

# **Drought Contingency Plan**

## **1. Introduction**

This document is the Drought Contingency Plan (DCP) for the City of Corpus Christi (City). This DCP was created so that the City can cut back demand when supplies are low so the residents have enough water to make it through a drought. This DCP clearly explains the triggers initiated by a drought and the steps to be taken during each stage of a drought.

There is also information in this DCP which explains the steps to be taken in a water emergency, such as when supplies are cut off or contaminated.

This DCP is different from the Water Conservation Plan (WCP) because it only takes effect when there are drought conditions. The WCP is a year-round guide, regardless of the drought conditions, and contains several regular best management practices.

The DCP has been prepared in accordance with Texas Administrative Code Title 30 Chapter 288 Subchapter B Rule §288.20 for Municipal Uses by Public Water Suppliers. Since the City serves wholesale water customers, a Drought Contingency Plan for Wholesale Water Suppliers has also been included in Section 16 in accordance with Texas Administrative Code Title 30 Chapter 288 Subchapter B Rule §288.22.

## **2. Declaration of Policy and Reason**

In order to conserve the available water supply, to protect the integrity of water supply facilities with particular regard for domestic water use, sanitation, and fire protection, to protect and preserve public health, welfare, and safety, and to minimize the adverse impacts of water-supply shortage or other water-supply emergency conditions, the City hereby adopts the following regulations and restrictions on the delivery and consumptions of water. The Water Resource Management Ordinance which gives the City the authority to regulate and enforce this DCP is included as a supporting document.

Water uses regulated or prohibited under this DCP 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 13 of this DCP.

Since the City first started supplying its residents with water in the 1890s, the region has experienced several periods of drought. Over the years, supplies have been added and conservation measures have been strengthened to ensure water security for the residents and businesses of the region. However, with the variability of weather patterns in South Texas and a continually growing population, it is critical that the City plans for future drought conditions.

Currently, the City's water supply system is comprised of three reservoirs: Lake Corpus Christi, Choke Canyon Reservoir and Lake Texana. However, the criteria to trigger drought response stages are based on the combined capacity of Lake Corpus Christi and Choke Canyon

Reservoir. (See Section 8). Since Choke Canyon Reservoir filled in June 1987, the combined storage of Choke Canyon Reservoir and Lake Corpus Christi has exceeded 60% capacity only about 62% of the time. The water storage levels in Choke Canyon Reservoir and Lake Corpus Christi have generally been 2-4% higher since Lake Texana supplies were added in October 1998.

Because of the frequency of drought in South Texas, the following DCP has been developed. This DCP adopts measures that will dramatically cut water consumption in order to conserve water supplies.

### **3. Public Education**

A public meeting to receive comments on the DCP was held at the City Council regular meeting on May 23th 2017 and was adopted by ordinance on May 30, 2017.

The City will periodically provide the public with information about the DCP, including information about the conditions under which each stage of the DCP is to be initiated or terminated, and the drought response measures to be implemented in each stage. This information will be provided by utility bill inserts, notices in the Corpus Christi Caller-Times, and notice on the City's website ([www.cctexas.com](http://www.cctexas.com)).

Notification to the public about when drought stages go into effect or when restrictions are lifted is explained in more detail in Section 9.

### **4. Coordination with Regional Water Planning Groups**

The service area of the City of Corpus Christi is located within the Coastal Bend Regional Water Planning Area (Region N) and the City has provided a copy of this DCP to Region N in care of the Nueces River Authority.

The City of Corpus Christi shall review and update, as appropriate, the DCP at least every five years based on new or updated information, such as the adoption or revision of the regional water plan.

### **5. Authorization**

The City Manager, or designee, is hereby authorized and directed to implement the applicable provisions of the DCP upon determination that such implementation is necessary to protect public health, safety, and welfare. The City Manager, or designee, shall have the authority to initiate or terminate drought or other water supply emergency responses as described in this DCP. However, the City Manager, in the exercise of the City Manager's discretion, may initiate

or terminate any stage when the City Manager deems necessary at any particular time. The City Manager shall notify the members of the City Council before implementing any measures.

## **6. Application**

The provisions of this DCP shall apply to all persons, customers, and property utilizing water provided by the City of Corpus Christi. The terms “person” and “customer” as used in the DCP include individuals, corporations, partnerships, associations, and all other legal entities.

## **7. Definitions**

For the purposes of this Chapter in this DCP, 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, 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 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.

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

Customer: any person, company, or organization using water supplied by the City of Corpus Christi and paying a retail water bill.

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.

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

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

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, rights-of-way, and medians.

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

- irrigation of landscape areas, including parks, athletic fields, and golf courses, except as otherwise provided under this DCP;
- use of water to wash any motor vehicle, motorbike, boat, trailer, or other vehicle;
- use of water to wash down any impervious cover including sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- use of water to wash down buildings or structures for purposes other than immediate fire protection or health reasons;
- flushing gutters or permitting water to run or accumulate in any gutter or street;
- use of water to fill, refill, or add to any indoor or outdoor swimming pools or jacuzzi-type pools;
- use of water in an aesthetic feature including fountain or pond except where necessary to support aquatic life;
- failure to repair a controllable leak(s) within a reasonable period after 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.

Wholesale customers: any public or private utility that has a contract with the City to receive raw or treated water supplies and authority (through contracts) to resell this water to other users.

## **8. Criteria for Initiation and Termination of Drought Response Stages**

The City Manager, or designee, shall monitor water supply and/or demand conditions on a weekly basis and shall determine when conditions warrant initiation or termination of each stage of the DCP, that is, when the specified “triggers” are reached. However, the City Manager, in the exercise of the City Manager’s discretion, may initiate or terminate any stage when the City Manager deems necessary at any time. This section explains the triggers of each stage. Best management practices and water use restrictions for each drought stage are described in Section 10.

