

NORTHWEST PARK MUNICIPAL UTILITY DISTRICT

THIRD AMENDED AND RESTATED ORDER ADOPTING WATER CONSERVATION, DROUGHT AND EMERGENCY CONTINGENCY PLAN; PROVIDING FOR IMPLEMENTATION AND ENFORCEMENT THEREOF; PROVIDING PENALTIES FOR VIOLATION; AND CONTAINING OTHER PROVISIONS RELATED TO THE SUBJECT

WHEREAS, Southeast Texas from time to time suffers from a severe shortage of rainfall; and

WHEREAS, such shortages of rainfall result in decreased supplies of potable water; and

WHEREAS, Northwest Park Municipal Utility District (the "District") was created for, among other purposes, the conservation and development of its water and the control, abatement, and change of any shortage of water, and the District has statutory authority to accomplish such purposes, including without limitation authority to prevent waste; and

WHEREAS, the Board of Directors (the "Board") of the District has carefully considered the situation and has determined that the adoption of this Water Conservation, Drought and Emergency Contingency Plan (this "Plan") by the District is necessary to prevent waste and to ensure that adequate supplies of water are maintained; and

WHEREAS, the Board of the District also desires to provide in the Plan for the possibility of a natural disaster or an equipment failure; and

WHEREAS, the Board of the District desires to evidence its approval of this Plan and to adopt such Plan as the official policy of the District; and

WHEREAS, the Board has found and determined and does hereby find and determine that No Private Real Property Impact will result from adoption or enforcement of this Order; NOW THEREFORE,

BE IT ORDERED BY THE BOARD OF THE DISTRICT THAT:

Section 1: Public Involvement/Approval of the Plan. Opportunity for the public to provide input into the preparation of this Plan was provided by means of scheduling and providing public notice of a public meeting to accept input on the Plan. The Board of the District hereby approves and adopts this Plan as set forth in this Order, and the provisions of such Plan shall be implemented immediately and enforced as a rule of the District.

Section 2: Coordination with Regional Water Planning Groups. The service area of the District is located within Regional Water Planning Area H as designated by the Texas Water Development Board. The District will provide a copy of this Plan to the Regional Planning Group for Regional Water Planning Area H.

Section 3: The Water Conservation Plan.

A. Purpose. The purpose of the Water Conservation Plan is to promote efficient and responsible use of water within the District. This plan is based on the requirements of Chapter 288, Subchapter A, Rule 288.2 "Water Conservation Plans for Municipal Uses by Public Water Suppliers" as per Title 30 of the Texas Administrative Code (TAC).

B. Utility Profile. A copy of the Utility Profile, which includes data on the District's service area, population, water usage, and water and wastewater facilities, is provided under Appendix A.

C. Water Rate Structure. A water rate structure which encourages water conservation will be maintained. The District's adopted Rate Order includes a step rate to increase with increased water usage. The water rate structure is intended to encourage water conservation and discourage excessive use and waste of water.

D. Metering and Loss Accounting. The District currently meters 100% of water produced or received at the supply source, and 100% of the water delivered to District residents and other users of water within the District ("Users"). The District has a policy of testing all meters which appear to have abnormally high or low water usage. The District follows a regular meter testing schedule for all water meters within the District. The District also maintains monthly records of water pumped, water delivered, water sales and water losses, and a program of leak detection, repair and water loss accounting in order to control unaccounted-for uses of water.

E. Plumbing Fixtures. Under the District's water and sewer rate order, no new connections to the District's water system are allowed until a Service Inspection Certificate completed by a qualified inspector has been received by the District. Such certification must include certification that no plumbing fixture is installed which is not in compliance with a State approved plumbing code which requires low-flow devices. Such an inspection and certification are also required at any existing service location when the District has reason to believe that unacceptable plumbing practices exist, or after any material improvement, correction, or addition to private plumbing facilities.

