

**AGENDA ITEM  
EXECUTIVE SUMMARY**

Meeting Date: **October 2, 2019**

<b>Agenda Item:</b>
Consider and take action to approve an ordinance adopting a Drought Contingency and Emergency Management Plan.

Prepared By (Print Name): Timothy E. Skoglund, P.E. Title: General Manager  Signature:
---

<b>Brief Summary:</b>
As in prior 5-year cycles, Harlingen Waterworks System has adopted an updated Drought Contingency and Emergency Management Plan establishing water restriction stages in response to drought and emergency water supply conditions. New guidance by the State dictates that the Plan be approved and adopted as an ordinance by the City Commission. The ordinance provides for enforcement through assessment of civil penalties which could result in disconnection of water services if not paid. The adopting ordinance was drafted by the City Attorney's Office and includes recommendations to clarify the penalty provision as a civil penalty.

<b>Funding (if applicable):</b>
Are funds specifically designated in the current budget for the full amount for this purpose? <input type="checkbox"/> Yes <input type="checkbox"/> No*
*If no, specify source of funding and amount requested:
Finance Director's approval: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A

<b>Staff Recommendation:</b>
The staff recommends approval of an ordinance adopting the Drought Contingency and Emergency Water Management Plan.

City Manager's approval: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
---

<b>Comments:</b>

City Attorney's approval: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
--



## MEMORANDUM

To: Mayor and Members of the City Commission  
From: Tim Skoglund, P.E., General Manager  
Date: September 23, 2019  
Subject: Proposed Drought Contingency & Emergency Water Management Plan

---

State regulation requires retail water utilities with more than 3,300 connections to adopt a drought contingency plan and to update it every five years. HWWS has been complying with this requirement in past years through resolutions of the HWWS Board of Trustees.

In December 2018, the Texas Commission on Environmental Quality (TCEQ) published updated guidance that defined additional requirements for drought contingency plans and specifically directed that those plans be adopted by city councils/commissions via city ordinance.

On September 4, 2019, the HWWS Board of Trustees passed Resolution R1819-48 adopting an updated Drought Contingency & Emergency Water Management Plan (the “Plan”) and referring the Plan to the Harlingen City Commission for adoption by ordinance.

The Plan includes three stages of water restrictions in response to certain drought and emergency water supply triggers. The triggering criteria include:

- The volume of water in the Amistad and Falcon reservoir system expressed as a percent of US conservation capacity.
- Water rights usage in a given year expressed as a percentage of calendar days remaining in a year vs. the projected number of days of water rights remaining.
- 3-day or 1-day average water demands expressed as a percentage of functional treatment capacity.
- Failure of critical water conveyance or treatment infrastructure.
- Water quality upsets occurring in the raw water supply from the Rio Grande River.

Water use restrictions in the Plan aim to reduce water consumption by 10%, 20%, and 30% or more under Stage 1, 2, and 3, respectively. The primary aspects of the water use restrictions are related to watering/irrigation as summarized below:

Stage 1: Twice per week watering based on ending address number or account type

Stage 2: Once per week water based on ending address number

Stage 3: Prohibition of all watering

The trigger levels associated with water volume remaining in the Amistad-Falcon reservoir system are set at relatively high thresholds that have not been met at any point time since the reservoir system was established. Harlingen owns an approximate 50% surplus of water rights making a water rights shortage highly improbable in any year for the foreseeable future. Furthermore, HWWS's normal combined treatment plant capacity exceeds the highest 3-day demand on record by 45%.

The Plan provides for fines ranging from \$200 to \$1,000 for any retail customer who violates the provisions of the Plan, and for disconnection of service for repeat or unaddressed violations.

HWWS's regular wholesale customers including East Rio Hondo Water Supply Corporation, Primera, Combes, and Palm Valley will be subject to following similar water restrictions upon renewal or extension of their contracts in 2024 or 2025.