The triggering criterion to be monitored for determining drought response stages is the combined reservoir storage levels of Choke Canyon Reservoir and Lake Corpus Christi, based on the TCEQ 2001 Agreed Order (amended April 17, 2001) relating to inflows into Nueces Bay and Estuary. The full Agreed Order is in the Appendix.

### **8.1. Stage 1 – Mild Water Shortage Watch**

Requirements for initiation – Customers shall be requested to voluntarily conserve water and adhere to prescribed restrictions on certain water used when the combined storage level of Choke Canyon Reservoir and Lake Corpus Christi declines below 50 percent or Lake Texana storage level declines below 40%..

Requirement for termination – Stage 1 of the DCP may be rescinded when the combined storage level of Choke Canyon Reservoir and Lake Corpus Christi increases above 60% or Lake Texana storage level increases above 50%. Either of these conditions must exist for a period of 15 consecutive days before termination of Stage 1.

### **8.2. Stage 2 – Moderate Water Shortage Condition**

Requirements for initiation – Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses described in Section 10 when the combined storage level declines to below 40 percent.

Requirement for termination – Stage 2 of the DCP may be rescinded when the combined storage level increases above 50 percent for a period of 15 consecutive days. Upon termination of Stage 2, Stage 1 becomes operative.

### **8.3. Stage 3 – Severe Water Shortage Condition**

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 DCP when the combined storage levels declines to below 30 percent.

Requirement for termination – Stage 3 of the DCP may be rescinded when the combined storage level increases above 40 percent for a period of 15 consecutive days. Upon termination of Stage 3, Stage 2 becomes operative.

### **8.4. Stage 4 – Critical Water Shortage Condition**

Requirements for initiation – Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 4 of the DCP when the combined storage levels declines to below 20 percent.

Requirement for termination – Stage 4 of the DCP may be rescinded when the combined storage level increases above 30 percent for a period of 15 consecutive days. Upon termination of Stage 4, Stage 3 becomes operative.

### **8.5. Stage 5 – Emergency Water Shortage Condition**

Requirements for initiation – Customers shall be required to comply with requirements and restrictions for Stage 5 of this DCP when the City Manager, or designee, determines that a water supply emergency exists based on:

- A major water line breaks, or pump or system failures occur, which causes unprecedented loss of capability to provide water service; or
- Water production or distribution system limitations; or
- Natural or man-made contamination of the water supply source occurs.

Requirement for termination – The emergency water shortage condition may be rescinded when the City Manager, or designee, deems appropriate.

## **9. Drought Stages Response Notification**

The City Manager, or designee, shall monitor water supply and/or demand conditions on a weekly basis and, in accordance with the triggering criteria set forth in Section 8 of this Chapter, shall determine that a mild, moderate, severe, critical, or emergency water shortage condition exists and shall implement the following notification procedures.

### Notification of the Public:

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

- City's website ([www.cctexas.com](http://www.cctexas.com))
- Publication in the Corpus Christi Caller-Times
- Notice on the monthly billing
- Public Service Announcements
- Signs posted in public places

### Additional Notification:

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

- Mayor and members of the City Council
- Fire Chief
- City and/or County Emergency Management Coordinator
- County Judge and Commissioner(s)
- Major water users (such as industries)
- Critical water users (such as hospitals)
- Parks/street superintendents and public facilities managers
- Texas Commission on Environmental Quality (TCEQ) – note TCEQ executive director MUST be informed within five (5) business days of mandatory water use restrictions being imposed

## 10. Drought Best Management Practices per Stage

A summary of water use reduction targets for each drought stage response is presented in the following table. Further discussion on best management practices and implementation practices associated with each stage of response is included below. During Stages 2, 3, and 4, requests for exceptions may be presented to the Executive Director of Utilities or designee.

Drought Stage Response	CCR/LCC Combined Reservoir Storage Level	Target Demand Reduction Levels
Stage 1- Mild	<50% or if Lake Texana is <40%	5%
Stage 2- Moderate	<40%	10%
Stage 3- Severe	<30%	15%
Stage 4- Critical	<20%	30%
Stage 5- Emergency	Not Applicable	50%

### 10.1. Stage 1 Response – MILD Water Shortage Watch

Target: Achieve a voluntary 5% reduction in daily treated water demand relative to treated water demand with the water use restrictions below..

#### Best Management Practices for Supply Management:

The City will enact voluntary measures to reduce or discontinue the flushing of water mains if practicable and utilize reclaimed water for non-potable uses to the greatest extent possible. The City will prioritize sources of supply not impacted by drought conditions, when available, including interruptible supplies from Lake Texana during times when Lake Texana water level is at or above 43 feet mean sea level in accordance with Lavaca-Navidad River Authority (LNRA) contract.

#### Water Use Restrictions for Reducing Demand

- (a) Water customers are requested to voluntarily limit the irrigation of landscaped areas to **once per week**. The City Manager, or designee, will determine the watering schedule.
- (b) All operations of the City of Corpus Christi shall adhere to water use restrictions prescribed for Stage 2 of the DCP.
- (c) Water customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes.

### 10.2. Stage 2 Response – MODERATE Water Shortage Conditions

Target: During Stage 2, achieve a 10% reduction in daily treated water demand relative to treated water demand with the water use restrictions below.

#### Best Management Practices for Supply Management:

In addition to the best management practices for supply management listed under Stage 1, the City will also do the following during Stage 2:

- Use more repair crews if necessary to allow for a quicker response time for water-line leak repair; and
- City crews (Water and other departments) begin monitoring customers' compliance with Stage 2 restrictions during the course of their daily rounds.

