

**ORDER ESTABLISHING REVISED WATER CONSERVATION AND DROUGHT  
CONTINGENCY PLAN**

September 22, 2009

THE STATE OF TEXAS            §  
  §  
COUNTY OF TRAVIS           §

**WHEREAS**, Northtown Municipal Utility District (the “*District*”) is a political subdivision of the State of Texas, created and operating under Chapters 49 and 54 of the *Texas Water Code*; and

**WHEREAS**, under Section 11.1272, *Texas Water Code*, the Board of Directors of the District (the “*Board*”) is required to establish and enforce a drought contingency plan;

**WHEREAS**, under the Agreement Concerning Creation and Operation of Northtown Municipal Utility District No. 1 (the “*Agreement*”) with the City of Austin, Texas (the “*City*”) the District is required to promote compliance with the City’s water conservation ordinance, as it may be amended from time to time; and

**WHEREAS**, as required by Section 11.1272, *Texas Water Code* and the Agreement, and in an effort to ensure that water supplied to the District is used reasonably and to its maximum beneficial use, the Board adopted an Amended and Restated Drought Contingency and Water Emergency Plan by Order dated April 24, 2007 (the “*Original Plan*”); and

**WHEREAS**, in accordance with 30 *Texas Administrative Code* Section 288.30, the Board subsequently amended the Original Plan pursuant to an Order Establishing Revised Drought Contingency Plan and Adopting Water Conservation Plan dated April 28, 2009 (the “*Amended Plan*”); and

**WHEREAS**, central Texas is experiencing a severe drought that has persisted since September 2007; and

**WHEREAS**, due to a continuation of hot and dry weather patterns, the Board now desires to revise the Amended Plan in order to, among other things, provide for a mechanism to reduce public confusion about water schedules and requirements, increase compliance with water conservation measures, and address inconsistencies between the District’s requirements and those of its water supplier(s);

IT IS, THEREFORE, ORDERED BY THE BOARD OF DIRECTORS OF NORTHTOWN MUNICIPAL UTILITY DISTRICT that:

Section 1: The Water Conservation and Drought Contingency Plan (the “*Plan*”) attached as **Exhibit “A”** is hereby established and will be implemented during periods of water shortage in an effort to reduce water loss, waste or consumption and increase the efficiency of water use. The Plan replaces and supersedes the Amended Plan.

Section 2: If any provision, section, sentence, clause, or phrase of this Order, or its application to any person or set of circumstances is, for any reason, held to be unconstitutional, void, invalid, or for any reason unenforceable, the validity of the remaining portions of this Order and its application to other persons or sets of circumstances will not be affected, it being the intent of the Board in adopting this

Order that no portion hereof or provision contained herein will become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion or provision.

Section 3: The Secretary of the Board is directed to file a copy of this Order in the principal office of the District, with the Executive Director of the Texas Commission on Environmental Quality, and with the Lower Colorado Regional Water Planning Group (Region K). This Order will remain in full force and effect from the date of its adoption until amended or replaced by the Board.

Section 4. The District's attorney is directed to publish a substantive statement of the rules or regulations contained in the Plan, and the penalty for their violation, in accordance with Section 54.207, *Texas Water Code*.

PASSED AND APPROVED this \_\_\_\_day of \_\_\_\_\_, 2009.

**NORTHTOWN MUNICIPAL UTILITY  
DISTRICT**

By: \_\_\_\_\_  
Robin Campbell, President  
Board of Directors

ATTEST:

\_\_\_\_\_  
Scott M. Gray, Secretary  
Board of Directors

**EXHIBIT “A”**

**WATER CONSERVATION AND  
DROUGHT CONTINGENCY PLAN**

**I. Approval of the Plan**

The Board of Directors (the “**Board**”) of Northtown Municipal Utility District (the “**District**”) hereby establishes the Water Conservation and Drought Contingency Plan (the “**Plan**”), as set forth below. The Board commits to implement this Plan according to the procedures set forth below.