F. Education and Information. The District hereby institutes an educational program, to be implemented immediately, to promote water conservation by the general public which may include any of the following:

1. The District's Operator will provide new customers with Water Conservation Tip Sheets;
2. The District will mail out material developed by the District, materials obtained from the Texas Water Development Board, Texas Commission on Environmental Quality

or other sources semi-annually (once in the spring and once in the summer) to all Users; and

3. Additional educational activities consisting of (i) publishing an article or articles in local newsletters of general circulation in the District's service area, providing tips or information on water saving techniques, or (ii) conducting an informational school program in a school attended by students within the District's service area, or (iii) conducting an educational program for Users at a public place within or accessible to residents of the District, or (iv) conducting or engaging in such other informational or educational activity designed to further water conservation, as, in the discretion of the Board of Directors, may be consistent with the purposes and policies of this Plan, or (v) any combination of the foregoing.

G. Retrofit Education Program. The District shall make information regarding water conservation available to Users to consider when purchasing and installing various plumbing fixtures, lawn watering equipment, and other water-using appliances.

H. Five and Ten Year Targets for Water Savings. The District's Historic 5-Year Average, Baseline, 5-Year Goals, and 10-Year Goals are set forth in the following table:

	Historic 5-yr Average	Baseline ⁵	5-yr Goal for year 2019	10-yr Goal for year 2024
Total GPCD ¹	88	88	87.5	87
Residential GPDC ²	68	68	67.5	67
Water Loss (GPCD) ³	8.0	8.0	7.5	7.0
Water Loss (Percentage) ⁴	9%	9%	9%	8%

1. Total GPCD = (Total Gallons in System ÷ Permanent Population) ÷ 365
2. Residential GPDC = (Gallons Used for Residential Use ÷ Residential Population) ÷ 365
3. Water Loss GPCD = (Total Water Loss ÷ Permanent Population) ÷ 365
4. Water Loss Percentage = (Total Water Loss ÷ Total Gallons in System) x 100; or (Water Loss GPCD ÷ Total GPCD) x 100
5. Annual averages within the District for the most recently ended year

I. Schedule for Implementation. The District will adhere to the following schedule, to achieve the targets and goals for water conservation:

1. Calibrations of meters for all water production and supply sources shall be conducted annually.

2. The District's meter replacement program is that meters will continue to be monitored for accuracy annually and replaced on a fifteen-year cycle.
3. Water audits shall be conducted annually.
 - Real water losses are identified and corrected.
 - Real water losses are minimized by replacement of deteriorating water mains and appurtenances, as is conducted by the District's operator on an on-going basis.
4. The District will mail out material developed by the District, materials obtained from the Texas Water Development Board, Texas Commission on Environmental Quality or other sources semi-annually (once in the spring and once in the summer) to all Users.
5. The District's leak detection program shall be as follows:
 - Inspections and soundings of all water main fittings and connections are conducted annually.
 - Intermittent night-flow measurements are conducted annually.
 - Surges in pressure are limited by control valves.
 - Water loss accountability is monitored on an ongoing basis.
 - Areas of the District's water distribution system in which numerous leaks and line breaks occur are targeted for replacement as funds are available.

J. Tracking Targets and Goals. The District's operator shall track targets and goals by utilizing the following procedures:

- Maintain logs of meter calibration, meter testing, and meter replacement programs.
- Maintain documentation of annual water audits.
- Keep a record of the number of mail-outs distributed semi-annually.
- Maintain logs for the District's Leak Detection Program, including but not limited to the following:
 - Annual inspections and soundings of all water main fittings and connections.
 - Annual intermittent night-flow measurements.
- Rates are tracked by means of ordinances adopted.

Section 4: The Drought Contingency Plan.

A. Trigger Conditions. For the purpose of this Plan, the District hereby adopts the trigger conditions (the "Trigger Conditions") set forth below:

1. Mild Drought. This condition (herein, "Mild Drought Conditions") exists when demand on the District's water supply facilities reaches or exceeds eighty percent of the production capacity of such facilities for 5 consecutive days, as determined by the District's operator.

2. Moderate Drought. This condition (herein, "Moderate Drought Conditions") exists when demand on the District's water supply facilities reaches or exceeds ninety percent of the production capacity of such facilities for 5 consecutive days, as determined by the District's operator.