#### Water Use Restrictions for Demand Reduction

Under threat of penalty for violation, the following water use restrictions shall apply to all persons during Stage 2:

- a) Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to **once per week**. The watering schedule will be determined by the City Manager or designee. Customers will be made aware of their designated watering day in accordance with Section 9. However, irrigation of landscaped areas is permitted on any day if it is by means of a hand-held hose (with positive shutoff nozzle), a faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system with a positive shutoff device. Exceptions for this restriction may be permitted, upon review and approval by the Executive Director of Utilities or designee, for the following uses: new plantings (for up to 60 days), vegetable gardens, athletic playing fields, and botanical gardens. In addition, this restriction does not apply to customers irrigating with well water or an aerobic septic system. Customers irrigating with well water or an aerobic septic system must apply for a permit from the City Utilities Department to be prominently posted on the premises within two (2) feet of the street number located on the premises.
- b) Use of water from hydrants shall be limited to fire fighting, related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under special permit from the City of Corpus Christi Utilities Department.
- c) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days. However, if the golf course utilizes a water source other than that provided through City of Corpus Christi Utilities Department infrastructure, the facility shall not be subject to these regulations.
- d) The use of water to maintain integrity of building foundations is limited to designated watering days and is only permitted by use of hand-held hose or drip irrigation.

### **10.3. Stage 3 Response – SEVERE Water Shortage Conditions**

Target: During Stage 3, achieve a 15% reduction in total daily treated water demand relative to treated water demand with the water use restrictions below.

Best Management Practices for Supply Management:

In addition to the best management practices for supply management listed under Stage 2, the City will also do the following during Stage 3:

- Eliminate the flushing of water mains unless required for decontamination and/or public safety; and
- Review customers' water usage for compliance based on the previous month's water use and notify violators verbally or in writing as the situation dictates.

Water Use Restrictions for Demand Reduction:

All requirements of Stage 2 shall remain in effect during Stage 3 except as modified below:

- a) Irrigation of landscaped areas shall be limited to **once every other week**. The watering schedule will be determined by the City Manager or designee. Customers will be made aware of their designated watering day. However, irrigation of landscaped areas is permitted on any day if it is by means of a hand-held hose (with positive shutoff nozzle), a faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system with a positive shutoff device. Exceptions for this restriction may be permitted, upon review and approval by the Executive Director of Utilities or designee, for the following uses: new plantings (for up to 60 days), vegetable gardens, athletic playing fields, and botanical gardens. In addition, this restriction does not apply to customers irrigating with well water or an aerobic septic system. Customers irrigating with well water or an aerobic septic system shall still apply for a permit from the City Utilities Department to be prominently posted on the premises within two (2) feet of the street number located on the premises.
- b) The watering of golf course fairways with potable water is prohibited. The watering of greens and tees are limited to once every other week unless the golf course utilizes a water source other than that provided through City of Corpus Christi Utilities Department infrastructure or done by means of hand-held hoses, hand-held buckets, or drip irrigation.

Optional Measures:

During Stage 3, the following measures are optional water use restrictions that may be implemented by the City Manager, or designee, with City Council approval, as conditions warrant:

- a) For residential and multi-unit customers, a drought surcharge of up to and including 100% of the total monthly water bill over the monthly allocation may be added to the customers' bill to deter discretionary water use, as explained in Section 11.

#### 10.4. Stage 4 Response – CRITICAL Water Shortage Conditions

Target: During Stage 4, achieve a 30% or greater reduction in daily treated water demand relative to treated water demand with the water use restrictions below. An additional surcharge will be added to each utility bill during Stage 4 water shortage conditions to discourage discretionary water use, as described in Section 11 for retail customers and Section 16.10 for wholesale customers.

##### Best Management Practices for Supply Management:

In addition to the best management practices for supply management listed under Stage 3, the City will also do the following during Stage 4:

- Upon written notice, disconnect the water meters of willful violators if absolutely necessary to prevent the deliberate wasting of water.

##### Water Use Restrictions for Demand Reduction:

All requirements of Stage 2 and 3 shall remain in effect during Stage 4 except as modified below:

- a) Irrigation of landscaped areas shall be **prohibited at all times**.
- b) Use of water to wash any motor vehicle, motorbike, boat, trailer, or other vehicle not occurring on the premises of a commercial car wash stations and not in the immediate interest of public health, safety, and welfare is prohibited.
- c) The filling, refilling, or adding of water to swimming pools, wading pools, and jacuzzi-type pools, and water parks (unless non-city, alternative source) is prohibited.
- d) The use of water to maintain the integrity of a building foundation is still permitted on the designated Stage 3 watering day and shall be done by hand or drip irrigation method.
- e) All fountains shall only operate to circulate water in order to maintain equipment.

##### Optional Measures:

During Stage 4, the following measures are optional water use restrictions that may be implemented by the City Manager, or designee, with City Council approval, as conditions warrant:

- a) No application 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 approved, and time limits for approval of such applications are hereby suspended for such time as this drought response stage shall be in effect.

- b) For residential and multi-unit customers, a drought surcharge of up to and including 100% of the total monthly water bill over the monthly allocation may be added to the customers' bill to deter discretionary water use, as explained in Section 11.

#### **10.5. Stage 5 Response – EMERGENCY Water Shortage Conditions**

Target: During Stage 5, achieve a 50% or greater reduction in daily treated water demand relative to treated water demand with the below water use restrictions. Surcharges and reduced allocations are enforceable during Stage 5 water shortage conditions, as described in Section 13.

During emergency conditions such as system outage or supply source contamination, or supply sources draining empty, alternative water sources and/or alternative delivery mechanisms may be necessary with prior approval of the City Manager or designee. For emergency water shortage conditions associated with contamination of Nueces Basin stored supplies, the City, under the City Manager or designee's direction, will cease pumping from the Nueces River and will contact the LNRA to identify additional, temporary water that may be available from Lake Texana on a short-term basis to meet essential water needs. For emergency water shortage conditions associated with contamination of Lake Texana supplies, the City, under the City Manager's direction, will cease pumping from the Mary Rhodes Pipeline.

##### Best Management Practices for Supply Management:

In addition to the best management practices for supply management listed under Stage 4, the City will also do the following:

- Call the 10 largest water customers in the area affected by the emergency condition, and if necessary, use runners in key areas to begin spreading the message of a major outage.