Though stage initiation and associated water restrictions defined in the Plan are highly unlikely to be triggered in any given year, the Plan does define reasonable and achievable levels of water demand and consumption reductions in response to drought and emergency water supply conditions.

Adoption of the Plan by City ordinance is recommended to achieve compliance with regulatory requirements for drought contingency plan adoption.

**ORDINANCE NO. 2019-\_\_**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS, AMENDING CHAPTER 48 UTILITIES ARTICLE III WATER SYSTEM CREATING DIVISION 4 DROUGHT CONTINGENCY AND EMERGENCY WATER MANAGEMENT PLAN OF THE CITY OF HARLINGEN CODE OF ORDINANCES; ESTABLISHING ADMINISTRATIVE PENALTIES; ESTABLISHING AN EFFECTIVE DATE HEREOF.**

**WHEREAS**, pursuant to the authority provided for in the City of Harlingen’s Charter, the Harlingen Waterworks System (“HWWS”) Board of Trustees approved Resolution No. R1819-48, providing for a Drought Contingency and Emergency Water Management Plan (“the Plan”), establishing regulations and restrictions on the delivery and consumption of water; and

**WHEREAS**, the City Commission of the City of Harlingen finds and determines that such regulations and restrictions are necessary 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; and

**WHEREAS**, water uses regulated or prohibited under the Plan are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute a waste of water which subjects the offender(s) to penalties; and,

**WHEREAS**, an opportunity for the public to provide input on the Plan was provided at a meeting of the Harlingen City Commission on October 2, 2019. Input from officials of wholesale customers was also solicited via individual meetings and discussions with HWWS officials during September 2019; and,

**WHEREAS**, HWWS will comply with the provisions of the Plan and will periodically provide the public and wholesale customers of HWWS with information about the Plan including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage; and,

**WHEREAS**, the service area of the City of Harlingen is located within the Rio Grande Region M Planning Group and the HWWS will provide a copy of the Plan to the Texas Water Development Board.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS:**

**Section 1.** That the recitals contain in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Commission.

**Section 2.** That CHAPTER 48 UTILITIES, ARTICLE III WATER SYSTEM, CREATING DIVISION 4 DROUGHT CONTINGENCY AND EMERGENCY WATER MANAGEMENT PLAN, CITY OF HARLINGEN CODE OF ORDINANCES is hereby amended as set forth in Exhibit A, attached hereto and included for all purposes.

**Section 3.** It is hereby declared to be the intention of the City Commission that the phrases, clauses, sentences, paragraphs, and sections of this ordinance be severable, and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared invalid by judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance and the remainder of this ordinance shall be enforced as written.

**Section 4.** That it is officially found, determined and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

**Section 5.** This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law. Final implementation and enforcement of the provisions of the ordinance will begin November 1, 2019.

**Section 6.** The repeal or amendment of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue or as affecting any rights of the City of Harlingen under any section or provisions of any ordinances in effect at the time of passage of this ordinance.

**Section 7.** The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter as that covered herein.

PASSED AND APPROVED on this \_\_\_\_ day of \_\_\_\_\_ June, 2019.

**CITY OF HARLINGEN**

---

Chris Boswell, Mayor

ATTEST:

---

Amanda Elizondo, City Secretary

## EXHIBIT A

### **INSTRUCTIONS FOR CODIFICATION: AMEND THE UTILITIES ORDINANCE OF THE CITY OF HARLINGEN, TEXAS, CHAPTER 48 UTILITIES, ARTICLE III, WATER SYSTEM, CREATING DIVISION 4 DROUGHT CONTINGENCY AND EMERGENCY WATER MANAGEMENT PLAN**

#### Sec. 48 – 137 Declaration of Policy, Purpose, and Intent

This Drought Contingency and Emergency Water Management Plan (the “Plan”) has been adopted by Resolution No. R1819-48 of the Harlingen Waterworks System (HWWS) Board of Trustees and by Ordinance [ ] of the Harlingen City Commission in accordance with the requirements of Title 30 of the Texas Administrative Code Chapter 288.

