

**Drought Contingency Plan for City of
Midland, Texas**

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Drought Contingency Plan For the City of Midland, Texas (Revised June, 2011)

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 City of Midland hereby adopts the following regulations and restrictions on the delivery and consumption of Water.

Water uses regulated or prohibited under this Drought Contingency Plan 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 subjects the offender(s) to penalties as defined in Section IX of this Plan.

II. TCEQ Rules

The TCEQ rules governing development of drought contingency plans for public water suppliers are contained in Title 30, Part 1, Chapter 288, Subchapter B, Rule 288.20 of the Texas Administrative Code. Copy of rules also in Appendix B.

III. Provisions to Inform the Public and Opportunity for Public Input

Opportunity for the public to provide input into the preparation of the Drought Contingency Plan was provided by the City of Midland by means of press releases and scheduling and providing public notice of a public meeting to accept input of the Drought Contingency Plan in the newspaper.

IV. Public Education

The City of Midland will periodically provide the public with information about the Drought Contingency Plan, including information about the conditions under which each stage of the Drought Contingency 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 press releases and utility bill inserts.

V. Coordination with Regional Water Planning Groups

The service area of the city of Midland is located within the Region F water planning area and the City of Midland has provided a copy of this Drought Contingency Plan to the Region F Planning Group.

VI. Initiation and termination of Drought Response Stages

The City Manager, or his/her 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 Drought Contingency Plan. Public notification of the initiation or termination of drought response stages shall be by means of press releases.

The triggering criteria described below are based on the Water supply sources and a statistical analysis of the vulnerability of the Water source under drought of record conditions.

(a) Stage 1 – Mild Water Shortage Conditions

Requirements for initiation – Customers shall be requested to voluntarily conserve Water and adhere to the prescribed restrictions on certain Water uses, defined in Appendix A, when;

1. Pursuant to requirements specified in the City of Midland wholesale water purchase contract with CRMWD notification is received requesting initiation of Stage 1 of the Drought Contingency Plan; or
2. Request of the Colorado River Municipal Water District due to limitation in available supplies or their transmission facilities; or
3. Total daily Water demand reaches or exceeds 45 MGD, which is 94% of the treatment plant capacity plus 50% of the well field capacity for 5 consecutive days.

Requirements for termination – Stage 1 of the Drought Contingency Plan may be rescinded when all of the triggering events have ceased for a period of 3 days.

(b) Stage 2 – Moderate Water Shortage Conditions

Requirements for initiation – Customers shall be required to comply with the requirements and restrictions on certain non-essential Water uses provided in appendix A of the Drought Contingency Plan, when

1. Pursuant to requirements specified in the City of Midland wholesale water purchase contract with CRMWD notification is received requesting initiation of Stage 2 of the Drought Contingency Plan; or
2. Request of the Colorado River Municipal Water District due to limitation in available supplies or their transmission facilities; or
3. Total daily water demand reaches or exceeds 55 MGD for 5 consecutive days or 60 million gallons in a single day.

Requirements for termination – Stage 2 of the Drought Contingency Plan may be rescinded when all of the triggering events have ceased to exist for a period of 5 consecutive days. Upon termination of Stage 2, Stage 1 becomes operative.

(c) Stage 3 – Severe Water Shortage Conditions

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 Drought Contingency Plan, when

1. Pursuant to requirements specified in the City of Midland wholesale water purchase contract with CRMWD notification is received requesting initiation of Stage 3 of the Drought Contingency Plan; or
2. The failure or threatening failure of a major system component will result in an immediate health or safety hazard; or
3. Total daily Water demand reaches the system limit, stressing the system to failure.

Requirements for termination – Stage 3 of the Drought Contingency Plan may be rescinded when all of the triggering events have ceased to exist for a period of 7 consecutive days. Upon termination of Stage 3, Stage 2 becomes operative.

(d) Stage 4 – Critical Water Shortage Conditions

Requirements for initiation – Customers shall be required to comply with the requirements and restrictions on certain non-essential Water uses for Stage 4 of this Drought Contingency Plan, When

- 1. Pursuant to requirements specified in the City of Midland wholesale water purchase contract with CRMWD notification is received requesting initiation of Stage 4 of the Drought Contingency Plan; or**
- 2. Treated Water storage levels do not restore overnight.**

Requirements for termination – Stage 4 of the Drought Contingency Plan may be rescinded when all of the triggering events have ceased to exist for a period of 3 consecutive days. Upon termination of Stage 4, Stage 3 becomes operative.

