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3 **City of Portland Drought Contingency Plan**  
4

5 **Section 1. Introduction**  
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7 This document is the Drought Contingency Plan (DCP) for the City of Portland (City). This DCP was  
8 created so that the City can reduce demand when supplies are low so the residents have enough  
9 water to make it through a drought. This DCP clearly explains the triggers initiated by a drought  
10 and the steps to be taken during each stage of a drought. There is also information in this DCP  
11 which explains the steps to be taken in a water emergency, such as when supplies are cut off or  
12 contaminated. The DCP has been prepared in accordance with Texas Administrative Code Title  
13 30 Chapter 288 Subchapter B Rule §288.20 for Municipal Uses by Public Water Suppliers.  
14

15  
16 **Section 2. Declaration of Policy and Reason**  
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18 In order to conserve the available water supply, to protect the integrity of water supply facilities  
19 with particular regard for domestic water use, sanitation, and fire protection, to protect and  
20 preserve public health, welfare, and safety, and to minimize the adverse impacts of water supply  
21 shortage or other water-supply emergency conditions, the City hereby adopts the following  
22 regulations and restrictions on the delivery and consumptions of water.  
23

24 Water uses regulated or prohibited under this DCP are considered to be non-essential, and  
25 continuation of such uses during times of water shortage or other emergency water-supply  
26 conditions are deemed to constitute a waste of water, which subjects the offender(s) to penalties  
27 as defined in this ordinance.  
28

29 Currently, the City's water supply is delivered by the San Patricio Municipal Water District and is  
30 comprised of three reservoirs: Lake Corpus Christi, Choke Canyon Reservoir and Lake Texana.  
31 However, the criteria to trigger drought response stages are based on the combined capacity of  
32 Lake Corpus Christi and Choke Canyon Reservoir. Since Choke Canyon Reservoir filled in June  
33 1987, the combined storage of Choke Canyon Reservoir and Lake Corpus Christi has exceeded  
34 60% capacity only about 62% of the time. The water storage levels in Choke Canyon Reservoir  
35 and Lake Corpus Christi have generally been 2-4% higher since Lake Texana supplies were added  
36 in October 1998.  
37

38 Even with three reservoirs, the City still faces drought conditions (<50% storage levels) 16% of  
39 the time. It is because of this frequency that the following DCP has been developed. This DCP  
40 adopts measures that will dramatically cut water consumption in order to conserve water

41 supplies.

42

43

44 **Section 3. Public Education**

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46 The City will periodically provide the public with information about the DCP, including  
47 information about the conditions under which each stage of the DCP is to be initiated or  
48 terminated, and the drought response measures to be implemented in each stage. This  
49 information will be provided by utility bill inserts, notices in the The News of San Patricio and/or  
50 *Corpus Christi Caller-Times*, and notice on the City’s website ([www.portlandtx.com](http://www.portlandtx.com)). Notification  
51 to the public about when drought stages go into effect or when restrictions are lifted is explained  
52 in more detail in Section 5.

53

54

55 **Section 4. Coordination with Regional Water Planning Groups**

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57 The service area of the City of Portland is located within the Coastal Bend Regional Water  
58 Planning Area (Region N) and the City has provided a copy of this DCP to Region N in care of the  
59 Nueces River Authority. The City of Portland shall review and update, as appropriate, the DCP at  
60 least every five years based on new or updated information, such as the adoption or revision of  
61 the regional water plan.

62

63

64 **Section 5. Drought Stages Response Notification**

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66 The City Manager, or designee, shall monitor water supply and/or demand conditions on a  
67 weekly basis and, in accordance with the triggering criteria set forth in Section 6 of this Chapter,  
68 shall determine that a mild, moderate, severe, critical, or emergency water shortage condition  
69 exists and shall implement the following notification procedures.

