of any penalty or other provision of this plan must be submitted to the Board of Directors in writing.

F. Enforcement Discretion - The General Manager and Board of Directors of the District shall exercise their respective discretion in connection with exercising their enforcement authority under this Plan, but shall do so in a fair, impartial and non-discriminatory manner.

## **Section XII: Testing and Maintenance**

Irrigation system testing and maintenance shall be permitted during a drought restriction stage when watering is otherwise prohibited only for legitimate testing and maintenance purposes, and provided further that a sprinkler head or irrigation zone is not operated more than five (5) minutes.

## **Section XIII: Year Round Water Use Management**

- A. A person who obtains water from the District shall comply with this subsection at all times of the year, regardless of whether the District has declared a drought stage.
- B. The following acts constitute a waste of water and are prohibited:
  - 1. Failing to repair a leaking fixture including a broken sprinkler head, a leaking valve, leaking or broken pipes or a leaking faucet;
  - 2. Operating a permanently installed or hose ended irrigation system with:
    - (a) A broken head after notification;
    - (b) A head that is out of adjustment where the arc of the spray head is over a street or parking lot causing run off; or
    - (c) during irrigation, allowing water to run off property such that there is a trail of water that is running in the street for a distance of fifty feet (50') or greater from the lot or location of the sprinkler system, or allowing water to pond in the street or parking lot to a depth greater than  $\frac{1}{4}$  of an inch.

#### **Section XIV: Variances**

The General Manager for the District, or his/her designee, may, in writing, grant variance for existing water uses otherwise prohibited under this Plan under any or all of the following conditions: (i) 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; (ii) 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; or (iii) alternative methods can be implemented which will achieve an equivalent reduction in water use (iv) an undue financial burden.

- A. Persons requesting an exemption from the provisions of this Ordinance shall file a petition for variance with the District. All petitions for variances shall be reviewed by the General Manager, and shall include the following:
  - (a) Name and address of the petitioner(s).
  - (b) Purpose of water use.
  - (c) Specific provision(s) of the Plan from which the petitioner is requesting relief.
  - (d) Detailed statement as to how the specific provision of the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Ordinance.
  - (e) Description of the relief requested.

- (f) Period of time for which the variance is sought.
  - (g) Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.
  - (h) Other pertinent information.
- B. Variances granted by the District shall be subject to the following conditions, unless waived or modified by the General Manager:
- (a) Variances granted shall include a timetable for compliance.
  - (b) Variances granted shall state under which stages of this plan they shall apply.
  - (c) Variances may be revoked if petitioner has failed to meet specific requirements.
- C. No variance shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance.

**Section XV: 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.

**Section XVI: Notice to Texas Commission on Environmental Quality**

The District's General Manager shall notify the executive director of the Texas Commission on Environmental Quality within five (5) days of the implementation of any mandatory provisions of the Plan and any subsequent termination of said implementation.