**II. Water Conservation Plan**

**2.01 Water and Wastewater Utility System Profile:**

**A. Service Area Population:** As of the date of adoption of this Plan, the District had 2,596 occupied residences, and 121 residences either owned by builders or vacant. The estimated population of the District’s service area is 9,086, based on 2,596 living unit equivalents (“**LUEs**”) multiplied by 3.5 persons/unit.

**B. Water Utility Data:**

<i>1. Connection Type</i>	<i>Existing</i>
Occupied Single Family	2647 LUEs
Builder	30 LUEs
Vacancies	58 LUEs
Irrigation	22 LUEs
Fire Hydrants	2 LUEs
Multi Family	244 LUEs
District	8 LUEs
Schools	8 LUEs
Non-Profit	1 LUE

2. The District, except for the Settlers Meadow subdivision, receives its raw water supply from the City of Austin. The Settlers Meadow subdivision receives its water from the City of Pflugerville pursuant to an interlocal agreement among the City of Austin, the City of Pflugerville and the District.

**C. Wastewater Service:**

1. Wastewater treatment for the District is provided by the City of Austin, except for a small area of the District that is provided wastewater service directly by the City of Austin pursuant to an interlocal agreement between the City of Austin and the District.

**D. Financial Data:**

The District’s water and wastewater rates and connection/impact fees are set forth in the District’s Order Establishing Rates, Charges and Fees. The rates and fees are comparable to surrounding adjacent developments and are cost-based.

## 2.02 *Conservation Strategies:*

### A. *Minimum Measures.*

1. Water Conservation Goals. The District's five-year target for water savings is to reduce daily water consumption in gallons per capita by 3%, and the District's 10-year target for water savings is to reduce daily water consumption in gallons per capita by an additional 3% over the five-year target. The District will attempt to achieve these targets and goals with one or more of the following actions:

- a. Encouraging and supporting efficient water use and reduced waste by District customers.
- b. Taking measures to maintain per capita water usage below the median of the previous five years' gallons per capita per day consumption for similarly situated water providers.
- c. Striving to limit unaccounted-for water from the District's system to no more than 10% of the volume of water delivered based on a moving five year average.
- d. Implementing and maintaining a program of universal metering and meter replacement and repair.
- e. Encouraging decreasing waste in landscape irrigation.
- f. Raising public awareness of water conservation and encouraging responsible public behavior.
- g. Developing a system specific strategy to conserve water during peak demands, thereby reducing peak use.
- h. Encouraging the development of a program for the reuse/recycling of wastewater/greywater.
- i. Encouraging the use of water-efficient plumbing fixtures.
- j. Encouraging and supporting efficient water use and reduced waste.
- k. Implementing all applicable water conservation measures required by any water supplier of the District.

2. Meters. The District will strive to implement the following with respect to metering and meter repair/replacement:

- a. The supply of water to the District will be metered with water meters capable of accuracy within +/-5%.

b. Each connection will be metered with a water meter capable of accuracy within +/- 5%.

c. Each connection on the system will be metered, including landscape irrigation and public facilities.

d. A regularly scheduled maintenance program of meter repair and replacement will be established in accordance with the following time intervals:

i. Master Meters: Test once/year

ii. 1" + Meters: Test once/year

iii. Meters <1": Test once/ 10 years

3. Education and Public Information Programs. The District will attempt to undertake a coordinated water conservation public education and information program with its customers that may include:

a. Providing a conservation message that may be included with water bills.

b. Encouraging local media coverage of water conservation issues and the importance of water conservation.

c. Making water conservation information and materials available.

**B. Other Measures.** Other measures may include system operation requirements and rules that promote water conservation such as use of new water conserving technology in construction, landscape watering management, and appropriate use of updated plumbing fixtures that conserve water. In addition, the District will regularly review this Plan in accordance with applicable rules to ensure that it is effective and efficient.

**4.02 Coordination with Regional Water Planning Group.** The service area of the District is located within the Lower Colorado Regional Water Planning Area (Region K) of the State of Texas and the District has provided or will provide a copy of this water conservation plan to the regional water planning group.