##### Water Use Restrictions for Demand Reduction:

During Stage 5, all requirements of Stage 2, 3, and 4 shall remain in effect except as modified below:

- a) Irrigation of landscaped areas is absolutely prohibited.
- b) Use of water to wash any motor vehicle, motorbike, boat, trailer, or other vehicle is absolutely prohibited.
- c) Associated uses of water not related to business process which are discretionary, such as equipment washing, shall be deferred until the Stage 5 emergency has been terminated.

Optional Measure:

During Stage 5, the following measure is an optional water use restriction that may be implemented by the City Manager, or designee, with City Council approval, as conditions warrant:

- a) For residential and multi-unit customers, a drought surcharge of up to and including 100% of the total monthly water bill over the monthly allocation may be added to the customers' bill to deter discretionary water use, as explained in Section 11.

## **11. Surcharges for Drought Stages 3 – 5 and Service Measures**

**(a) General**

1. The surcharges established herein are solely intended to regulate and deter the use of water during a period of serious drought in order to achieve necessary water conservation. The City Council expressly finds that the drought poses a serious and immediate threat to the public and economic health and general welfare of this community, and that the surcharges and other measures adopted herein are essential to protect said public health and welfare.
2. This section, and the surcharges and measures adopted herein are an exercise of the City's regulatory and police power, and the surcharges and connection fees are conservation rates intended to meet fixed costs as a result of lost revenue.
3. With City Council approval, the City Manager is authorized to determine trigger points or allocations and surcharges during Stages 3, 4, and 5 Emergency Water Shortage conditions.
4. In this section, institutional customer means city utility customer which operates as a not-for-profit entity.
5. A customer may appeal an allocation or drought surcharge triggering point established under this Section to the Executive Director of Utilities or designee on grounds of unnecessary hardship, through the process outlined in Section 12.
6. Drought surcharge funds will first be applied towards annual debt service as reflected in the City operating budget to offset revenue loss due to drought conditions. Additional funds will be reported to City Council for City Council direction.

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

1. A monthly base amount of 3,000 gallons shall be established as a trigger point for each customer. Water consumption up to and including this amount will not include a drought surcharge.
2. Above the 3,000 gallon consumption trigger point, with City Council Approval, a drought surcharge shall be added up to and including 100% of the customer's total monthly water bill over the allocation.

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

1. Once Stage 2 condition has been declared, property managers of multi-tenant units shall notify the City Executive Director of Utilities of the number of residential units in their facility for determination of allocations. Until so notified, the City shall calculate the allocation based on two residential units per master water meter. A monthly base amount of 3,000 gallons shall be established as a trigger point for each residential unit.
2. When consumption for the month is less than or equal to 3,000 gallons times the number of residential units, there will be no surcharge.
3. With City Council approval, when consumption is above the 3,000 gallons times the number of units, a drought surcharge shall be added up to and including 100% of the customer's total monthly water bill over the allocation.
4. The customer is responsible for passing the demand charge onto the tenant.

*(d) Commercial or institutional customer*

1. A monthly water usage allocation shall be established by the City Manager or designee for each commercial or institutional customer.
2. Method of establishing allocation:
  - a. When the combined reservoir capacity is less than 20% of total capacity (Stage 4), the commercial or institutional customer's allocation shall be 90 percent of the customer's usage for the corresponding month's billing period during previous 12 months prior to the implementation of Stage 2.
  - b. If the customer's billing history is shorter than 12 months, the monthly average for the period for which there is a record shall be used for any monthly period for which no history exists.
  - c. Provided, however, a customer, 90 percent of whose monthly usage is less than 6,000 gallons, shall be allocated 6,000 gallons.
  - d. The City Manager shall give best effort to see that notice of each commercial or institutional customer's allocation is mailed to such customer.
  - e. If, however, the customer does not receive such notice, it shall be the customer's responsibility to contact the City Utilities Billing Office to determine the allocation, and the allocation shall be fully effective notwithstanding lack of receipt of written notice.
  - f. Upon request of the customer or at the initiative of the City Manager, the allocation may be reduced or increased,

- (1) if one nonresidential customer agrees to transfer part of its allocation to another nonresidential customer, or
- (2) if other objective evidence demonstrates that the designated allocation is inaccurate under present conditions.

*(e) Industrial customers, who use water for processing.*

1. A monthly water usage allocation shall be established by the City Manager or designee for each an industrial customer, which uses water for processing (e.g., an industrial customer).
2. Method of establishing allocation.
  - a. When the combined reservoir capacity is less than 20% of total capacity (Stage 4), the industrial customer allocation shall be 90 percent of the customer's usage for the corresponding month's billing period during the previous 12 months prior to the implementation of Stage 2
  - b. If the customer's billing history is shorter than 12 months, the monthly allocation shall be 1/12 of 90% of the customer's maximum annual contracted amount until 12 months of billing history are established. However if the industrial customer does not have a water contract and does not have at least 12 months of billing history, then the new industrial customer will provide data regarding expected water use and City will determine allocation based on 90% of expected use to determine initial allocation until 12 months of billing history are established.
  - c. The City Manager shall give his best effort to see that notice of each industrial customer's allocation is mailed to such customer.
  - d. If, however, the customer does not receive such notice, it shall be the customer's responsibility to contact the City Utilities Billing Office to determine the allocation, and the allocation shall be fully effective notwithstanding lack of receipt of written notice.
  - e. Upon request of the customer or at the initiative of the City Manager, the allocation may be reduced or increased, if:
    1. The designated period does not accurately reflect the customer's normal water usage because customer had shut down a major processing unit for overhaul during the period.
    2. The customer has added or is in the process of adding significant additional processing capacity.

3. The customer has shut down or significantly reduced the production of a major processing unit.
4. The customer has previously implemented significant permanent water conservation measures.
5. The customer agrees to transfer part of its allocation to another industrial customer.
6. Other objective evidence demonstrates that the designated allocation is inaccurate under present conditions.