70

71 Notification of the Public:

72 The City Manager, or designee, shall notify the public for every change in drought stage status by  
73 any or all of the following:

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75

76

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79

80 Additional Notification:

81 The City Manager, or designee shall, at a minimum, notify directly, or cause to be notified directly,  
82 the following individuals and entities for every change in drought stage status:

83

- Mayor and members of the City Council

- 84 • Fire Chief
- 85 • City and/or County Emergency Management Coordinator
- 86 • County Judge and Commissioner(s)
- 87 • Major water users (such as industries)
- 88 • Critical water users (such as hospitals)
- 89 • Parks/street superintendents and public facilities managers
- 90 • Texas Commission on Environmental Quality (TCEQ) – note TCEQ executive director must
- 91 be informed within five (5) business days of mandatory water use restrictions being
- 92 imposed

93  
94

95 **Section 6. Drought Best Management Practices Per Stage**

96

97 A summary of water use reduction targets for each drought stage response is presented in the  
98 following table. Further discussion on best management practices and implementation practices  
99 associated with each stage of response is included below.

100

| <b>Drought Stage Response</b> | <b>CCR/LCC Combined Reservoir Storage Level</b> | <b>Target Demand Reduction Levels</b> |
|-------------------------------|---|---------------------------------------|
| Stage 1 - Mild                | <40%  | 10%                                   |
| Stage 2 - Moderate            | <30%  | 20%                                   |
| Stage 3 - Critical            | <20%  | 30%                                   |
| Stage 4 - Emergency           | Not Applicable                                  | 50%                                   |

101

102

103 **Sec. 23-120 – Definitions**

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105 For the purposes of this division, the following definitions shall apply:

106

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

109

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

113

114 Conservation: those practices, techniques, and technologies that reduce the  
115 consumption of water, reduce loss or waste of water, improve the efficiency in the

116 use of water, or increase the recycling and reuse of water so that a supply is  
117 conserved and made available for future or alternative uses.

118  
119 Contract (end-user) water customers: a private entity that has a contract with the  
120 City to receive raw or treated water supplies for its sole use (i.e. does not resell to  
121 other users).

122  
123 Customer: any person, company, or organization using water supplied by the City of  
124 Portland and paying a retail water bill.

125  
126 Domestic water use: water use for personal needs or for household or sanitary  
127 purposes such as drinking, bathing, heating, cooking, sanitations, or for cleaning a  
128 residence, business, industry, or institution.

129  
130 Industrial water use: the use of water in processes designed to convert materials of  
131 lower value into forms having greater usability and use.

132  
133 Institutional water use: the use of water by an establishment dedicated to public  
134 service, such as a school, university, church, hospital, nursing home, prison, or  
135 government facility. All facilities dedicated to public service are considered  
136 institutional regardless of ownership.

137  
138 Landscape water use: water use for the irrigation and maintenance of landscaped  
139 areas, whether publicly or privately owned, including residential and commercial  
140 lawns, gardens, golf courses, parks, rights-of-way, and medians.

141  
142 Non-essential water use: water uses that are not essential or not required for the  
143 protection of public, health, safety, and welfare, including:

- 144 • irrigation of landscape areas, including parks, athletic fields, and golf  
145 courses, except as otherwise provided under this DCP;
- 146 • use of water to wash any motor vehicle, motorbike, boat, trailer, or other  
147 vehicle;
- 148 • use of water to wash down any impervious cover including sidewalks,  
149 walkways, driveways, parking lots, tennis courts, or other hard-surfaced  
150 areas;
- 151 • flushing gutters or permitting water to run or accumulate in any gutter or  
152 street;
- 153 • use of water to fill, refill, or add to any indoor or outdoor swimming pools or  
154 jacuzzi-type pools;
- 155 • use of water in an aesthetic feature including fountain or pond except  
156 where necessary to support aquatic life;
- 157 • failure to repair a controllable leak(s) within a reasonable period after  
158 having been given notice directing the repair of such leak; and

- use of water from hydrants for construction purposes or any other purposes other than fire fighting or flushing needed to maintain chlorination levels and protect public health.

Reservoir Capacity: the combined reservoir storage levels of Choke Canyon Reservoir and Lake Corpus Christi, as measured in percentage of the full combined volume.