### **III. Drought Contingency Plan**

**4.01 Declaration of Policy, Purpose, and Intent.** Because of the water conditions prevailing within the District, the water resources available to the District must be put to the maximum beneficial use and the waste, unreasonable use, or unreasonable method of use of water must be prevented, with a view to the reasonable and beneficial use thereof in the interests of the residents of the District and for the public health and welfare.

**4.02 Public Involvement.** An opportunity for the public to provide input into the preparation of this Plan was provided through the District's scheduling and providing public notice of

a public meeting at which members of the public were provided with an opportunity to provide input to the Board on this Plan.

**4.03 Public Education.** The District will periodically provide the public with information about this Plan, including information about the conditions under which each stage of the drought contingency measures of this 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 publication of notice in a newspaper of general circulation, posting notification signs in public places, mailing utility bill inserts or postcards, press releases, web page notices, or other means as determined necessary by the District Manager or his/her designee.

**4.04 Coordination with Regional Water Planning Group and TCEQ Notification.** The service area of the District is located within the Lower Colorado Regional Water Planning Area (Region K) and the District has provided a copy of this drought contingency plan to the regional water planning group. The District will notify the executive director of the Texas Commission on Environmental Quality within five business days of the implementation or termination of any mandatory provisions of this Plan.

**4.05 Authorization.** The District's Manager or another consultant or employee specifically designated by the Board (for purposes of this Plan, the appointed party is designated the "District Manager") is hereby authorized and directed to implement the applicable provisions of the drought contingency measures of this Plan upon determination that implementation is necessary to protect the public health, safety, and welfare. The District Manager, or his/her designee, will have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

**4.06 Application.** The provisions of this Plan will apply to all persons, entities, customers, and property utilizing water provided by the District.

**4.07 Definitions.** For the purpose of this Section, the following definitions will apply:

**A. Commercial Customer:** a Customer that uses water as an integral part of the operations of a civic, industrial, commercial, and non-profit establishments, including retail establishments, hotels and motels, restaurants, office buildings, home owner association property, and sites with five or more dwelling units.

**B. Customer:** any person, entity, company, or organization using water supplied by the District.

**C. Designated Outdoor Water Use Days:** the days designated for outdoor water use by a Water Supplier, or, if a Water Supplier has not designated days for outdoor water use, then:

1. For residential Customers with street addresses, box numbers, or rural postal route numbers ending in an even number (0, 2, 4, 6 or 8) and locations without addresses - Sundays and Thursdays;

2. For residential Customers with street addresses, box numbers, or rural postal route numbers ending in an odd number (1, 3, 5, 7 or 9) - Saturdays and Wednesdays;
3. For Commercial Customers - Tuesdays and Fridays.

**D. *New Landscape:*** vegetation that:

1. is installed at the time of the construction of a residential or commercial facility;
2. is installed as part of a governmental entity's capital improvement project;
3. alters more than one-half of the area of an existing landscape.

**E. *Residential Customer:*** a Customer that uses water as an integral part of the operations of site with four or less dwelling units.

**F. *Water Use Reduction Measures:*** practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve efficiency in the use of water, or increase the recycling and reuse of water so that water supply is conserved and made available for future or alternative uses.

**G. *Water Supplier:*** collectively, City of Austin and any other entity that supplies wholesale water to the District in the future and requires that the District implement drought contingency and water conservation measures consistent with its own.

**4.08 *Triggering and Termination Criteria for Drought Response Stages.*** The District Manager, or his/her designee, will monitor water supply and/or demand conditions on a monthly basis and determine when conditions warrant the initiation or termination of any stage of this Plan. During the months of May through September, water supply conditions may be monitored on a more frequent basis if deemed necessary. Weather conditions will be considered in determining a drought classification. If long cold or dry periods are predicted, such conditions will be considered in making an impact analysis. Public notification of the initiation or termination of drought response stages will be given by means of publication in a newspaper of general circulation, signs posted in public places, utility bill inserts, or other means to be determined by the District Manager or his/her designee.