(f) Commercial, institutional, and industrial customers shall pay the following surcharges:

1. Customers whose allocation is 6,000 gallons through 20,000 gallons per month:
  - a. \$5.00 per 1,000 gallons for the first 1,000 gallons over allocation.
  - b. \$8.00 per 1,000 gallons for the second 1,000 gallons over allocation.
  - c. \$16.00 per 1,000 gallons for the third 1,000 gallons over allocation.
  - d. \$40.00 for each additional 1,000 gallons over allocation.
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.

(g) *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 DCP 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.

(h) Water service to the retail water 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 for any individual month after the implementation of Stage 4. Also, the two months need not be consecutive months.
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 3.
8. For master meter customers, the service restoration fees shall be the same as above times the number of dwelling units.
9. 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 3.
- 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.

- (i) 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 line break) for the following conditions:

1. The customer shall have the burden to prove such defense by objective evidence (for example, a written certification of the circumstances by a plumber).
2. A sworn statement may be required of the customer.
3. This defense shall not apply if the customer failed to take reasonable steps for upkeep of the plumbing system, failed to reasonably inspect the system and discover the leak, failed to take immediate steps to correct the leak after discovered, or was in any other way negligent in causing or permitting the loss of water.

- (j) When this section refers to allocation or water usage periods as "month," monthly," "billing period," and the like, such references shall mean the period in the City's ordinary billing cycle which commences with the reading of a meter one month and commences with the next reading of that meter which is usually the next month.
  - 1. The goal for the length of such period is 30 days, but a variance of two days, more or less, will necessarily exist as to particular meters.
  - 2. If the meter reader system is prevented from timely reading a meter by any obstacle which is attributable to the customer, the original allocation shall apply to the longer period without modification.

## **12. Requests for Exemptions and Variances**

- (a) The Executive Director of Utilities or designee may, in writing, grant a temporary variance to any of the provisions for water users found in this DCP upon determination that failure to grant such variance would cause an emergency condition adversely affecting the public health, sanitation, or fire protection for the public or person requesting such a variance.
- (b) A person requesting an exemption or variance from the provisions of this Ordinance shall file request on City-provided application for exemption/variance with the City Utilities Department within 5 days after a particular drought response stage has been invoked. All request forms shall be reviewed by the Executive Director of Utilities or designee, and shall include the following:
  - 1. Name and address of the water user(s).
  - 2. Purpose of water use.
  - 3. Specific provision(s) of the Ordinance from which the water user is requesting relief.
  - 4. Detailed statement as to how the specific provision of the Ordinance adversely affects the water user or what damage or harm will occur to the water user or others if water user complies with this DCP.
  - 5. Description of the exemption requested
  - 6. Period of time for which the exemption is sought.
  - 7. Alternative water use restrictions or other measures the water user is taking or proposes to take to meet the intent of this DCP and the compliance date.
  - 8. Other pertinent information; or as required on permit application
- (c) No exemption nor variance shall be retroactive or otherwise justify any violation of this DCP occurring prior to the issuance of the exemption/variance.
- (d) The Executive Director of Utilities or designee shall consider requests of water users for special consideration to be given as to their respective particular circumstances and is hereby authorized to, in special cases, grant such variance from the terms of

this DCP if such compliance would cause an emergency condition adversely affecting the public health, sanitation, or fire protection for the public or person requesting such a variance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this DCP will result in unnecessary hardship, and so that the spirit of this DCP shall be observed and substantial justice done.

- (e) Should a permit for special exception be granted, it shall be in effect from the time of granting through the termination of the then current stage, unless revoked by the Executive Director of Utilities or designee for noncompliance; provided, that the permit is prominently posted on the premises within two (2) feet of the street number located on the premises.
- (f). A person denied request for permit or exception from these rules may appeal the decision to the Assistant City Manager for Public Works, Utilities and Transportation by submitting written request for appeal to the Assistant City Manager within five business days from issuance of denial. The decision of the Assistant City Manager shall be final.
- (g) Violations of any permit conditions may be enforced under Section 13.

### **13. Enforcement**

- (a) A violation under this article is a Class C misdemeanor. Any person that violates any provision of this article shall be subject to a fine of not more than five hundred dollars (\$500.00) per violation per day. The culpable mental state required by Section 6.02 of the Texas Penal Code is specifically negated and dispensed with and a violation of this article is a strict liability offense.
- (b) The commission of a violation of each provision, and each separate violation thereof, shall be deemed a separate offense, in and upon conviction thereof, shall be fined as hereinabove provided.
- (c) If any person or a second person in the same household or premises is found guilty of a second violation of this article, the water superintendent shall be authorized to discontinue water service to the premises where such violation occurs.
- (d) Cases filed under this section shall be expedited and given preferential setting in municipal court before all other cases.
- (e) Any person whose name is on file with the utilities billing office as the customer on the water account for the property where the violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on said premises shall constitute prima facie evidence that the customer committed the violation, but said customer shall have the right to show that he did not commit the violation.
- (f) If any person fails to respond to a citation or summons issued for a violation of this article within the time allowed, upon receipt of notice from the director or a judge of the

municipal courts, the water superintendent is authorized to discontinue water service to the premises where such violation occurs.

#### **14. Variances**

A temporary variance for existing water uses otherwise prohibited under this DCP may be obtained through the process outlined in Section 12.

#### **15. Severability**

It is hereby declared to be the intention of the City that the sections, paragraphs, sentences, clauses, and phrases of this DCP are severable and, if any phrase, clause, sentence, paragraph, or section of this DCP shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such declaration shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this DCP, since the same would not have been enacted by the City without the incorporation into this DCP of any such unconstitutional phrase, clause, sentence, paragraph, or section.

## **16. Wholesale Drought Contingency Plan**

### **16.1 Declaration of Policy, Purpose, and Intent**

In order to conserve the available water supply and/or to 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 Corpus Christi (City) adopts the following Wholesale Drought Contingency Plan (the Plan).