**Sec. 23-121. - Prohibition and regulation of uses.**

For the purposes of this division, the following provisions shall apply:

- (1) No person shall knowingly, recklessly, or with criminal negligence, make, cause, use or permit the use of water from the city system for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this section, or in an amount in excess of that use permitted by the conservation stage in effect pursuant to action taken by the city manager, or his designee, in accordance with the provisions of this section. The provisions of this section shall apply to all uses of water from the city water supply system wherever situated. As used in this division, "person" includes individuals, corporations, partnerships, associations, and all other legal entities.
- (2) The city manager shall promulgate guidelines which shall set forth the criteria for determining when a particular conservation stage is to be implemented and terminated. Such guidelines shall be updated when, in the opinion of the city manager, the conditions of the water system have changed so as to necessitate such update, such guidelines to be published and filed in the office of the city.
- (3) The use or withdrawal of water from the water supply system of the city for the following purposes or uses is hereby regulated during any period of water shortage commencing with the promulgation of water conservation guidelines and implementation of same by the City Manager and continuing until such water conservation measures are no longer deemed necessary by the city manager in accordance with such guidelines:
  - a. Stage 1 Response – MILD Water Shortage Conditions - Target: Achieve a 10% reduction in daily water demand with the following water use restrictions:
    1. Best Management Practices for Supply Management: The City will do the following during Stage 1:
      - a. Use more repair crews if necessary to allow for a quicker response time for water-line leak repair; and

- 203                                    b. City crews will monitor customers' compliance with Stage 1  
204                                    restrictions during the course of their daily rounds.  
205
- 206                                    2. The following water use restrictions shall apply to all persons during  
207                                    Stage 1:  
208                                    a. Irrigation of landscaped areas with hose-end sprinklers or  
209                                    automatic irrigation systems shall be limited to once per week.  
210                                    The watering schedule will be determined by the City Manager.  
211                                    However, irrigation of landscaped areas is permitted on any day if  
212                                    it is by means of a hand-held hose (with positive shutoff nozzle), a  
213                                    faucet filled bucket or watering can of five (5) gallons or less, or  
214                                    drip irrigation system. Exceptions for this restriction may be  
215                                    permitted, upon review and approval by the Water Allocation and  
216                                    Review Committee, for the following uses: new plantings (for up  
217                                    to 60 days), vegetable gardens, athletic playing fields, and  
218                                    botanical gardens. In addition, this restriction does not apply to  
219                                    customers irrigating with well water or an aerobic septic system.  
220                                    Customers irrigating with well water or an aerobic septic system  
221                                    must apply for a permit from the City Water Department to be  
222                                    prominently posted on the premises within two (2) feet of the  
223                                    street number located on the premises.  
224                                    b. Use of water to wash any motor vehicle, motorbike, boat, trailer,  
225                                    airplane or other vehicle is prohibited except on designated  
226                                    watering days. Such washing, when allowed, shall be done with a  
227                                    hand-held bucket or a hand-held hose equipped with a positive  
228                                    shutoff nozzle for quick rinses. Vehicle washing may be done at  
229                                    any time on the immediate premises of a commercial car wash or  
230                                    commercial service station. Further, such washing may be  
231                                    exempted from these regulations upon review of the Water  
232                                    Allocation and Review Committee if the health, safety, and  
233                                    welfare of the public is contingent upon frequent vehicle  
234                                    cleansing, such as garbage trucks and vehicles used to transport  
235                                    food and perishables.  
236                                    c. Use of water to fill, refill, or add to any indoor or outdoor  
237                                    swimming pools, wading pools, or Jacuzzi-type pools is prohibited  
238                                    except on designated watering days.  
239                                    d. Operation of any ornamental fountain or pond for aesthetic or  
240                                    scenic purposes is prohibited except where necessary to support  
241                                    aquatic life.  
242                                    e. Use of water from hydrants shall be limited to fire fighting, related  
243                                    activities, or other activities necessary to maintain public health,  
244                                    safety, and welfare, except that use of water from designated fire  
245                                    hydrants for construction purposes may be allowed under special  
246                                    permit from the City of Portland.