The purpose of this Plan is to conserve the available water supply and protect the integrity of water supply facilities with particular regard for domestic water use, sanitation, and fire protection and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions.

Unless otherwise indicated, all Sections of this plan shall apply to both retail and wholesale customers of HWWS.

Retail customer water uses regulated or prohibited under this Plan are considered to be non-essential, and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in the *Enforcement* section herein.

#### Sec. 48 -138 Public Involvement

Opportunity for the public to provide input on the Plan was provided at a meeting of the Harlingen City Commission on October 2, 2019. Input from officials of wholesale customers was also solicited via individual meetings and discussions with HWWS officials during September 2019.

#### Sec. 48 - 139 Public Education/Wholesale Customer Education

HWWS will periodically provide the public and wholesale water customers with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought and emergency response measures to be implemented in each stage. When drought and emergency stages are triggered and water use restrictions are implemented, educational information will be provided by means of any one or a combination of public notices, website postings, press releases, and mailings.

HWWS maintains a station at two of its public buildings for distribution of printed educational information on conservation and drought contingency geared for children and adults. Information is available in English and Spanish. Information promoting drought contingency awareness will be included in the Water Quality Report made available to the public on the HWWS website.

HWWS will continue to participate in various community events on an annual basis and will distribute printed information and promotional items on water conservation and drought contingency awareness. Ad hoc educational tours of the water plants will include discussion of the importance and recommended practices for water conservation.

#### Sec. 48 – 140 Coordination with Regional Water Planning Groups

The service areas of HWWS and its wholesale customers are located within the Rio Grande Region M Planning Group area. HWWS has provided a copy of this adopted Plan to Region M, and a copy of the transmittal letter is presented in Appendix 1.

#### Sec. 48 – 141 Authorization

The General Manager of HWWS, or his/her appointed designee, (collectively the “General Manager” hereinafter, but only to the extent the designee has express authorization by the General Manager to take the action so delegated), 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. The General Manager shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

#### Sec. 48 – 142 Application

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

The Plan shall apply to Wholesale customers to the extent allowed and enforceable under the terms of current wholesale contracts and State regulation.

#### Sec. 48 – 143 Definitions

For the purposes of this Plan, the following definitions shall apply:

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

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

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

Customer: any person, company, or organization using water supplied by HWWS.

Domestic Water Use: water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

Even Number Address: street address, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, 8 and locations without addresses.

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

Landscape Irrigation Use: water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-way and medians.

Non-Essential Water Use: water uses that are not essential nor required for the protection of public, health, safety, and welfare, including:

- a. Irrigation of landscape areas, including parks, athletic fields, and golf course, except otherwise provided under this Plan;
- b. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle;
- c. Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- d. Use of water to wash down buildings or structures for purposes other than immediate fire protection;
- e. Flushing gutters or permitting water to run or accumulate in any gutter or street;
- f. Use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;
- g. Use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- h. Loss of water because of failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and

- i. Use of water from hydrants for construction purposes or any other purposes other than firefighting.

Odd Numbered Address: street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

## Sec, 48 – 144 Criteria for Initiation and Termination of Drought and Emergency Response Stages

Drought and Emergency Response Criteria. The General Manager shall monitor water supply and/or demand conditions on a weekly basis and, with input from the HWWS Board of Trustees, shall determine when conditions warrant initiation or termination of each stage of the Plan.