### **16.2 Public and Wholesale Customer Involvement**

The public was invited to view and make comments on the Plan during the regular meeting of City Council on June 23, 2015 at City Hall. The Plan was adopted under the open meetings requirement of the TCEQ during the July 14, 2015 City Council meeting. Amendments to the Plan were adopted on May 30, 2017 following a public hearing during the regularly scheduled meeting of City Council on May 23, 2017.

### **16.3 Wholesale Water Customer Education**

The City will periodically provide wholesale customers with information about the Plan, including information about conditions under which each stage of the Plan is to be initiated or terminated and drought response measures to be implemented in each stage. This information will be distributed by providing a copy of the Plan to each wholesale water customer.

### **16.4 Coordination with Regional Water Planning Groups**

The water service area of City of Corpus Christi and its wholesale water customers is located within the Coastal Bend Planning Region (Region N) and the City has provided a copy of the Plan to Region N.

The City of Corpus Christi 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.

### **16.5 Authorization**

The City of Corpus Christi City Manager, or designee, is hereby authorized and directed to implement the applicable provisions of this Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. Wholesale customers are subject to the plan under their contracts with the City. The City Manager, or designee, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan. The City Manager shall notify the TCEQ within five (5) business days of any mandatory water use restrictions being enacted.

## **16.6 Application**

The provisions of this Plan shall apply to all customers utilizing water provided by the City on a wholesale basis. The terms “person” and “customer” as used in the Plan include individuals, corporations, partnerships, associations, and all other legal entities. The provisions of this Plan shall apply to all customers utilizing water provided by the City on a wholesale basis. Every wholesale water contract entered into, renewed or modified after official adoption of this Plan (by either ordinance, resolution, or tariff) shall include language relating to the City of Corpus Christi Water Conservation Plan and Drought Contingency Plan, adopted under Ordinance Number 55-151 to impose similar restrictions, surcharges or rationing measures on their customers. To the extent of its legal authority, the City of Corpus Christi shall require its wholesale customers to implement outdoor watering restrictions similar to those of the City for each drought response stage. The City requires that any contract for the resale of water furnished to wholesale water contractors shall contain a similar condition.

## **16.7 Triggering Criteria for Initiation and Termination of Drought Response Stages**

The City of Corpus Christi City Manager, or designee, shall monitor water supply and/or demand conditions on a weekly basis and shall determine when conditions warrant initiation or termination of each stage of the Plan. Customer notification of the initiation or termination of drought response stages will be made by email, mail, or telephone. The news media will also be informed by the City.

The triggering criterion to be monitored for determining drought response stages is the combined reservoir storage levels of Choke Canyon Reservoir and Lake Corpus Christi. The combined storage levels selected are based on the TCEQ 2001 Agreed Order on Freshwater Inflows to the Nueces Bay and Estuary (amended April 17, 2001). See Appendix. The triggering criterions in this section are minimum standards for initiation and maximum standards for termination, and the City Manager, or designee, can initiate or terminate each stage when conditions warrant.

### **(a) Stage 1 – MILD Water Shortage Watch**

Requirements for initiation – The City will recognize that a mild water shortage condition exists when the combined storage level declines below 50% or Lake Texana storage level declines below 40%..

Requirement for termination – Stage 1 of the Plan may be rescinded when the combined storage level of Choke Canyon Reservoir and Lake Corpus Christi increases above 60% or Lake Texana storage level increases above 50%. Either of these conditions must exist for a period of 15 consecutive days before termination of Stage 1..

### **(b) Stage 2 – MODERATE Water Shortage Condition**

Requirements for initiation – The City will recognize that a moderate water shortage condition exists when the combined storage level declines below 40 percent.

Requirement for termination – Stage 2 of the Plan may be rescinded when the combined storage level increases above 50 percent for a period of 15 consecutive days. Upon termination of Stage 2, Stage 1 becomes operative. The City will notify its

wholesale customers and the media of the termination of Stage 2 in the same manner as the notification of initiation of Stage 1 of the Plan.

**(c)Stage 3 – SEVERE Water Shortage Condition**

Requirements for initiation – The City will recognize that a severe water shortage condition exists when the combined storage levels declines to below 30 percent.

Requirement for termination – Stage 3 of the Plan may be rescinded when the combined storage level increases above 40 percent for a period of 15 consecutive days. Upon termination of Stage 3, Stage 2 becomes operative. The City will notify its wholesale customers and the media of the termination of Stage 3.

**(d)Stage 4 – CRITICAL Water Shortage Condition**

Requirements for initiation – The City will recognize that a severe water shortage condition exists when the combined storage levels declines to below 20 percent.

Requirement for termination – Stage 4 of the Plan may be rescinded when the combined storage level increases above 30 percent for a period of 15 consecutive days. Upon termination of Stage 4, Stage 3 becomes operative. The City will notify its wholesale customers and the media of the termination of Stage 4.

**(e)Stage 5 – EMERGENCY Water Shortage Condition**

Requirements for initiation – The City will recognize that an emergency water shortage condition exists when any of the following occur:

- i. A major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; or
- ii. Water production or distribution system limitations; or
- iii. Natural or man-made contamination of the water supply source occurs.

Requirement for termination – The emergency water shortage condition may be rescinded when the City of Corpus Christi City Manager, or designee, deems appropriate. The City will notify its wholesale customers and the media of the termination of emergency shortage condition in the same manner as the notification of initiation of Stage 1 of the Plan.

## **16.8 Drought Response Stages**

The City of Corpus Christi City Manager, or designee, shall monitor water supply and/or demand conditions and, in accordance with the triggering criteria set forth in Section 16.7, shall determine that mild, moderate, or severe water shortage conditions exist or that an emergency condition exists and shall implement best management practices accordingly.