- 247 f. Use of water for the irrigation of golf course greens, tees, and  
248 fairways is prohibited except on designated watering days.  
249 However, if the golf course utilizes a water source other than that  
250 provided through City of Portland infrastructure, the facility shall  
251 not be subject to these regulations.
- 252 g. The use of water to maintain integrity of building foundations is  
253 limited to designated watering days and is only permitted by use  
254 of hand-held hose or drip irrigation.
- 255 h. The following uses of water are defined as non-essential and are  
256 prohibited:
- 257 i. Wash-down of any sidewalks, walkways, driveways,  
258 parking lots, tennis courts, or other hard-surfaced areas,  
259 except by a commercial power- washing contractor and if  
260 it is in the interest of public health and safety.
- 261 ii. Use of water to wash down buildings or structures for  
262 purposes other than immediate fire protection;
- 263 iii. Use of water for dust control without special permit.
- 264
- 265 b. Stage 2 Response – MODERATE Water Shortage Conditions - Target:  
266 Achieve a 20% reduction in total daily water demand with the following  
267 water use restrictions:
- 268
- 269 1. Best Management Practices for Supply Management: In addition to  
270 the best management practices for supply management listed under  
271 Stage 1, the City will also do the following:
- 272 a. Eliminate the flushing of water mains unless required for  
273 decontamination and/or public safety; and
- 274 b. Monitor customers for compliance and notify violators verbally or  
275 in writing as the situation dictates.
- 276
- 277 2. Water Use Restrictions for Demand Reduction: All requirements of  
278 Stage 1 shall remain in effect during Stage 2 except:
- 279 a. Irrigation of landscaped areas shall be limited to once every other  
280 week. The watering schedule will be determined by the City  
281 Manager or designee. Customers will be made aware of their  
282 designated watering day. However, irrigation of landscaped areas  
283 is permitted on any day if it is by means of a hand-held hose (with  
284 positive shutoff nozzle), a faucet filled bucket or watering can of  
285 five (5) gallons or less, or drip irrigation system with a positive  
286 shutoff device. Exceptions for this restriction may be permitted,  
287 upon review and approval by the Water Allocation and Review  
288 Committee, for the following uses: new plantings (for up to 60  
289 days), vegetable gardens, athletic playing fields, and botanical  
290 gardens. In addition, this restriction does not apply to customers

- 291 irrigating with well water or an aerobic septic system. Customers  
292 irrigating with well water or an aerobic septic system shall still  
293 apply for a permit from the City Water Department to be  
294 prominently posted on the premises within two (2) feet of the  
295 street number located on the premises.
- 296 b. The watering of golf course fairways with potable water is  
297 prohibited. The watering of greens and tees are limited to once  
298 every other week unless the golf course utilizes a water source  
299 other than that provided through City of Portland Water  
300 Department infrastructure or done by means of hand-held hoses,  
301 hand-held buckets, or drip irrigation.
- 302 c. During Stage 2, the following measures are optional water use  
303 restrictions that may be implemented by the City Manager, with  
304 approval of the City Council, as conditions warrant:
- 305 i. A drought surcharge of up to and including 100% of the  
306 current water rate may be added to the customers' bill to  
307 deter discretionary water use.  
308
- 309 c. Stage 3 Response - CRITICAL Water Shortage Conditions - Target: Achieve  
310 a 30% or greater reduction in daily water demand with the following  
311 water use restrictions:  
312
- 313 1. Best Management Practices for Supply Management: In addition to  
314 the best management practices for supply management listed under  
315 Stage 2, the City will also do the following:
- 316 a. Upon written notice, disconnect the water meters of willful  
317 violators if absolutely necessary to prevent the deliberate wasting  
318 of water.  
319
- 320 2. Water Use Restrictions for Demand Reduction: All requirements of  
321 Stage 1 and Stage 2 shall remain in effect during Stage 3 except:
- 322 a. Irrigation of landscaped areas shall be prohibited at all times.  
323
- 324 b. Use of water to wash any motor vehicle, motorbike, boat, trailer,  
325 airplane or other vehicle not occurring on the premises of a  
326 commercial car wash and not in the immediate interest of public  
327 health, safety, and welfare is prohibited.
- 328 c. The filling, refilling, or adding of water to swimming pools, wading  
329 pools, and jacuzzi-type pools, and water parks (unless utilizing  
330 water from a non-city alternative source) is prohibited.
- 331 d. The use of water to maintain the integrity of a building foundation  
332 is still permitted on the designated Stage 2 watering day and shall  
333 be done by hand or drip irrigation method.
- 334 e. During Stage 3, the following measures are optional water use  
restrictions that may be implemented by the City Manager, with