(e) Stage 5 – Emergency Water Shortage Conditions

Requirements for initiation – Customers shall be required to comply with the requirements and restrictions for Stage 5 of this Drought Contingency Plan when the City Manager, or his/her designee, determines that a Water supply emergency exists based on:

- 1. Major Water line breaks, or pump or system failure occurs, which cause unprecedented loss of capability to provide Water service; or**
- 2. Natural or man-made contamination of the Water supply source(s).**

Requirements for termination – Stage 5 of the Drought Contingency Plan may be rescinded when all of the triggering events have ceased to exist for a period of 3 consecutive days.

VII. Goals for Reduction in Water Use

The City of Midland has established quantifiable goals for water use reduction for each stage of the Drought Contingency Plan. These goals are outlined below.

- Stage 1, Mild
Goal: Achieve a voluntary 10 percent reduction in daily Water demand
- Stage 2, Moderate
Goal: Achieve 15 percent reduction in daily Water demand
- Stage 3, Severe

Goal: Achieve 20 percent reduction in daily Water demand

- Stage 4, Critical

Goal: Achieve 25 percent reduction in daily Water demand

- Stage 5, Emergency

Goal: Achieve a 30 day sustainable demand level which well fields can provide 25 MGD.

VIII. Drought and Emergency Response Stages

The City Manager, or his/her designee, shall monitor Water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in Section VIII of the Plan, shall determine that a mild, moderate, severe, critical, or emergency condition exists and shall implement the following actions upon publication of notice in a newspaper of general circulation:

Stage 1 - Mild Water Shortage Conditions

Supply Management Measures:

To manage limited Water supplies and/or reduce Water demand, the City of Midland shall implement the following measures; reduced flushing of Water mains and increased use of alternative supply source(s) if available.

Voluntary Water Use Restrictions:

- a) Water customers are requested to voluntarily limit the irrigation of landscaped areas to days and times designated by the City manager or his/her designee.
- b) All operations of the City of Midland and its employees shall adhere to Water use restrictions prescribed and shall be considered governmental functions.
- c) Water customers are requested to practice Water conservation and to minimize or discontinue Water use for non-essential purposes.

Stage 2 - Moderate Water Shortage Conditions

Supply Management Measures:

In order to manage limited Water supplies and/or reduce Water demand, the City of Midland shall implement the following measures: reduced flushing of Water mains, reduced irrigation of public landscaped areas; increased use of an alternative supply source(s).

Water Use Restrictions. Under threat of penalty for violation, the following Water use restrictions shall apply to all persons:

- a) Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to days and times designated by the City Manager or his/her designee . However, irrigation of landscaped areas is permitted at anytime if it is by

means of a hand-held hose, a faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system.

b) Use of Water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days between the hours of 6:00 p.m. and 10:00 a.m. beginning on their designated watering days. Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.

c) Use of Water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited except on designated watering days between the hours of 6:00 p.m. and 10:00 a.m. beginning on their designated watering days.

d) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.

e) Use of Water from hydrants shall be limited to fire fighting, related activities, or other activities necessary to maintain public health, safety, and welfare, or activities deemed to be governmental functions undertaken by the City of Midland or its officials, agents, employees or independent contractors.

f) Use of Water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours 6:00 p.m. and 10:00 a.m. beginning on their designated watering days. However, if the golf course utilizes a water source other than that provided by the City of Midland, the facility shall not be subject to these regulations.

g) All restaurants are prohibited from serving Water to its patrons except when requested.

h) The following uses of Water are defined as non-essential and are prohibited:

1. Wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
2. Use of Water to wash down buildings or structures for purposes other than immediate fire protection;
3. Use of Water for dust control;
4. Flushing gutters or permitting Water to run or accumulate in any gutter or street; and
5. Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

Stage 3 - Severe Water Shortage Conditions

Supply Management Measures:

In order to manage limited Water supplies and/or reduce Water demand, the City of Midland shall implement the following measures: reduced flushing of water mains, reduced irrigation of public landscaped areas to minimum required to avoid vegetation loss; increased use of an alternative supply source(s).

Water Use Restrictions. All requirements of Stage 2 shall remain in effect during Stage 3 except:

- a) Irrigation of landscaped areas shall be limited to days and times designated by the City Manager or his designee and shall be by means of hand-held hoses, hand-held buckets, drip irrigation, or permanently installed automatic sprinkler system only. The use of hose-end sprinklers is prohibited at all times.
- b) The watering of golf course tees is prohibited unless the golf course utilizes a water source other than that provided by the City of Midland.