3. Severe Drought. This condition (herein, "Severe Drought Conditions") exists when demand on the District's water supply facilities reaches or exceeds one hundred percent of the production capacity of such facilities for 5 consecutive days, as determined by the District's operator.

4. Emergency Water Shortage. This condition (herein, "Emergency Water Shortage") exists when one or more of the following has occurred: (i) the District has received notice from Harris County pursuant to Texas Water Code Section 16.055 that a state of disaster exists in the county due to drought conditions, and/or (ii) there is an imminent threat to the capability of the District's water system to provide adequate service to assure the health or safety of the public, such as may result from a natural disaster, act of war or terrorism, or catastrophic system accident or failure.

B. Notice. Once one of the above Trigger Conditions has occurred, Users 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 Users may include any of the following:

1. Mailing, at least 48 hours prior to the commencement of the required Drought Response Measures, a written notice to each User;
2. Posting of signs at the entrances to the District;
3. Posting of notices at public places in the District; and
4. Dissemination of press releases to the local news media.

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.

C. Emergency Management Program. The District hereby establishes and adopts the following measures ("Drought Response Measures") for the respective Trigger Conditions. The Drought Response Measures related to each Trigger Condition shall automatically become effective and shall be implemented by the District when such Trigger Conditions occurs.

1. Mild Drought. In the event of Mild Drought Conditions, the following Drought Response Measures shall be taken, with a target of achieving a 15% reduction in daily water demand:

a. Users will be asked to voluntarily reduce water use, and will be informed of specific steps that can be taken to reduce water use.

b. All outdoor water usage, including, but not limited to, lawn and garden watering, car washing, and window washing, shall be limited as follows:

(1) Only Users with even-numbered addresses may use water outdoors on even-numbered days and only Users with odd-numbered addresses may use water outdoors on odd-numbered days. In the event no street address exists, only Users living on the north and west side of a street may use water outdoors on even-numbered days and only Users on the south and east side of a street may use water outdoors on odd-numbered days.

(2) Outdoor water use shall be prohibited between the hours of 6:00 a.m. and 10:00 a.m. and between the hours of 6:00 p.m. and 12:00 a.m.(midnight).

2. Moderate Drought. In the event of Moderate Drought Conditions, the following Drought Response Measures shall be taken, with a target of achieving a 25% reduction in daily water demand:

a. The Drought Response Measures established for Mild Drought Conditions shall continue to be implemented.

b. All outdoor water use, including, but not limited to, lawn and garden watering, car washing, and window washing, must be conducted with a hand-held hose with a manual on-off nozzle.

c. The District shall recommend that the following public water uses not essential for public health and safety be curtailed:

- (1) Street washing;
- (2) Fire hydrant flushing; and
- (3) Filling of swimming pools.

3. Severe Drought. In the event of Severe Drought Conditions, the following Drought Response Measures shall be taken, with a target of achieving a 35% reduction in daily water demand:

- a. The Drought Response Measures established for Mild Drought Conditions and Moderate Drought Conditions shall continue to be implemented.
- b. All outdoor use of water, including but not limited to lawn and garden watering, car washing, and window washing shall be prohibited.
- c. A surcharge equal to 200% of the applicable rate for all water used in excess of 10,000 gallons/month, shall be imposed on all Users.
- d. The Board of the District may prohibit water use by certain industrial, commercial, or interconnect 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 related uses.

4. Emergency Water Shortage. In the event of an Emergency Water Shortage, the District may implement any water shortage response measures as "Emergency Response Measures", whether or not such measures are contained within other parts of this Plan, including without limitation prohibiting water use for ornamental, decorative, or scenic purposes and/or allocating water supplies among Users on a pro rata basis, in accordance with Texas Water Code, Section 11.039, with a goal of reducing delivery of water as appropriate to address the emergency condition. The Board may establish any of the penalties set forth in Section 6 of this Plan for violations of the Emergency Response Measures.