**A. *Permanent Water Use Restrictions.*** Customers must comply with the permanent water use restrictions at all times, unless otherwise provided in this Plan or required by a Water Supplier or the District.

**B. *Stage 1 - Mild Water Shortage Conditions.***

1. Requirements for initiation. Customers will be required to comply with Stage 1 requirements:

- a. from May 1 through September 30; and
  - b. the District Manager and/or his/her designees considers it necessary;
  - c. required under any District water supply contract; or
  - d. otherwise required by the Board.
2. Requirements for termination. Stage 1 water restrictions may be rescinded by the Board or the District Manager or his/her designee when the conditions listed above cease to exist.

**C. *Stage 2 - Moderate Water Shortage Conditions.***

1. Requirements for initiation. Customers will be required to comply with Stage 2 requirements when:
  - a. the availability of the District's water supply is reduced up to a repeat of a drought of record for the area;
  - b. the District Manager and/or his/her designees considers it necessary;
  - c. required under any District water supply contract; or
  - d. otherwise required by the Board.
2. Requirements for termination. Stage 2 water restrictions may be rescinded by the Board or the District Manager or his/her designee when the conditions listed above cease to exist. Upon termination of Stage 2, Stage 1 becomes operative.

**D. *Stage 3 - Severe Water Shortage Conditions.***

1. Requirements for initiation. Customers will be required to comply with the Stage 3 requirements when:
  - a. system demand exceeds available high service pump capacity;
  - b. water system is contaminated, whether accidentally or intentionally (severe condition is reached immediately upon detection of contamination);
  - c. water system fails due to an act of God (tornadoes, hurricanes) or man (severe condition is reached immediately upon detection of the failure);

d. any mechanical failure of pumping equipment which will require more than 12 hours to repair and which causes unprecedented loss of capability to provide water service; or

e. the District Manager and/or his/her designees considers it necessary;

f. required under any District water supply contract; or

g. otherwise required by the Board.

2. Requirements for termination. Stage 3 water restrictions may be rescinded by the Board or the District Manager or his/her designee when the conditions listed above cease to exist. Upon termination of Stage 3, Stage 2 becomes operative.

**E. Additional Restrictions.** The District may impose additional water restrictions to protect the public health and safety in the event of an unusual water system operational event, catastrophic occurrence or severe weather event, or as otherwise required by the Board or a Water Supplier under any District water supply contract.

**4.09 Drought Response Stages.** The District Manager or his/her designee will monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in Section 3.08, will determine if a mild, moderate, or severe condition exists and implement the following actions.

**A. Permanent Water Use Restrictions.**

1. Commercial Customers may not irrigate outdoors on a day other than a Designated Outdoor Water Use Day, except at a golf course or as provided below.
2. Customers may not irrigate outdoors using a permanently installed automatic irrigation system between the hours of 10:00 a.m. and 7:00 p.m., except as necessary to make repairs required under Subsection 3 below or as provided below.
3. Customers must not:
  - a. fail to repair a controllable leak, including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;
  - b. operate a permanently installed irrigation system with:
    - i. a broken head;
    - ii. a head that is out of adjustment and the arc of the spray head is over a street or parking lot; or

- iii. a head that is misting because of high water pressure; or
  - c. during irrigation, allow water:
    - i. to run off a property and form a stream of water in a street for a distance of 50 feet or greater; or
    - ii. to pond in a street or parking lot to a depth greater than one-quarter of an inch.
- 4. Any additional or alternative restrictions imposed by a Water Supplier or otherwise determined to be necessary by the District Manager or the Board may be imposed by the District.
- 5. Subsections 2 and 3 above do not apply to irrigation:
  - a. during repair or testing of a new or existing irrigation system if the person performing the testing is present;
  - b. of nursery stock at a commercial plant nursery; or
  - c. of an athletic field used for organized sports if:
    - i. the irrigation is for dust abatement purposes; and
    - ii. the Customer submits to the District and the City of Austin, if applicable, a dust abatement exemption application on a form provided by the City of Austin.