The triggering criteria to be considered in the declaration and implementation of each Stage of the Plan are based on the following set of parameters:

- Percentage of US Capacity remaining in the Amistad and Falcon Reservoirs
- Percentage of actual days remaining in the year vs. projected days of water rights remaining
- Percentage of sustained demand vs. total functional treatment capacity
- Failure of critical water conveyance, treatment, or storage infrastructure
- Contamination of raw source water

Initiation. The General Manager is authorized to order the implementation of a drought and emergency response stage when one or more of the triggering criteria for the stage are met, and shall have discretion not to order such implementation even though one or more of the triggering criteria are met. Factors that could influence such a decision may include, without limitation, the time of year, weather conditions, and the anticipation of replenished water supplies.

For each stage, customers shall be required to comply with the applicable requirements and restrictions on water use when the General Manager determines the drought and emergency response for a given stage should be implemented based on consideration of triggering criteria.

### **STAGE 1 Triggers – MODERATE Water Shortage Conditions**

- Combined volume in Amistad and Falcon Reservoirs is below 15% of US capacity
- Days remaining in the year are more than 80% of projected days of water rights remaining
- 3-day average water demand exceeds 90% of total functional treatment capacity

## **STAGE 2 Triggers – SEVERE Water Shortage Conditions**

- Combined volume in Amistad and Falcon Reservoirs is below 10% of US capacity
- Days remaining in the year are more than 90% of projected days of water rights remaining
- 3-day average water demand exceeds 95% of total functional treatment capacity

## **STAGE 3 Triggers – EMERGENCY Water Shortage Conditions**

- Major water conveyance, pumping, treatment, or storage infrastructure failures occur, which cause unprecedented loss of capability to provide water service
- Natural or man-made contamination of the water supply source
- Combined volume in Amistad and Falcon Reservoirs is below 5% of US capacity
- Days remaining in the year are more than 100% of projected days of water rights remaining
- 1-day water demand exceeds 98% of total functional treatment capacity

Termination. The General Manager, at his discretion, may order or delay the termination of a drought and emergency response stage even though the conditions for termination of the stage are met. Factors which could influence such a decision may include, without limitation, the time of year, weather conditions, or the anticipation of potential changed conditions that warrant the continuation of the drought and emergency response stage.

In general, a stage of the Plan may be terminated at the General Manager's direction based on mitigation or cessation of triggering criteria for that stage, and upon termination, the preceding stage or the applicable response stage based on the triggering criteria, shall become operative.

Notification. Customer notification of the initiation or termination of drought and emergency response stages will be made by one or a combination of website postings, email transmissions, automated telephone callouts, or printed notices on customer bills. The news media will also be informed.

Alternative Water Sources. Upon initiation of the various drought and emergency response stages, HWWS will consider use of appropriate, alternative water sources and/or alternative delivery mechanisms including:

- Purchase of water and delivery through existing interconnections with neighboring systems
- Expanded use of reclaimed water for non-potable purposes

As a drought intensifies, other potential alternative sources will be evaluated.

## Sec. 48 – 144 Drought and Emergency Water Management Response Stages

Upon reaching a triggering criteria indicative of water shortage condition as defined in the Plan, the General Manager shall implement the following notification procedures:

### **Notification**

#### Notification of Officials and Agencies:

The General Manager shall notify directly, or cause to be notified directly, the following individuals and entities:

- HWWS Board of Trustees
- City Manager
- Mayor
- TCEQ (to be notified within five business days of the implementation of any mandatory provisions of the Drought Contingency and Emergency Water Management Plan)
- Fire Chief
- Wholesale customers
- Major retail water users
- Critical water users (hospitals, nursing homes, hospice, dialysis centers)

#### Notification of the Public:

The General Manager shall notify the public by means of one or more of the following:

- HWWS's website
- Publication in a newspaper of general circulation
- Public service announcements through radio or television news stations
- Signs posted in public places
- Take-home fliers at schools

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

Additional measures that may be implemented by HWWS to manage limited water supplies and/or reduce water demand during each stage may include:

1. Minimization of system flushing while maintaining minimum standard disinfection residuals throughout the distribution system.
2. Maximizing and expanding deliveries of reclaimed water for non-potable uses.
3. Engage interconnects with neighboring water systems to maintain regulated minimum system pressure throughout the distribution system.