- 335 approval of the City Council, as conditions warrant:
- 336 i. No application for new, additional, expanded, or
- 337 increased- in-size water service connections, meters,
- 338 service lines, pipeline extensions, mains, or water service
- 339 facilities of any kind shall be approved, and time limits for
- 340 approval of such applications are hereby suspended for
- 341 such time as this drought response stage shall be in effect.
- 342 ii. A drought surcharge of up to and including 100% of the
- 343 current water rate may be added to the customers' bill to
- 344 deter discretionary water use.
- 345
- 346 d. Stage 4 Response – EMERGENCY Water Shortage Conditions - Target:
- 347 Achieve a 50% or greater reduction in daily water demand with the
- 348 following water use restrictions:
- 349 1. Best Management Practices for Supply Management: In addition to
- 350 the best management practices for supply management listed under
- 351 Stage 3, the City will also call the ten largest water customers, and if
- 352 necessary, use runners in key areas to begin spreading the message of
- 353 a major outage.
- 354
- 355 2. Water Use Restrictions for Demand Reduction: All requirements of
- 356 Stage 1, 2, and 3 shall remain in effect during Stage 4 except:
- 357 a. Irrigation of landscaped areas is absolutely prohibited.
- 358 b. Use of water to wash any motor vehicle, motorbike, boat, trailer,
- 359 airplane or other vehicle is absolutely prohibited.
- 360 c. Business process water shall be reduced to a basic amount
- 361 necessary only for the continuance of a business's workday or
- 362 product production or protection. Associated uses such as
- 363 equipment washing shall be deferred.
- 364
- 365 (4) The following measures are year-round water conservation best management
- 366 practices that are in effect at all times, regardless of the reservoir levels or
- 367 drought contingency levels.
- 368 a. Prohibition on wasting water: Actions leading to wasting of water are
- 369 prohibited and will be enforced. No person shall:
- 370 1. Allow water to run off property into gutters or streets.
- 371
- 372 2. Permit or maintain defective plumbing in a home, business
- 373 establishment or any location where water is used on the premises.
- 374 Defective plumbing includes out-of-repair water closets, underground
- 375 leaks, defective or leaking faucets and taps.
- 376 3. Allow water to flow constantly through a tap, hydrant, valve, or
- 377 otherwise by any use of water connected to the City water system.

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4. Use any non-recycling decorative water fountain.
  5. Allow irrigation heads or sprinklers to spray directly on paved surfaces such as driveways, parking lots, and sidewalks in public right-of-ways.
  6. Operate an irrigation system at water pressure higher than recommended, causing heads to mist, or to operate with broken heads.
- b. Time of Irrigation: Irrigation by spray or sprinklers is prohibited between the hours of 10:00 AM and 6:00 PM. It is still permissible to water by hand or by drip irrigation at any time of day, unless the City enters Stage 3 Drought.