**B. *Stage 1 – Mild Water Shortage Conditions.*** The goal for Stage 1 is to achieve a five percent reduction in average daily water use (e.g., total water use, daily water demand, etc.).

- 1. Supply Management Measures. All District operations will adhere to the Stage 1 water use restrictions prescribed below, where possible.
- 2. Water Use Restrictions.
  - a. Except as provided below, Customers may not irrigate outdoors except on a Designated Outdoor Water Use Day between the hours of 10:00 a.m. and 7:00 p.m.
  - b. Subsections a and b above do not apply to irrigation:
    - i. using a hand-held hose or hand-held bucket;
    - ii. during repair or testing of a new or existing irrigation system if the person performing the testing is present;
    - iii. of water nursery stock at a commercial plant nursery; or

- iv. of an athletic field used for organized sports if:
  - (i) the irrigation is for dust abatement purposes; and
  - (ii) the Customer submits to the District and the City of Austin, if applicable, a dust abatement exemption application on a form provided by the City of Austin.

c. Any additional or alternative restrictions imposed by a Water Supplier or otherwise determined to be necessary by the District Manager or the Board may be imposed by the District.

**C. *Stage 2 - Moderate Water Shortage Conditions.*** The goal for Stage 2 is to achieve a 10% reduction in average daily water use.

- 1. Supply Management Measures. During Stage 2, the District will reduce or discontinue flushing of water mains; reduce or discontinue irrigation of public landscaped areas, where possible; where possible, use alternative water supply sources and/or alternative delivery mechanisms with the prior approval of Texas Commission on Environmental Quality, if appropriate; and use reclaimed water for non-potable purposes, where possible. Where possible, the District will also comply with the water use restrictions for Stage 2 when those restrictions are implemented.
- 2. Water Use Restrictions. During Stage 2, the following water use restrictions will apply:
  - a. Customers may not irrigate outdoors, except:
    - i. with a hand-held hose or a hand-held bucket at any time;
    - ii. with a hose-end sprinkler, a soaker hose, or drip irrigation, from 12:00 a.m. to 10:00 a.m. and from 7:00 p.m. to 12:00 a.m. on a Designated Outdoor Water Use Day; or
    - iii. with a permanently installed automatic irrigation system from 12:00 a.m. to 10:00 a.m. on a Designated Outdoor Water Use Day.
  - b. A Customer may not irrigate new landscape, unless:
    - i. the Customer provides to the District and the City of Austin, if applicable, a completed notice in the form established by the City of Austin at least one day before the landscape is installed; and
    - ii. the Customer irrigates with a hose-end sprinkler, a soaker hose, or drip irrigation only from 12:00 a.m. to 10:00 a.m. and from 7:00 p.m. to 12:00 a.m. on a Designated Outdoor Water Use Day, or with an automatic irrigation system from

12:00 a.m. to 10:00 a.m. on a Designated Outdoor Water Use Day.

c. A Customer may not wash a vehicle or mobile equipment, except with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle on a Designated Outdoor Water Use Day from 12:00 a.m. to 10:00 a.m. and from 7:00 p.m. to 12:00 a.m. This subsection does not apply if washing the vehicle is necessary to protect the health, safety, or welfare of the public. This subsection does not apply to a commercial carwash if:

i. in-bay, hand-held spray wash equipment, including a spray wand or foaming brush, does not use more than 3.0 gallons of water a minute and has a trigger shutoff;

ii. portable pressure wash equipment with a spray nozzle does not use more than 3.5 gallons of water a minute and has a trigger shutoff;

iii. a conveyor friction system does not use more than 20 gallons for each vehicle;

iv. conveyor touchless system does not use more than 40 gallons for each vehicle;

v. a rollover automatic system does not use more than 45 gallons for each vehicle;

vi. each chamois wringer has a positive shutoff valve; and

vii. system using reverse osmosis rinse water reclaims and reuses reject water, and the reject water is not discharged into a sanitary sewer.