### **STAGE 1 Response – MODERATE Water Shortage Conditions**

*Target:* Achieve a 10% reduction in total water use relative to the given month's average for the preceding five years.

## Water Use Restrictions for Demand Reduction

**Retail Customers.** The following water use restrictions shall apply to all persons within HWWS's retail service area:

1. Irrigation of landscaped areas shall be limited to *twice per week* between the hours of 8:00 pm on the designated watering day to 10:00 am the following morning as outlined below except that watering of landscaped areas is permitted at any time if by means of a hand-held hose, a faucet filled bucket, or watering can of five gallons or less, or drip irrigation.
  - Residential addresses ending in an even number (0,2,4,6,8) may water on **Wednesdays** and **Saturdays**.
  - Residential addresses ending in an odd number (1,3,5,7,9) may water on **Thursdays** and **Sundays**.
  - All non-residential addresses including apartment complexes, hotels & motels, mobile home parks, commercial businesses, institutions, industry and manufacturing, and schools may water on **Tuesdays** and **Fridays**.
2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle shall be limited to designated watering days. Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health safety and welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.
3. Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi type pools shall be limited to designated watering days.
4. Operation of any ornamental fountain or pond for aesthetic or scenic purposes shall be limited to designated watering days except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
5. Use of water from fire hydrants shall be limited to firefighting, 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 continue under standard permit from HWWS.
6. Use of potable water for the irrigation of golf course greens, tees, and fairways shall be limited to designated watering days. However, if the golf course utilizes a water source other than potable water provided by HWWS, the facility shall not be subject to these regulations.
7. Water customers are requested to practice water conservation and to minimize or discontinue water use for the following non-essential purposes:
  - a. Wash down of any sidewalks, walkways, driveways parking lots, tennis courts, or other hard-surfaced areas.

- b. Use of water to wash down buildings or structures or purposes other than immediate fire protection.
- c. Use of water for dust control.
- d. Flushing gutters or permitting water to run or accumulate in any gutter or street.
- e. Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

**Wholesale Customers.** The following actions shall be taken with regard to wholesale customers:

1. The General Manager will request wholesale water customers to initiate measures to reduce non-essential water use in accordance with Stage 1 of the Plan for retail customers except that wholesale customers may use a different watering schedule provided that each service address is limited to a twice per week schedule.
2. The General Manager will initiate monthly contact with wholesale water customers to discuss water supply and/or demand conditions and the possibility of curtailment of water deliveries.
3. The General Manager will provide a report as necessary to 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 Response – SEVERE Water Shortage Conditions**

*Target:* Achieve a 20% reduction in total water use relative to the given month’s average for the preceding five years.

Water Use Restrictions for Demand Reduction.

**Retail Customers.** All requirements of Stage 1 shall be in effect during Stage 2 except:

1. All means of irrigation of landscaped areas shall be limited to *once per week* between the hours of 8:00 pm on the designated watering day to 8:00 am the following morning as outlined below.
  - All addresses may water as follows:

<u>Address</u> <u>Ending</u>	<u>Watering</u> <u>Day</u>
1	<b>Sunday</b>
2	<b>Monday</b>
3	<b>Tuesday</b>
4	<b>Wednesday</b>
5, 6	<b>Thursday</b>

7, 8

**Friday**

9, 0

**Saturday**

2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle shall be limited to *weekend days* for personal vehicles and to *Wednesdays* for non-personal, business-related vehicles. Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station.
3. Use of water to fill, refill, or add to an indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools shall be limited to designated watering days.
4. Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except when necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
5. The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued except for the amount necessary for the actual construction of structures.
6. The watering of golf course tees is prohibited unless the golf course utilizes a water source other than potable water provided by HWWS. Greens and fairways may be watered only on designated watering days between the hours of 8:00 pm on the designated watering day to 8:00 am of the following day.
7. The following uses of water are defined as non-essential and are prohibited:
  - a. Wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
  - b. Use of water to wash down buildings or structures for purposes other than immediate fire protection;
  - c. Use of water for dust control;
  - d. Flushing gutters or permitting water to run or accumulate in any gutter or street; and
  - e. Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s)