For water contracts between the City and wholesale customers with specific reductions based on stage, wholesale water customers are to implement measures to achieve water use reduction targets specified in the contract. For other contracts, required adoption of a Drought Contingency Plan should strive to achieve the water use reduction targets for each drought stage response presented in the following table. Further discussion on best management practices and implementation practices associated with each stage of response is described below.

<b>Drought Stage Response</b>	<b>Reservoir Storage Level</b>	<b>Target Demand Reduction Levels</b>
Stage 1- Mild	<50% or if Lake Texana is 40%	5%
Stage 2- Moderate	<40%	10%
Stage 3- Severe	<30%	15%
Stage 4- Critical	<20%	30%
Stage 5- Emergency	Not Applicable	50%

### **Stage 1 – MILD Water Shortage Conditions**

**Target: Achieve a voluntary 5% reduction in daily water demand for each wholesale customers utilizing City’s water supply system.**

#### **Best Management Practices for Supply Management:**

- The City will *voluntarily* coordinate with the necessary agencies to ensure that unnecessary releases of water from the Reservoir System are minimized, including leakage from gates or outlet works.
- The City will encourage each wholesale water customer to utilize alternative water sources *voluntarily* such as interconnections with another water system, temporary use of a water supply other than from the City’s system, or use of reclaimed water for non-potable purposes, etc.

#### **Water Use Restrictions for Reducing Demand:**

- The City Manager, or designee, will contact wholesale water customers to discuss water supply and/or demand conditions and will request that wholesale water customers initiate voluntary measures to reduce water use (e.g. implement Stage 1 of the customer’s drought contingency plan).
- The City Manager, or designee, will provide a regular report to the news media with information regarding current water supply and/or demand conditions, projected water supply and demand conditions if drought conditions persist, and consumer information on water conservation measures and practices.

### **Stage 2 – MODERATE Water Shortage Conditions**

**Target: Achieve a 10 percent reduction in daily water demand for each wholesale customer utilizing City’s water supply system.**

#### **Best Management Practices for Supply Management:**

- The City will coordinate with the necessary agencies to ensure that unnecessary releases of water from the Reservoir System are minimized.
- The City will encourage each wholesale water customer to utilize alternative water sources such as interconnections with another water system, temporary use of a water supply other than from the City’s system, use of reclaimed water for non-potable purposes, etc.

#### Water Use Measures for Reducing Demand:

- The City of Corpus Christi City Manager, or designee, will initiate contact with wholesale water customers to discuss water supply and/or demand conditions and the possibility of pro rata curtailment of water diversions and/or deliveries.
- The City of Corpus Christi City Manager, or designee, will request wholesale water customers to initiate mandatory measures to reduce non-essential water use (e.g. implement Stage 2 of the customer's drought contingency plan).
- The City Manager, or designee, will provide a regular report to the news media with information regarding current water supply and/or demand conditions, projected water supply and demand conditions if drought conditions persist, and consumer information on water conservation measures and practices.

#### Other Actions to be Taken:

- The City will notify, in writing, operators of recreational facilities to consider issuance of signs near boat ramps and in public parks notifying the public that the Reservoir System is operating at less than 40 percent of its conservation pool volume, and that a Stage 2 Drought Response level has been declared. The City will recommend that operators post information to the public regarding Stage 2 of the Drought Contingency Plan and possible boating safety hazards due to decreasing Reservoir levels.

### **Stage 3 – SEVERE Water Shortage Conditions**

**Target: Achieve a 15 percent reduction in daily water demand for each wholesale customer utilizing City's water supply system.**

#### Best Management Practices for Supply Management:

- The City will coordinate with the necessary agencies to ensure that unnecessary releases of water from the Reservoir System are minimized.
- The City will encourage each wholesale water customer to utilize alternative water sources such as interconnections with another water system, temporary use of a water supply other than from the City's system, use of reclaimed water for non-potable purposes, etc.

#### Water Use Measures for Reducing Demand:

- The City of Corpus Christi City Manager, or designee, will contact wholesale water customers to discuss water supply and/or demand conditions and will request that wholesale water customers initiate additional mandatory measures to reduce non-essential water use (e.g. implement Stage 3 of the customer's drought contingency plan).
- The City of Corpus Christi City Manager, or designee, will initiate preparations for the implementation of pro rata curtailment of water diversions and/or deliveries in accordance with Texas Water Code §11.039 by preparing a monthly water usage allocation baseline for each wholesale customer according to procedures specified in 16.9 of the Plan.

- The City of Corpus Christi City Manager, or designee, will provide a regular report to the news media with information regarding current water supply and/or demand conditions, projected water supply and demand conditions if drought conditions persist, and consumer information on water conservation measures and practices.

Other Actions to be Taken:

- The City will notify, in writing, operators of recreational facilities to consider issuance of signs near boat ramps and in public parks notifying the public that the Reservoir System is operating at less than 30 percent of its conservation pool volume, and that a Stage 3 Drought Response level has been declared. The City will recommend that operators post information to the public regarding Stage 3 of the Drought Contingency Plan and possible boating safety hazards due to decreasing Reservoir levels.

**Stage 4 – CRITICAL Water Shortage Conditions**

**Target: Achieve a 30 percent reduction in daily water demand for each wholesale customer utilizing City's water supply system.**

Best Management Practices for Supply Management:

- The City will coordinate with the necessary agencies to ensure that unnecessary releases of water from the Reservoir System are minimized, including leakage from project gates.
- The City will encourage each wholesale water customer to utilize alternative water sources such as interconnections with another water system, temporary use of a water supply other than from the City's system, use of reclaimed water for non-potable purposes, etc.

Water Use Restrictions for Reducing Demand:

- The City of Corpus Christi City Manager, or designee, will contact wholesale water customers to discuss water supply and/or demand conditions and will request that wholesale water customers initiate additional mandatory measures to reduce non-essential water use (e.g. implement Stage 4 of the customer's drought contingency plan).
- The City of Corpus Christi City Manager, or designee, will initiate pro rata curtailment of water diversions and/or deliveries for each wholesale customer according to the procedures specified in Section 16.9 of the Plan in accordance with Texas Water Code §11.039.
- The City of Corpus Christi City Manager, or designee, will provide a regular report to the news media with information regarding current water supply and/or demand conditions, projected water supply and demand conditions if drought conditions persist, and consumer information on water conservation measures and practices.

