

NEWPORT MUNICIPAL UTILITY DISTRICT

Resolution for Adoption of Order
Establishing Drought Contingency Plan

The board of directors of Newport Municipal Utility District (“District”) met at the board’s regular meeting place on April 18, 2019, with a quorum of directors present, as follows:

Margarette Chasteen, President
DeLonne L. Johnson, Vice President
Deborah Florus, Secretary
Earl B. Boykin, Assistant Secretary
R. Gary Hasse, Director

and the following absent:

None

when the following business was transacted:

The order set out below was introduced for consideration of the board. It was duly moved and seconded that said order be adopted; and, after due discussion, said motion carried by the following vote:

Ayes: All directors present.

Noes: None.

The order thus adopted is as follows:

Any order and amendments thereto, heretofore adopted by the board of directors, providing for a drought contingency plan for customers within the District, is hereby revoked upon the effective date of this order.

The order hereinafter set forth shall become effective on May 1, 2019.

**ORDER ESTABLISHING DROUGHT CONTINGENCY PLAN FOR
NEWPORT MUNICIPAL UTILITY DISTRICT**

WHEREAS, the Board of Directors of Newport Municipal Utility District (“District”) owns a water and sewer system designed to serve present and future inhabitants within the District and recognizes that the amount of water available to the District and its water utility customers may be limited and subject to depletion during periods of extended drought; and,

WHEREAS, the Board recognizes that natural limitations due to drought conditions and other acts of God occur, and the District cannot guarantee an uninterrupted water supply for all purposes; and,

WHEREAS, Section 11.1272 of the Texas Water Code, as amended, and applicable rules of the Texas Commission on Environmental Quality require all public water supply systems in Texas, such as the District, to prepare a drought contingency plan; and,

WHEREAS, as authorized under law, and in the best interests of the customers of the District, the Board of Directors of the District deems it expedient and necessary to establish certain rules and policies for the orderly and efficient management of limited water supplies during drought and other water supply emergencies; therefore,

BE IT ORDERED BY THE BOARD OF DIRECTORS OF NEWPORT MUNICIPAL UTILITY DISTRICT THAT:

Section I: Declaration of Policy, Purpose, and Intent

In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the 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 (“Plan”) are considered to be non-essential water use and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in Section XI of this Plan.

Section II: 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 to accept input on the Plan.

Section III: 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 utility bill inserts, signs posted in the subdivision, or other method reasonably calculated to provide notice to District customers.

Section IV: Coordination with Regional Water Planning Groups

The service area of the District is located within the Texas Water Development Board Region H Regional Water Planning Group, and the District has provided a copy of this Plan to the Region H Regional Water Planning Group. The District purchases water from the San Jacinto River Authority ("SJRA") and has provided a copy of this Plan to them.

Section V: Authorization

The Board of Directors of the District or its 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 Board of Directors of the District or its designee shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

Section VI: Application

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

Section VII: Definitions

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

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

Commercial and institutional water use: water use which is integral to the operations of commercial and non-profit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, office buildings and golf courses.

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.

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

Industrial water use: the use of water in processes designed to convert materials of lower value into forms having greater usability and value.

Landscape irrigation use: water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, parks, athletic fields, and rights-of-way and medians.

Non-essential water use: water uses that are not essential nor required for the protection of public health, safety, and welfare, including:

- (a) landscape irrigation use, except otherwise provided under this Plan;
- (b) use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- (c) use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- (d) use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (e) flushing gutters or permitting water to run or accumulate in any gutter or street;
- (f) use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;
- (g) use of water in a fountain or pond for aesthetic water use 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, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

Section VIII: Trigger Conditions for Initiation and Termination of Drought Response Stages

The Board of Directors of the District or its designee shall monitor water supply and/or demand conditions on a daily basis and shall determine when conditions warrant initiation or termination of each stage of the Plan. Notwithstanding any of the trigger conditions described herein, upon receipt of notice of declaration of a state of disaster due to drought conditions pursuant to Sections 418.014 or 418.108 of the Texas Government Code, the District shall implement the appropriate stage of this Plan. Public notification of the initiation or termination of drought

response stages shall be in accordance with Subsection (f).

The trigger conditions (“Trigger Conditions”) described below are based on the District’s anticipated ability to provide water to its customers based on the District’s historical experience of operations in drought conditions.

(a) Stage 1 - Mild Drought Conditions

This condition (herein “Mild Drought Condition”) exists when either (1) demand on the District’s water supply reaches or exceeds 27% (1.85 MGD) of the production capacity of such facilities for five (5) consecutive days, as determined by the District’s operator; or (2) when Lake Houston is below an elevation of 40.2 feet and Trinity River flows at Romayor are below 4,000 cubic feet per second.

(b) Stage 2 - Moderate Drought Conditions

This condition (herein “Moderate Drought Condition”) exists either (1) when demand on the District’s water supply reaches or exceeds 36% (2.45 MGD) of the production capacity of such facilities for three (3) consecutive days, as determined by the District’s operator; or (2) when Lake Houston is below an elevation of 39.2 feet and Trinity River flows at Romayor are below 4,000 cubic feet per second.