**Wholesale Customers.** The following actions shall be taken with regard to wholesale customers:

1. The General Manager 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 in accordance with Stage 2 of the Plan for retail customers except that wholesale

customers may use a different watering schedule provided that each service address is limited to a once per week schedule.

2. The General Manager will further prepare for the implementation of curtailment of water deliveries by preparing a monthly water usage allocation baseline for each wholesale customer.
3. The General Manager will provide a report as necessary to 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 3 Response – EMERGENCY Water Shortage Conditions**

*Drought Conditions Target:* Achieve a 30% or greater reduction in total water use relative to the given month's average for the preceding five years.

*Emergency Conditions Target:* Achieve a reduction of water demand sufficient to avoid a drop in system pressure below regulated minimums.

#### Water Use Restrictions for Reducing Demand

***Retail Customers.*** All requirements of Stage 2 shall be in effect during Stage 3 except:

1. Irrigation of landscaped areas is absolutely prohibited. All outdoor uses of water are prohibited except for the direct need to protect and preserve the health, safety, and welfare of the public.
2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle is absolutely prohibited except that such washing may be done at any time on the immediate premises of a commercial car wash or commercial service station that recycles water to limit makeup water consumption to a minor fraction of total wash water volume.
3. Use of water to fill, refill, or add to indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited.
4. The watering of golf course tees, fairways, and greens is prohibited unless the golf course utilizes a water source other than potable water provided by HWWS.
5. Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to protect aquatic life.
6. As deemed necessary, the General Manager is authorized to deny any new, additional, expanded, or increased in size water service connections, meters, service lines, pipelines extensions, or water service facilities.

***Wholesale Customers.*** The following actions shall be taken with regard to wholesale customers:

1. Assess the severity of the problem and identify the actions needed and time required to solve the problem.
2. Inform the utility director or other responsible official of each wholesale water customer by telephone or in person and suggest actions, as appropriate, to alleviate problems including initiation of additional mandatory measures to reduce non-essential water use in accordance with Stage 3 of the Plan for retail customers.
3. The General Manager may also initiate curtailment of water deliveries in accordance with Texas Water Code, §11.039. During any period when Stage 3 is in effect, the General Manager is authorized to curtail wholesale customers' water allocation to 70 percent of that month's average for the prior five-year period.

Wholesale customers exceeding their allocation shall pay the following surcharge on excess water deliveries:

- 1.25 times the contract rate for first 15% over allocation
  - 1.5 times the current rate for the next 15% over allocation
  - 2.0 times the current rate for the next 15% over allocation
  - 2.5 times the current rate for use more than 45% over allocation
4. If appropriate, notify city, county, and/or state emergency response officials for assistance.
  5. Undertake necessary actions, including repairs and/or clean-up as needed.
  6. Prepare a post-event assessment report on the incident and critique of emergency response procedures and actions.

## Sec. 48 – 145 Contract Provisions for Wholesale Customers

HWWS will include a provision 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.

## Sec. 48 – 146 Enforcement

### ***Retail Customers Only***

Mandatory water use restrictions, curtailment, or pro rata allocation of available water supplies may be imposed during drought and emergency response stages. These water use restrictions will be enforced by warnings and penalties as follows:

1. On the first violation, customers will be notified by written notice that they have violated the mandatory water use restriction.
2. If the first violation recurs or has not been corrected after ten (10) days from the written notice, HWWS may assess a civil penalty with remedies being a fine up to

\$200 per violation, payable to HWWS. Non-payment of fines will result in surcharges, in the amount of the fine, assessed to the customer's water utility bill.