Other Actions to be Taken:

- The City will notify, in writing, operators of recreational facilities to consider issuance of signs near boat ramps and in public parks notifying the public that the Reservoir System is operating at less than 20 percent of its conservation pool

volume, and that a Stage 4 Drought Response level has been declared. The City will recommend that operators post information to the public regarding Stage 4 of the Drought Contingency Plan and possible boating safety hazards due to decreasing Reservoir levels.

### **Stage 5 – EMERGENCY Water Shortage Conditions**

Whenever emergency water shortage conditions exist as defined in Section 16.7 of the Plan, the City of Corpus Christi City Manager, or designee, shall:

- Assess the severity of the problem and identify the actions needed and the time required to solve the problem.
- Inform the utility director or other responsible official of each wholesale water customer by telephone, email, or in person and suggest actions, as appropriate to alleviate problems (e.g., notification of the public to reduce water use until service is restored).
- If appropriate, notify city, county, and/or state emergency response officials for assistance.
- Undertake necessary actions, including repairs and/or clean-up as needed.
- Prepare a post-event assessment report on the incident and critique of emergency response procedures and actions.

## **16.9 Pro Rata Water Allocation**

In the event that the triggering criteria specified in Section 16.7 of the Plan for Stage 4 have been met, the City of Corpus Christi City Manager, or designee, is hereby authorized to implement allocation of water supplies on a pro rata basis to raw water and treated wholesale customers in accordance with Texas Water Code §11.039. The initiation of pro rata allocation preparations shall begin during Stage 3. A provision will be included in every wholesale water contract entered into or renewed after adoption of the plan, including contract extensions, that in case of a shortage of water resulting from drought, the water to be distributed shall be divided in accordance with Texas Water Code §11.039.

(1) A raw water or wholesale treated water customer's monthly allocation shall be a percentage of the customer's water usage baseline. The percentage will be set by resolution of the city council based on the city manager's assessment of the severity of the water shortage condition and the need to curtail water diversions and deliveries, and may be adjusted periodically by resolution of the city council as conditions warrant. Once pro rata allocation is in effect, water diversions by or deliveries to each raw water or wholesale treated water customer shall be limited to the allocation established for each month.

(2) A monthly water usage allocation shall be established by the City Manager, or the City Manager's designee, for each raw water or wholesale treated water customer. The raw water or wholesale treated water customer's water usage baseline will be

computed on the average water usage by month for the previous five-year period. If the raw water or wholesale treated water customer's billing history is less than five (5) years, the monthly average for the period for which there is a record shall be used for any monthly period for which no billing history exists.

(3) The City Manager shall provide notice, by certified mail, to each raw water or wholesale treated water customer informing them of their monthly water usage allocations and shall notify the news media and the Executive Director of the Texas Commission on Environmental Quality upon initiation of pro rata water allocation.

(4) Upon request of the raw water or wholesale treated water customer or at the initiative of the City Manager, the allocation may be reduced or increased if:

- a. The designated period does not accurately reflect the raw water or wholesale treated water customer's normal water usage;
- b. The customer agrees to transfer part of its allocation to another raw water or wholesale treated water customer; or
- c. Other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established under this section to the City Council of the City of Corpus Christi.

#### **16.10 Pro Rata Surcharges and Enforcement**

During any period when pro rata allocation of available water supplies is in effect, wholesale customers shall pay the following surcharges on excess water diversions:

- 2.0 times the normal water rate per unit in excess of the monthly allocation up through 5 percent above the monthly allocation.
- 2.5 times the normal water rate in excess of the monthly allocation from 5 percent through 10 percent above the monthly allocation.
- 3.0 times the normal water rate in excess of the monthly allocation from 10 percent through 15 percent above the monthly allocation.
- 3.5 times the normal water rate more than 15 percent above the monthly allocation.

#### **16.11 Variances**

The City Manager, or designee, may, in writing, grant a temporary variance to the pro rata water allocation policies provided by this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the public health, welfare, or safety and if one or more of the following conditions are met:

- (1) Compliance with this Plan cannot be technically accomplished during the duration of this water supply shortage or other condition for which the Plan is in effect.

- (2) Alternative methods can be implemented which will achieve the same level of reduction in water use.

Persons requesting an exemption from the provisions of this Plan shall file a petition for variance with the City Manager within 5 days after pro rata allocation has been invoked. All petitions for variances shall be reviewed by the City Manager, or designee, and shall include the following:

- (1) Name and address of the petitioner(s).
- (2) Detailed statement with supporting data and information as to how the pro rata allocation of water under the policies and procedures established in the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Ordinance.
- (3) Description of the relief requested.
- (4) Period of time for which the variance is sought
- (5) Alternative measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.
- (6) Other pertinent information.

Variances granted by the City shall be subject to the following conditions, unless waived or modified by the City.

- (1) Variances granted shall include a timetable for compliance with allocation requirements.
- (2) Variances granted shall expire when the Plan is no longer in effect, unless the petitioner has failed to meet specified requirements.

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

## **16.12 Severability**

It is hereby declared to be the intention of the City that the sections, paragraphs, sentences, clauses, and phrases of this Plan are severable and, if any phrase, clause, sentence, paragraph, or section of this Plan shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such declaration shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Plan, since the same would not have been enacted by the City without the incorporation into this Plan of any such unconstitutional phrase, clause, sentence, paragraph, or section.

## **16.13 Reservoir System Operating Plan**

Because all the wholesale customers rely on the reservoir systems for their supplies, they are subject to the Reservoir Operating Plan. A copy of this is included in Attachment C.