Stage 4 - Critical Water Shortage Conditions

Supply Management Measures:

In order to manage limited Water supplies and/or reduce Water demand, the City of Midland shall implement these measures: reduced or discontinued flushing of water mains except emergencies, reduced or discontinued irrigation of public landscaped areas; increased use of an alternative supply source(s):

Water Use Restrictions. All requirements of Stage 2 and 3 shall remain in effect during Stage 4 except:

- a) Irrigation of landscaped areas shall be limited to days and times designated by the City Manager or his designee and shall be by means of hand-held hoses, hand-held buckets, or drip irrigation only. The use of hose-end sprinklers or permanently installed automatic sprinkler systems are prohibited at all times.
- b) Use of Water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring in a commercial car wash and not in the immediate interest of public health, safety, and welfare is prohibited. Further, such vehicle washing at commercial car washes shall occur only between the hours of 8:00 a.m. and 6:00 p.m.
- c) The filling, refilling, or adding of Water to swimming pools, wading pools, and Jacuzzi-type pools is prohibited.
- d) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.

- e) No applications 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 allowed or approved.

Stage 5 - Emergency Water Shortage Conditions

Supply Management Measures:

The City of Midland shall discontinue flushing of water mains, discontinue irrigation of public landscaped areas; use an alternative supply source(s).

Water Use Restrictions. All requirements of Stage 2, 3, and 4 shall remain in effect during Stage 5 except:

- a) Irrigation of landscaped areas is absolutely prohibited.
- b) Use of Water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.

IX. Enforcement

- a) No person shall use or allow the use of Water from the City of Midland for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this Plan, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by the City Manager, or his/her designee, in accordance with provisions of this Plan.
- b) Any person who violates this Plan is guilty of a misdemeanor and, upon conviction shall be punished by a fine of not more than five hundred (\$500) dollars. Each day that one or more of the provisions in this Plan is violated shall constitute a separate offense. If a person is convicted of three or more violations of this Plan, the City Manager shall, upon due notice to the customer, be authorized to discontinue Water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of re-connection charge, established by City policy, and any other costs incurred by the City of Midland in discontinuing service. In addition, suitable assurance must be given to the City Manager that the same action shall not be repeated while the Plan is in effect. Compliance with this plan may also be sought in any court of competent jurisdiction.
- c) Any person, including a person classified as a Water customer of the City of Midland, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to present evidence that he/she did not commit the violation.

d) In any prosecution charging a violation of this Ordinance at a single family residence, proof that the defendant named in the complaint was at the time of such violation shown in the City of Midland Customer Service Records to be the occupant or customer of the premises shall constitute in evidence a prima facie presumption that said person used or allowed the use of Water in violation of this Ordinance.

e) Any police officer of the City of Midland, or other employee of the City of Midland designated by the City Manager, may issue a citation to a person he/she reasonably believes to be in violation of this Ordinance. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, the offense charged, and shall provide direction as to how to respond or appeal. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, or to an agent or employee of a violator. The alleged violator shall appear in municipal court to enter a plea of guilty, not guilty or "no contest" for the violation of this Plan. If the alleged violator fails to appear in municipal court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant.

X. Variances

The City Manager, or his/her designee, may, in writing, grant a 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 Ordinance shall file a petition for variance with the City of Midland within 5 days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the City Manager, or his/her 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 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.

Variances granted by the City of Midland shall be subject to the following conditions, unless waived or modified by the City Manager or his/her 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.
- c) A person who receives a variance shall file the variance with the City of Midland Municipal Court within 72 hours of the granting of said variance.

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

Temporary variances may be granted by the same authority at any time during the execution of this plan upon submission of the information requested above. These variances will not exceed 30 days and must be approved prior to the deviation from the plan otherwise a violation will result.

XI. Review and Update of Drought Contingency Plan

This drought contingency plan will be updated at least every 5 years as required by TCEQ regulations.

XII. Judicial Notice

- a) The City of Midland Municipal Court upon its own motion may, or upon the motion of a party shall, take judicial notice of this Ordinance.
- b) The City of Midland Municipal Court upon its own motion may, or upon the motion of a party shall, take judicial notice of records in the City's Customer Service Division.
- c) The City of Midland Municipal Court upon its own motion may, or upon the motion of a party shall, take judicial notice of the Drought and Emergency Response Stage in effect on the date of the alleged violation(s).
- d) The City of Midland Municipal Court upon its own motion may, or upon the motion of a party shall, take judicial notice of the City of Midland wholesale water purchase contract with the Colorado River Municipal Water District and any notices received requesting initiation of the Drought Contingency Plan.
- e) The City of Midland Municipal Court upon its own motion may, or upon the motion of a party shall, take judicial notice of the City Manager's designation of the Drought and Emergency Response Stage in effect on the date of the alleged violation(s).

XIII. Affirmative Defenses

In any prosecution for the violation of any provision of this Ordinance, it shall not be required or necessary for the complaint to negate or for the state to prove any exception contained in this Ordinance concerning any prohibited act. Provided, however, that any such exception made in this Ordinance is an affirmative defense to prosecution under this Ordinance, and may be urged as an affirmative defense by the person charged by such complaint as authorized by Section 2.04 of the Texas Penal Code.