D. Termination of Trigger Conditions Notification. When a Trigger Condition occurs, the District shall enforce the Drought Response Measures applicable to such Trigger 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 Trigger Condition. After such five (5) day period, the Drought Response Measures prescribed may, in the discretion of the Board, be continued for an additional five (5) day period. After the expiration of ten (10) days, and assuming no other Trigger Conditions have occurred, the Drought 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 Drought Response Measures and may utilize the same manner of notification used to inform Users of the occurrence of the Trigger Condition and implementation of the Drought Response Measures.

Section 5: Implementation. Without limitation to specific actions stated in this Plan to be taken by the District's operator, the District's operator will administer and enforce the Plan, and will

oversee and be responsible for the execution and implementation of all elements of this Plan (or, if the District employs its own peace officers pursuant to Texas Water Code §49.216, such peace officers will be responsible for enforcement of this Plan). The operator shall keep adequate records for Plan verification. The District's operator shall report to the Board of the District, at meetings of the Board, regarding actions taken and which need to be taken under this Plan. Without limiting the foregoing, the District's operator shall advise the President of the Board (or if the President is unavailable to receive notification, another member of 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. The District's operator shall notify the executive director of the Texas Commission on Environmental Quality within five (5) business days of the implementation of any mandatory provisions of this Plan.

Section 6: Penalties. 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.** Any person or entity who violates 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 Drought Response Measures then in effect, and (iv) the penalties applicable for any further violations of this Plan; provided, however, that if such person or entity has ever previously violated the Plan, the penalties set forth in Subsection (B) below, may, in the discretion of the Board, be imposed.

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 (B.1) of this Section, the Board of the District may impose a penalty of up to \$5,000.00 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 7: Variances. The Board may grant a temporary variance for existing water uses otherwise prohibited under this Plan if the Board determines that failure to grant such a 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 a variance from the provisions of this Order shall file a petition for variance with the District within 5 days after the Plan or a particular Drought Response Measure has been invoked. All petitions for variances shall be reviewed by the Board, 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 Order.
- 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.

Unless waived or modified by the Board, variances granted shall include a timetable for compliance, and variances granted shall expire when the Plan or particular Drought Response Measure is no longer in effect. No variance shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance.

Section 8: **Remedies Cumulative.** All rights, remedies, sanctions, penalties and enforcement procedures provided for in this Order 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 9: **Severability.** If any provision, section, subsection, sentence, clause, or phrase of this Order, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Order or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the Board of Directors in adopting this Order that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of unconstitutionality, voidness or

invalidity of any other portion hereof. And all provisions of this Order are declared to be severable for that purpose.

Section 10. Open Meeting. The Board of Directors finds and determines that a sufficient written notice of the date, hour, place and subject to this meeting of the Board of Directors was posted at a place convenient to the public for the time required by law preceding this meeting, as required by Chapter 551 of the Texas Government Code and Section 49.063 of the Texas Water Code, as amended, and that this meeting has been open to the public as required by law at all times during which this Order and the subject matter thereof has been discussed, considered and formally acted upon. The Board further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 11. Public Record. This Order shall be kept with the other records of the District by the official custodian of the records of this District, and this Order is hereby declared to be a public record.

Section 12. Authority. This Order is promulgated pursuant to Section 49.004 and Sections 54.205, et. seq., Texas Water Code.

Section 13: Repeal of Prior Orders Relating to Water Conservation, Drought and Emergency Contingency Planning. Any and all prior orders or resolutions relating to water conservation, drought and emergency contingency planning are hereby repealed, and this Order shall supersede any such prior orders or resolutions.

Section 14. Review and Update. The District shall review and update, as appropriate, this Plan at least every five (5) years, based on new or updated information, such as adoption or revision of any applicable regional water plan.

Section 15. Effective Date. This Order shall be effective from and after the date of its adoption.

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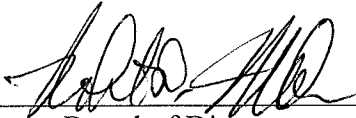
PASSED, APPROVED, AND EFFECTIVE this 16th day of April, 2014.

NORTHWEST PARK MUNICIPAL
UTILITY DISTRICT



President, Board of Directors

ATTEST:



Secretary, Board of Directors