(c) Stage 3 – Advanced Drought Conditions

This condition (herein “Advanced Drought Condition”) exists either (1) when demand on the District’s water supply reaches or exceeds 46% (3.15 MGD) of the production capacity of such facilities for three (3) consecutive days, as determined by the District’s operator; or (2) Lake Houston is below an elevation of 37.2 feet.

(d) Stage 4 - Severe Drought Conditions

This condition (herein “Severe Drought Condition”) exists when either (1) demand on the District’s water supply reaches or exceeds 56% (3.80 MGD) of the production capacity of such facilities for twenty-four (24) hours, as determined by the District’s operator; or (2) when Lake Houston is below an elevation of 35.2 feet.

(e) Stage 5 - Emergency Water Shortage Conditions

This condition (herein “Emergency Water Shortage Condition”) exists when either:

1. Anticipation of a drought condition beyond historical level of severity;
2. Major water line breaks or pump or system failures of the District or the SJRA's Highlands Canal system occur, which cause unprecedented loss of capability to provide water service;
3. Natural or man-made contamination of the water supply source(s) occurs; or

4. An emergency water supply condition has been enacted by the SJRA or other governmental official or agency with jurisdiction.

(f) Notice

Once one of the Trigger Conditions has occurred, Customers will be notified that such Trigger Condition has occurred and of the Drought Response Measures (as defined below) to be taken. The process for notifying Customers may include any of the following:

1. Mailing a written notice to each customer prior to the commencement of the required Drought Response Measures;
2. Posting of signs at the entrances to the District;
3. Posting of notices at public places in the District;
4. Placing of information on the District's website;
5. Dissemination of press releases to the local news media;
6. Other means as may be appropriate.

The Board of Directors or its designee shall, in its sole discretion except where required by law, notify directly, or cause to be notified directly, the following individuals or entities:

1. Texas Commission on Environmental Quality (required when mandatory restrictions imposed);
2. San Jacinto River Authority (required when mandatory restrictions imposed);
3. Fire chiefs;
4. Homeowners or property owners association(s);
5. County Emergency Management Coordinator;
6. Critical water users (hospitals, schools, etc.).

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

Section IX: Drought Response Stages and Drought Response Measures

The Board of Directors of the District or its designee shall monitor water supply and/or demand conditions on a regular basis and, in accordance with the trigger conditions set forth in Section

VIII of the Plan, shall determine that a mild, moderate, advanced, severe, critical, or emergency condition exists and shall implement the following actions upon prior notification to District customers:

A. Stage 1 - Mild Drought Condition Measures

Target: Achieve a voluntary 5% reduction in daily water demand.

1. Water Customers will be asked to implement conservation measures on a voluntary basis and will be informed of specific steps that can be taken to implement conservation measures.
2. All non-essential water use shall be limited to the below:
 - a) Restriction on Days of Use - Customers with even-numbered addresses may use water for non-essential purposes on Mondays and Thursdays, and Customers with odd-numbered addresses may use water for non-essential purposes on Tuesdays and Fridays.
 - b) Restricted Hours of Use - Non-essential water use is allowed only during the hours between 5:00 am and 10:00 am and between 6:00 pm and 12:00 am (midnight) on the designated days listed in item a) above.

B. Stage 2 - Moderate Drought Condition Measures

**Target: Achieve a 5% reduction in daily water demand (October through March)
Achieve a 10% reduction in daily water demand (April through September)**

1. The Drought Response Measures established for Mild Drought Conditions shall continue to be implemented on a mandatory basis.

C. Stage 3 – Advanced Drought Condition Measures

**Target: Achieve a 10% reduction in daily water demand (October through March)
Achieve a 20% reduction in daily water demand (April through September)**

1. The Drought Response Measures established for Mild and Moderate Drought Conditions shall continue to be implemented on a mandatory basis.
2. All non-essential water use must be conducted with a hand-held hose with a manual on-off nozzle, with a soaker hose around the foundation of a home, or with an automatic sprinkler system.

3. The District shall recommend that the non-essential water uses described in Section VII, "non-essential water use" Subsections (b), (c), (d), (f), and (i) be curtailed.
4. The Board may restrict industrial water use or commercial and institutional water use which water uses are not essential to the health and safety of the community so that remaining water is available for essential health and safety related uses.

D. Stage 4 - Severe Drought Condition Measures

**Target: Achieve a 15% reduction in daily water demand (October through March).
Achieve a 30% reduction in daily water demand (April through September)**

1. The Drought Response Measures established for Mild, Moderate and Advanced Drought Conditions shall continue to be implemented on a mandatory basis.
3. All non-essential water uses shall be prohibited.
4. The Board of Directors may prohibit industrial water use or commercial and institutional water use which water uses are not essential to the health and safety of the community so that remaining water is available for essential health and safety related uses.

E. Stage 5 - Emergency Water Shortage Condition Measures

See Section X of this Plan.