393 **Sec. 23-122. - Allocation and review committee.**

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- (a) The allocation and review committee shall be composed of five (5) members appointed to indefinite terms by the city council and serving at its pleasure. The city council shall appoint one (1) of the members to be chairman.
- (1) The committee shall consider requests of water users for special consideration to be given as to their respective particular circumstances and the committee shall hear and decide such requests and is hereby authorized to, in special cases, grant such variance from the terms of this division as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this division will result in unnecessary hardship, and so that the spirit of this division shall be observed and substantial justice done. Should a permit for special exception be granted by such committee, it shall be in effect from the time of granting; provided, that the permit is prominently posted on the premises within two (2) feet of the street number located on the premises. Should protest be received after the granting of any such special permit, the committee shall reconsider the revocation of such permit and shall consider the granting of such permit at a public hearing, notice of which shall have been given at least one (1) day prior to the holding of such hearing. After the conclusion of such hearing, the committee shall take such action, by way of revocation of such permit, or refusal to revoke the same, or modification of such permit, as the committee may deem proper under the circumstances.

418 **Sec. 23-123. - Violations, penalty and enforcement.**

- 419  
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- (a) Any person violating any provision of this division shall be deemed guilty of a

421 misdemeanor and, upon conviction, shall be punished by a fine as provided  
422 in article IV of this chapter. The commission of a violation of each provision,  
423 and each separate violation thereof, shall be deemed a separate offense, and  
424 upon conviction thereof shall be fined as hereinabove provided. If any person  
425 or a second person in the same household or premises is found guilty of a  
426 second violation of this article, the director of public works shall be  
427 authorized to discontinue water service to the premises where such violation  
428 occurs.

429  
430 (b) Any police officer, or other city employee designated by the city manager,  
431 may issue a citation to a person he reasonably believes to be in violation of  
432 this division. The citation shall be prepared in duplicate and shall contain the  
433 name and address of alleged violator, if known, and the offense charged, and  
434 shall direct him to appear in the city's municipal court no sooner than ten (10)  
435 days and no later than twenty-one (21) days of service of the citation. The  
436 alleged violator shall be requested to sign the citation and shall be served  
437 with a copy of the citation. Service of the citation shall be complete upon the  
438 attempt to give it to the alleged violator, to an agent or employee of a  
439 violator, or to a person over fourteen (14) years of age who is a member of  
440 the violator's immediate family or is a resident at the violator's residence. The  
441 alleged violator shall appear in municipal court to make his plea no sooner  
442 than ten (10) days and no later than twenty-one (21) days of service of the  
443 citation, and failure to so appear shall be a violation of this division. A police  
444 officer may arrest for any offense under this division where permitted by  
445 state arrest law. Such cases shall be expedited and given preferential setting  
446 in municipal court before all other cases.

447  
448 (c) A person in apparent control of the property where the violation occurs or  
449 originates shall be presumed to be the violator, and proof of facts showing  
450 apparent control by such person of the premises and proof that the violation  
451 occurred on the premises shall constitute prima facie evidence that such  
452 person committed the violation, but such person shall have the right to show  
453 that he did not commit the violation. Any person whose name is on file with  
454 the utilities department as the customer on the water account for the  
455 property where the violation occurs or originates shall be presumed to be the  
456 violator, and proof that the violation occurred on such premises shall  
457 constitute prima facie evidence that the customer committed the violation,  
458 but such customer shall have the right to show that he did not commit the  
459 violation. Parents shall be presumed to be responsible for violations of their  
460 minor children, and proof that a child committed a violation on property  
461 within the parent's control shall constitute prima facie evidence that such  
462 parent committed the violation, but such parent may be excused if he proves  
463 that he previously directed the child not to use the water as it was used in the  
464 violation and that the parent could not have reasonably known of the

465 violation.

466

467 **Sec. 23-124. - Surcharges for Drought Stages 2, 3, and 4 and Service Measures**

468

469 (a) General

470

471 1. The surcharges established herein are solely intended to regulate  
472 and deter the use of water during a period of serious drought in order  
473 to achieve necessary water conservation. The City Council expressly  
474 finds that the drought poses a serious and immediate threat to the  
475 public and economic health and general welfare of this community,  
476 and that the surcharges and other measures adopted herein are  
477 essential to protect said public health and welfare.