It is an affirmative defense to prosecution under this Ordinance that the Water used is not City of Midland Water.

XIV. Authority of Municipal Court

Nothing in this Ordinance shall be construed to limit the City of Midland Municipal Court's authority and remedies.

Appendix A

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.

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, and office buildings.

Conservation: those practices, techniques, and technologies that reduce the consumption of Water, reduce the loss or waste of Water, improve the efficiency in the use of Water or increase the recycling and reuse of Water so that a supply is conserved and made available for future or alternative uses.

CRMWD: The Colorado River Municipal Water District. They supply surface Water wholesale to the City of Midland.

Customer: any person, company, or organization using Water supplied by City of Midland.

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 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, golf courses, parks, 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:

Irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this Plan;

- e) Use of Water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- f) Use of Water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- g) Use of Water to wash down buildings or structures for purposes other than immediate fire protection;
- h) Flushing gutters or permitting Water to run or accumulate in any gutter or street;
- i) Use of Water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;

- j) Use of Water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- k) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
- l) 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.

Water: For the purposes of this Drought Contingency Plan, the term “Water” shall mean water from the City of Midland used for residential, commercial, industrial, agricultural or governmental purposes. The term Water shall not include water from a private well.

Appendix B

ENVIRONMENTAL QUALITY

PART 1
CHAPTER 288

SUBCHAPTER B
RULE §288.20

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
WATER CONSERVATION PLANS, DROUGHT
CONTINGENCY PLANS, GUIDELINES AND
REQUIREMENTS
DROUGHT CONTINGENCY PLANS
**Drought Contingency Plans for Municipal Uses by Public
Water Suppliers**

(a) A drought contingency plan for a retail public water supplier, where applicable, must include the following minimum elements.

(1) Minimum requirements. Drought contingency plans must include the following minimum elements.

(A) Preparation of the plan shall include provisions to actively inform the public and affirmatively provide opportunity for public input. Such acts may include, but are not limited to, having a public meeting at a time and location convenient to the public and providing written notice to the public concerning the proposed plan and meeting.

(B) Provisions shall be made for a program of continuing public education and information regarding the drought contingency plan.

(C) The drought contingency plan must document coordination with the regional water planning groups for the service area of the retail public water supplier to ensure consistency with the appropriate approved regional water plans.

(D) The drought contingency plan must include a description of the information to be monitored by the water supplier, and specific criteria for the initiation and termination of drought response stages, accompanied by an explanation of the rationale or basis for such triggering criteria.

(E) The drought contingency plan must include drought or emergency response stages providing for the implementation of measures in response to at least the following situations:

- (i) reduction in available water supply up to a repeat of the drought of record;
- (ii) water production or distribution system limitations;
- (iii) supply source contamination; or
- (iv) system outage due to the failure or damage of major water system components (e.g., pumps).

(F) The drought contingency plan must include specific, quantified targets for water use reductions to be achieved during periods of water shortage and drought. The entity preparing the plan shall establish the targets. The goals established by the entity under this subparagraph are not enforceable.

(G) The drought contingency plan must include the specific water supply or water demand management measures to be implemented during each stage of the plan including, but not limited to, the following:

(i) curtailment of non-essential water uses; and

(ii) utilization of alternative water sources and/or alternative delivery mechanisms with the prior approval of the executive director as appropriate (e.g., interconnection with another water system, temporary use of a non-municipal water supply, use of reclaimed water for non-potable purposes, etc.).

(H) The drought contingency plan must include the procedures to be followed for the initiation or termination of each drought response stage, including procedures for notification of the public.

(I) The drought contingency plan must include procedures for granting variances to the plan.

(J) The drought contingency plan must include procedures for the enforcement of mandatory water use restrictions, including specification of penalties (e.g., fines, water rate surcharges, discontinuation of service) for violations of such restrictions.

(2) Privately-owned water utilities. Privately-owned water utilities shall prepare a drought contingency plan in accordance with this section and incorporate such plan into their tariff.

(3) Wholesale water customers. Any water supplier that receives all or a portion of its water supply from another water supplier shall consult with that supplier and shall include in the drought contingency plan appropriate provisions for responding to reductions in that water supply.

(b) A wholesale or retail water supplier shall notify the executive director within five business days of the implementation of any mandatory provisions of the drought contingency plan.

(c) The retail public water supplier shall review and update, as appropriate, the drought contingency plan, at least every five years, based on new or updated information, such as the adoption or revision of the regional water plan.

Appendix C

List of References

Title 30 of the Texas Administrative Code, Part 1, Chapter 288, Subchapter B, Rule 288.20.

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