F. Termination of Trigger Conditions Notification

Upon vote by the Board of Directors, the Drought Response Measures prescribed shall terminate, and the District shall cease implementation and enforcement of such measures. The District will notify Customers of the termination of the particular Drought Response Measures and may utilize the same manner of notification used to inform Customers of the occurrence of the Trigger Condition and implementation of the Drought Response Measures.

Section X: Emergency Contingency Plan (Stage 5 Emergency Water Shortage)

Target: Subject to scope and nature of emergency

In the event of Stage 5 Emergency Water Shortage Condition or a fire, flood, hurricane, lightning strike, tornado, windstorm, or any other act of God, riot, terrorist act, or any other act of civil disobedience, or any other similar occurrence which results in the inability of the District to provide potable water to Customers (or the likelihood thereof), the Board, in its discretion, may, without prior notice, invoke as "Emergency Response Measures" all or any combination of the Drought Response Measures set forth in this Plan. The Board may establish any of the penalties set forth in Section XI for violations of the Emergency Response Measures.

Section XI: Enforcement

The following penalties shall apply to anyone violating the terms of this Plan or the Drought Response Measures or Emergency Response Measures adopted pursuant hereto:

- A. **First Violation.** If any person or entity violates any provision of this Plan (which violation shall constitute an unauthorized use of District services and/or facilities), then the Board of the District, after providing any legally required notice, may impose a penalty of up to \$500.00 for the first violation of this Plan.
- B. **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 shall have the right to terminate water service to such person or entity after notice and any other procedural requirements in the District's rate order are satisfied.
 2. **Monetary Penalties 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 disconnection as provided in Subsection B1 of this Section, the Board of the District, after providing any legally required notice, may impose a penalty of up to the jurisdictional limit of a justice court, currently \$10,000.00 for each violation of this Plan. 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.

Section XII: Variances

The Board of Directors or its 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:

- (a) Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.
- (b) Alternative methods can be implemented which will achieve the same level of reduction in water use.

Persons requesting an exemption from the provisions of this Plan shall file a petition for variance with the District Operator within 5 days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the Board of Directors or its designee and shall include the following:

- (a) Name and address of the petitioner(s).
- (b) Purpose of water use.
- (c) Specific provision(s) of the Plan from which the petitioner is requesting relief.
- (d) Detailed statement as to how the specific provision of the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Plan.
- (e) Description of the relief requested.
- (f) Period of time for which the variance is sought.
- (g) Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.
- (h) Other pertinent information.

Variances granted by the Board of Directors shall be subject to the following conditions, unless waived or modified by the Board of Directors or its designee:

- (a) Variances granted shall include a timetable for compliance.
- (b) 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.

Section XIII: Severability

It is hereby declared to be the intention of the Board of Directors that the sections, paragraphs, sentences, clauses, and phrases of this Plan are severable and, if any phrase, clause, sentence, paragraph, or section of this Plan shall be declared unconstitutional by the valid judgment or

decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Plan, since the same would not have been enacted by the Board of Directors without the incorporation into this Plan of any such unconstitutional phrase, clause, sentence, paragraph, or section.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

The President or Vice President is authorized to execute and the Secretary or Assistant Secretary is authorized to attest this Order on behalf of the Board of Directors of the District.

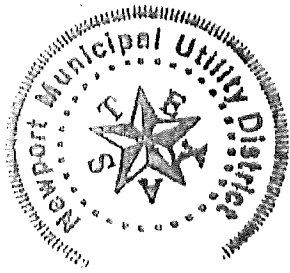
MARGARETTE CHASTEEN

President

ATTEST:

DEBORAH FLORUS

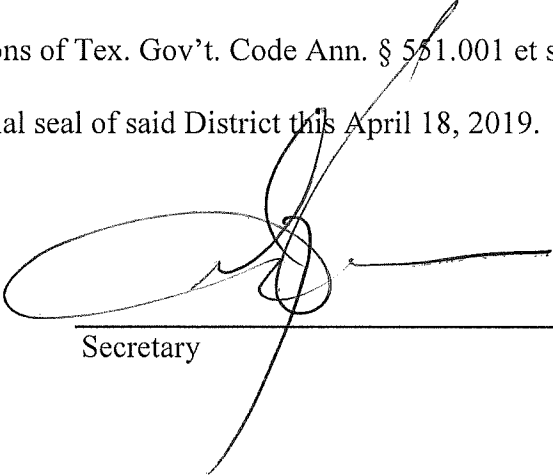
Secretary



I, the undersigned secretary of the board of directors of Newport Municipal Utility District, hereby certify that the foregoing is a true and correct copy of the order establishing a drought contingency plan, adopted by said board at its meeting of April 18, 2019, together with excerpts from the minutes of said board's meeting on that date showing the adoption of said order, as same appear of record in the official minutes of the board, on file in the District's office.

I further certify that said meeting was open to the public, and that notice thereof was posted in compliance with the provisions of Tex. Gov't. Code Ann. § 551.001 et seq.

Witness my hand and the official seal of said District this April 18, 2019.



Secretary