3. Any surcharge assessed to the customer's water utility bill will be in addition to the regular water utility bill amount. HWWS maintains the right, at any violation or action level, to disconnect irrigation systems and/or suspend water services to a customer for failure to pay the surcharge or public safety issues with reconnection fees and possible citations.
4. Subsequent violations of the Plan shall result in increased civil penalty with remedies being fines up to a maximum of 1,000 dollars or upon the occurrence of three (3) violations, after notice, the discontinuation of services. Services discontinued under this provision shall be restored only upon payment of unpaid fines, surcharges, disconnection and reconnection fees, and any other costs incurred by the utility in discontinuing service.
5. Any customer who is the subject of enforcement actions under the provisions of this section may appeal to the HWWS Board of Trustees pursuant to the appeal and appeal hearing process established herein.
6. The appellant must file a written notice of appeal with the General Manager of HWWS within 15 calendar days of the action which is being appealed. The written notice must contain the name, mailing address, street address and phone number of the appellant and must also contain a reasonably detailed statement regarding the action being appealed, who took the action, what the appellant contends was wrong with the action, and what relief is being sought.
7. Within 15 calendar days of receipt of the written notice, the HWWS Board of Trustees must notify the appellant of the date of a hearing to hear the appeal. The HWWS Board of Trustees may itself conduct the hearing or may designate any three of its members to conduct the hearing and make recommendation to the full Board of Trustees. The hearing shall be conducted according to the procedure provided herein, unless otherwise agreed in writing within ten calendar days of the hearing. The appellant has the right to appeal the decision of the Board of Trustees to the City Commission by filing a written notice with the City Manager within 10 calendar days of receipt of the decision of the Board of Trustees. The decision of the Board of Trustees will be reversed only upon a vote of at least four city commissioners in favor of reversal.
8. The following procedures shall be followed for an appeal to Board of Trustees:
  - a. A notice shall be served on the appellant specifying the time and place of a hearing to be held by the HWWS Board of Trustees, regarding the appeal. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten calendar days before the hearing. Service may be made on any agent or officer of a corporation.

- b. The HWWS Board of Trustees may issue notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.
- c. At any hearing held pursuant to this section, testimony taken must be under oath and recorded stenographically or electronically. The party requesting stenographic recording shall be responsible for all arrangements and payment. The transcript, so recorded, will be made available to any member of the public or any party to the hearing, upon payment of the usual charges thereof.

## Sec. 48 – 147 Variances

### ***Retail Customers***

The General Manager may, in writing, grant temporary variance for existing water uses otherwise prohibited under this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:

1. Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.
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 Ordinance shall file a petition for variance with HWWS within five (5) days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the General Manager and shall include the following:

1. Name and address of the petitioner(s).
2. Purpose of water use.
3. Specific provision(s) of the Plan from which the petitioner is requesting relief.
4. Detailed statement as to how the specific provision of the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Ordinance.
5. Description of the relief requested.
6. Period of time for which the variance is sought.
7. Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.
8. Other pertinent information.

### ***Wholesale Customers***

The General Manager may, in writing, grant a temporary variance to the curtailment or 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 the 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 General Manager within five (5) days after curtailment or pro rata allocation has been invoked. All petitions for variances shall be reviewed by the HWWS Board of Trustees 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 curtailment or 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 HWWS Board of Trustees shall be subject to the following conditions, unless waived or modified by the Board:

1. Variances granted shall include a timetable for compliance.
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.

### **Sec. 48 – 148 Plan Review and Update**

HWWS will review and update the Plan by May 1, 2024 and every five years thereafter to coincide with planning efforts of the Region M Water Planning Group.

Sec. 48 – 149 List of Appendices

Appendix 1 – HWWS Resolution No. 1819-48 Adopting the Drought Contingency and Emergency Water Management Plan.