d. Notwithstanding the above, a Customer may not conduct or participate in a charity car wash.

e. A Customer may not use an automatic fill valve to add water to an outdoor swimming, wading pool, or pond.

f. A Customer may not operate an outdoor ornamental fountain or structure making similar use of water, other than the aeration necessary to preserve habitat for aquatic species. A Customer may not fill, refill, or add water to an indoor fountain.

g. A Customer may not irrigate a golf fairway, except on a Designated Outdoor Water Use Day from 12:00 a.m. to 10:00 a.m. and from 7:00 p.m. to 12:00 a.m. A Customer may irrigate a golf course green or tee every other day if the Customer files a plan with the District and the City of Austin, if applicable, establishing the irrigation schedule.

- h. A Customer may not wash a sidewalk, driveway, parking area, street, tennis court, patio, or other paved area, except to alleviate an immediate health or safety hazard.
  - i. A restaurant may not serve water to a customer except when requested by the customer.
  - j. Any additional Stage 2 restrictions imposed by a Water Supplier that are applicable to Customers will be imposed by the District.
3. Stage 2 requirements do not apply to:
- a. necessary use of water, other than for landscape irrigation, by a governmental entity performing a governmental function, including for a capital improvement construction project;
  - b. necessary use of water, other than for landscape irrigation, for land development including roadway base preparation, flushing a utility line, dust control, concrete or asphalt work, and building construction, provided that if reclaimed water is available within one mile of the construction site, reclaimed water must be used for roadway base preparation and dust control; or
  - c. necessary use of water for repair of a water distribution facility, residential and commercial plumbing, or a permanently installed landscape irrigation system.
  - d. a watering nursery stock at a commercial plant nursery.
4. Any additional or alternative restrictions imposed by a Water Supplier or otherwise determined to be necessary by the District Manager or the Board may be imposed by the District.

**D. *Stage 3 - Severe Water Shortage Conditions.*** The goal for Stage 3 is to achieve a 15% reduction in average daily water use.

- 1. Supply Management Measures. During Stage 3, the District will cease the flushing of water mains except when necessary for reasons of health or safety, where possible. Where possible, the District will discontinue irrigating public landscaped areas except areas irrigated with treated wastewater effluent, ground water, or raw water.
- 2. Water Use Restrictions. All requirements of Stage 2 will remain in effect during Stage 3 except:
  - a. A Customer may not irrigate vegetation outdoors, except:
    - i. with a hand-held hose or hand-held watering can from 6:00 a.m. to 10:00 a.m. and 7:00 p.m. to 10:00 p.m. on a Designated Outdoor Water Use Day; or

- ii. at a commercial plant nursery with a hand-held hose, hand-held watering can, or drip irrigation system.
- b. A Customer may not wash an automobile, truck, trailer, boat, airplane, or other mobile equipment. This prohibition does not apply if the washing is necessary to alleviate an immediate threat to public health, safety, or welfare, but a Customer may use a commercial car wash or commercial service station for this purpose only between 12:00 p.m. and 5:00 p.m.
- c. A Customer may not water the ground around a foundation to prevent foundation cracking except on a Designated Outdoor Water Use Day from 12:00 a.m. to 10:00 a.m.
- d. A Customer may not operate an outdoor ornamental fountain or structure making similar use of water, other than the aeration necessary to preserve habitat for aquatic species.
- e. A Customer may not add potable water to a swimming pool, wading pool, fountain, or pond.
- f. A Customer may not begin the installation of new landscape.
- g. A Customer may not wash a sidewalk, driveway, parking area, street, tennis court, patio, or other paved area, except to alleviate an immediate health or safety hazard.
- h. A restaurant may not serve water to a customer except when requested by the customer.
- i. Stage 3 requirements do not apply to a Customer who uses treated wastewater effluent or raw water.
- j. Any additional or alternative restrictions imposed by a Water Supplier or otherwise determined to be necessary by the District Manager or the Board may be imposed by the District.