478 2. This section, and the surcharges and measures adopted herein are  
479 an exercise of the City's regulatory and police power, and the  
480 surcharges and connection fees are conservation rates intended to  
481 meet fixed costs as a result of lost revenue.

482 3. The City Manager or designee is authorized to determine trigger  
483 points and surcharges during Stages 2, 3, and 4 Emergency Water  
484 Shortage conditions.

485 4. In this section, institutional customer means city utility customer  
486 which operates as a not-for-profit entity.

487 5. A customer may appeal an allocation or drought surcharge  
488 triggering point established under this Section to the Water  
489 Allocation and Review Committee on grounds of unnecessary  
490 hardship.

491

492 (b) Residential water customers, who are not billed through a master water meter.

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494 1. A monthly water usage trigger point shall be 3,000 gallons for  
495 residential customers. This trigger point is the maximum amount of  
496 water that a customer can use in a month before being charged a  
497 drought rate surcharge.

498 2. The drought surcharge can be up to and including 100% of the most  
499 current water rate.

500

501 (c) Residential customers who are billed from a master water meter.

502

503 1. A monthly water usage trigger point shall be 3,000 gallons for each  
504 residential unit. This trigger point is the maximum amount of water  
505 that a customer can use in a month before being charged a drought  
506 rate surcharge.

507 2. The drought surcharge can be up to and including 100% of the most

- 508 current water rate.
- 509
- 510 (d) Commercial or institutional customer
- 511 1. A monthly water usage allocation shall be established by the City
- 512 Manager or designee for each commercial or institutional customer.
- 513 2. Method of establishing allocation:
- 514 a. During Stage 3, the commercial or institutional customer's
- 515 allocation shall be 90 percent of the customer's usage for the
- 516 corresponding month's billing period during the previous 12
- 517 months prior to the implementation of Stage 1 condition.
- 518 b. If the customer's billing history is shorter than 12 months, the
- 519 monthly average for the period for which there is a record shall
- 520 be used for any monthly period for which no history exists.
- 521 c. Provided, however, a customer, 90 percent of whose monthly
- 522 usage is less than 6,000 gallons, shall be allocated 6,000
- 523 gallons.
- 524 d. The City Manager shall give best effort to see that notice of each
- 525 commercial or institutional customer's allocation is mailed to
- 526 such customer.
- 527 e. If, however, the customer does not receive such notice, it shall
- 528 be the customer's responsibility to contact the City' Utilities
- 529 Billing Office to determine the allocation, and the allocation
- 530 shall be fully effective notwithstanding lack of receipt of
- 531 written notice.
- 532 f. Upon request of the customer or at the initiative of the City
- 533 Manager, the allocation may be reduced or increased by the City
- 534 Manager,
- 535 1. if one nonresidential customer agrees to transfer part of its
- 536 allocation to another nonresidential customer, or
- 537 2. if other objective evidence demonstrates that the
- 538 designated allocation is inaccurate under present
- 539 conditions.
- 540
- 541 (e) Commercial, institutional, and industrial customers shall pay the
- 542 following surcharges:
- 543
- 544 1. Customers whose allocation is 6,000 gallons through 20,000
- 545 gallons per month:
- 546
- 547 a. \$5.00 per 1,000 gallons for the first 1,000 gallons over allocation.
- 548 b. \$8.00 per 1,000 gallons for the second 1,000 gallons over allocation.
- 549 c. \$16.00 per 1,000 gallons for the third 1,000 gallons over allocation.
- 550 d. \$40.00 for each additional 1,000 gallons over allocation.

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2. Customers whose allocation is 21,000 gallons per month or more:
  - a. One times the block rate for each 1,000 gallons in excess of the allocation up through 5 percent above allocation.
  - b. Three times the block rate for each 1,000 gallons from 5 percent through 10 percent above allocation.
  - c. Five times the block rate for each 1,000 gallons from 10 percent through 15 percent above allocation.
  - d. Ten times the block rate for each 1,000 gallons more than 15 percent above allocation.
  - e. The surcharges shall be cumulative.
  - f. As used herein, "block rate" means the charge to the customer per 1,000 gallons at the regular water rate schedule at the level of the customer's allocation.