If severe water shortage conditions (Stage 3) persist for an extended period of time, the District Manager, upon recommendation of the Board, may order water rationing and/or terminate service to selected users of the system in accordance with any applicable policies and procedures of a Water Supplier or, if no such policies and procedures exist, the following sequence:

- Recreational users
- Commercial users
- School users
- Residential users
- Hospitals, public health and safety facilities

### **III. Variances.**

**4.01 Granting Variances.** A Review Board consisting of the District Manager, the District Secretary, and the Board President is hereby established. The Review Board will review hardship and special cases that cannot strictly comply with this Plan to determine whether the cases warrant a variance, permit, or compliance agreement (collectively, "Variance").

**4.02 Application for Variance.**

- A.** A Variance from a requirement of this Plan may be granted if the Review Board determines that special circumstances exist and that compliance with the Plan:
1. adversely affects health, sanitation, or fire protection of the public or applicant;
  2. adversely affects pesticide or fertilizer application; or
  3. constitutes an economic hardship. "Economic hardship" means a threat to a person or entity's primary source of income. Inconvenience or the potential for damage to landscaping does not constitute an economic hardship. If the Review Board determines there is an economic hardship, it may authorize the implementation of alternative water use restrictions that further the purposes of the Plan. The alternative water use restrictions must be set forth on the face of the Variance and the Customer must keep a copy of the Variance in a location that is accessible by and visible to the public.
- B.** A Variance from the requirements of Stage 1 or Stage 2 of this Plan may be granted if the Review Board determines that:
1. a property cannot be completely watered with an average of three-quarters of an inch of water in a single day and that the property should be divided into sections to be watered on different days; or
  2. a property is a newly installed landscape.
- C.** All applications for a Variance will be reviewed by the Review Board and must include the following:
1. Name and address of the petitioner(s);
  2. Purpose of water use;
  3. Specific provision(s) of the Plan from which the petitioner is requesting relief;
  4. Detailed statement as to how the specific provision of the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Plan;
  5. Description of the relief requested;

6. Period of time for which the Variance is sought;
7. Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date; and
8. Other pertinent information.

**D.** The Review Board will make its determination no later than the 15th working day after receipt of an application for variance.

**E.** Until the Review Board has acted on an application, the applicant must comply with all provisions of this Plan. The Review Board may not approve a Variance if the terms and conditions do not meet or exceed the purpose and intent of this Plan.

**F.** No Variance may be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the Variance.

**4.03** *Conditions to Variance.* Variances granted by the District are subject to the following conditions, unless waived or modified by the Review Board:

**A.** Variances granted must include a timetable for compliance;

**B.** Variances granted will expire when the Plan is no longer in effect, unless the petitioner has failed to meet specified requirements; and

**C.** Such other conditions as the Review Board determines necessary to meet or exceed the purpose and intent of this Plan, such as water schedules for newly installed landscapes.

**4.04** *Enforcement.*

**A.** No person or entity may knowingly or intentionally allow the use of water from the District for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this Article, or in an amount in excess of that permitted by any drought response stage in effect at the time pursuant to the provisions of this Article.

**B.** The provisions of this Plan constitute rules adopted under the authority set forth in Section 54.205 of the *Texas Water Code*. 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 District for any costs incurred by the District in connection with any violation. Compliance with this Plan may also be sought through injunctive relief in the district court. In accordance with the foregoing authority, the following penalties are established:

1. First violation -- \$200 fine;
2. Second violation -- \$500 fine;

3. If any person or entity violates any three provisions of this Plan or violates one provision three or more times, the District Manager or his/her designee may, following written notice to the violator, discontinue water service to the premises where the violations occurred. Service discontinued under such circumstances may be restored only upon payment of all fines established under this Section, a re-connection charge of \$100, and any other costs incurred by the District in discontinuing or re-initiating service. In addition, the violator must provide assurance, acceptable to the District Manager, or his/her designee, that the violation will not be repeated.

C. Any person, including a person classified as a Customer of the District, 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.