(f) Nonresidential customer is billed from a master meter.

1. When a nonresidential customer is billed from a master meter which jointly measures water to multiple residential dwelling units (for example: apartments, mobile homes), the customer may pass along any surcharges assessed under this plan to the tenants or occupants, provided that:
  - a. The customer notifies each tenant in writing:
    1. That the surcharge will be passed along.
    2. How the surcharge will be apportioned.
    3. That the landlord must be notified immediately of any plumbing leaks.
    4. Methods to conserve water (which shall be obtained from the City).
  - b. The customer diligently maintains the plumbing system to prevent leaks.
  - c. The customer installs water saving devices and measures (ideas for which are available from the City) to the extent reasonable and practical under the circumstances.

(g) Water service to the customer may be terminated under the following conditions:

1. Monthly residential water usage exceeds allocation by 4,000 gallons or more two or more times (which need not be consecutive months).

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2. Monthly water usage on a master meter which jointly measures water usage to multiple residential dwelling units exceeds allocation by 4,000 gallons times the number of dwelling units or more two or more times (which need not be consecutive months).
  3. Monthly nonresidential water usage for a customer whose allocation is 6,000 gallons through 20,000 gallons exceeds its allocation by 7,000 gallons or more two or more times (which need not be consecutive months).
  4. Monthly nonresidential water usage for a customer whose allocation is 21,000 gallons or more exceeds its allocation by 15 percent or more two or more times (which need not be consecutive months).
  5. For residential customers and nonresidential customers whose allocation does not exceed 20,000 gallons, after the first disconnection water service shall be restored upon request for a fee of \$50.
  6. For such customers, after the second disconnection, water service shall be restored within 24 hours of the request for a fee of \$500.
  7. If water service is disconnected a third time for such customer, water service shall not be restored until the City re-enters a level of water conservation less than Stage 2. For master meter customers, the service restoration fees shall be the same as above times the number of dwelling units.
  8. For nonresidential customers whose allocation is 21,000 gallons per month or more:
    - a. After the first disconnection, water service shall be restored upon request for a fee in the amount of "X" in the following formula:
$$X = \$ 50 \times \text{Customer's Allocation in gallons} / 20,000 \text{ gallons}$$
    - b. After the second disconnection for said customers, water service shall be restored within 24 hours of the request for a fee of 10 times "X".
    - c. If water service is disconnected a third time for such customer, water service shall not be restored until the City re-enters a level of water conservation less than Stage 2.
    - d. The City Manager is directed to institute written guidelines for disconnection of water service under this provision, which will satisfy minimum due process requirements, if any.
- (h) It shall be a defense to imposition of a surcharge hereunder, or to termination of service, that water used over allocation resulted from loss of water through no fault of the customer (for example, a major water

636 line break) for the following conditions:  
637 1. The customer shall have the burden to prove such defense by  
638 objective evidence (for example, a written certification of the  
639 circumstances by a plumber).  
640 2. A sworn statement may be required of the customer.  
641 3. This defense shall not apply if the customer failed to take reasonable  
642 steps for upkeep of the plumbing system, failed to reasonably inspect  
643 the system and discover the leak, failed to take immediate steps to  
644 correct the leak after discovered, or was in any other way negligent  
645 in causing or permitting the loss of water.  
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647 (i) When this section refers to allocation or water usage periods as "month,"  
648 monthly," "billing period," and the like, such references shall mean the  
649 period in the City's ordinary billing cycle which commences with the  
650 reading of a meter one month and commences with the next reading of  
651 that meter which is usually the next month.  
652 1. The goal for the length of such period is 30 days, but a variance of five  
653 days, more or less, will necessarily exist as to particular meters.  
654 2. If the meter reader system is prevented from timely reading a meter  
655 by any obstacle which is attributable to the customer, the original  
656 allocation shall apply to the longer period without modification.