

**ORDINANCE No. 11-10-897**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, AMENDING 11-08-890 TO INCLUDE NOVEMBER 1 TO MARCH 31 STAGE 3 WATERING SCHEDULE; REPEALING ORDINANCE NO. 06-07-699 IN ITS ENTIRETY; REPEALING ORDINANCE NO. 06-08-703 IN ITS ENTIRETY; REPEALING ORDINANCE NO. 11-03-875 IN ITS ENTIRETY; REPEALING CHAPTER 82, ARTICLE IX., SECTIONS 82-371 THROUGH 82-377 OF THE CITY OF MURPHY CODE OF ORDINANCES IN ITS ENTIRETY; AMENDING THE CITY OF MURPHY CODE OF ORDINANCES BY AMENDING CHAPTER 82, ARTICLE IX, TO ESTABLISH A NEW DROUGHT CONTINGENCY AND WATER EMERGENCY RESPONSE PLAN; ESTABLISHING MANDATORY WATERING SCHEDULE FOR STAGE 2, INCLUDING PROHIBITED WATERING HOURS; ESTABLISHING MANDATORY WATERING SCHEDULE FOR STAGE 3, INCLUDING PROHIBITED WATERING HOURS; ESTABLISHING A WATER RATE SURCHARGE FOR STAGE 4; ESTABLISHING PROCEDURES FOR GRANTING VARIANCES; ESTABLISHING PENALTIES FOR VIOLATING THE RESTRICTIONS AND PROVISIONS FOR ENFORCEMENT OF THESE RESTRICTIONS; PROVIDING FOR MANDATORY PROVISIONS IN WHOLESALE WATER CONTRACTS; PROVIDING FOR FILING OF THE PLAN WITH THE TCEQ; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A CUMULATIVE/REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Murphy, Texas (the “City”), recognizes that the amount of water available to its water customers is limited; and

**WHEREAS**, the City recognizes that due to natural limitations, drought conditions, system failures and other acts of God which may occur, the City cannot guarantee an uninterrupted water supply for all purposes at all times; and

**WHEREAS**, the Water Code and the regulations of the Texas Commission on Environmental Quality (the “Commission”) require that the City adopt a Drought Contingency and Water Emergency Response Plan; and

**WHEREAS**, the City has determined an urgent need in the best interest of the public to adopt a Drought Contingency and Water Emergency Response Plan; and

**WHEREAS**, pursuant to Chapter 54 of the Local Government Code, the City is authorized to adopt such Ordinances necessary to preserve and conserve its water resources; and

**WHEREAS**, the City Council of the City of Murphy desires to adopt the North Texas Municipal Water District (the “NTMWD”) Model Drought Contingency and Water Emergency Response Plan as official City policy for the conservation of water.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS THAT:**

**SECTION 1. FINDINGS INCORPORATED.**

The findings set forth above are incorporated into the body of this ordinance as if fully set forth herein.

**SECTION 2. AMENDMENT OF CHAPTER 82, ARTICLE IX., CODE OF ORDINANCES.**

That Chapter 82, Article IX., Sections 82-371 through 82-377 of the Code of Ordinances of the City of Murphy, Texas are hereby repealed and Chapter 82, Article IX., is hereby amended to adopt a new Drought Contingency and Water Emergency Response Plan to read as follows:

“Sec. 82-371. Adoption of Plan.

The City Council hereby approves and adopts the NTMWD Model Drought Contingency and Water Emergency Response Plan, as modified for the City of Murphy (the “Plan”), attached hereto as Addendum A, as if recited verbatim herein. The City commits to implement the requirements and procedures set forth in the adopted Plan.

Sec. 82-372. Mandatory Watering Schedule for Stage 2; Prohibited Hours.

In the event the City Manager declares Stage 2, customers shall comply with the following schedule for irrigation of existing landscape areas with hose-end sprinklers or irrigation systems:

- A. Schedule:
  - a) Residential Street addresses ending in odd numbers (1,3,5,7,9) may water on Mondays and Thursdays only.
  - b) Residential Street addresses ending in even numbers (0,2,4,6,8) may water on Wednesdays and Saturdays only.
  - c) Public Schools, All Non-Residential Businesses, City and HOA entries/medians may water on Fridays and Tuesdays only.
- B. Prohibited Watering Hours. All watering is prohibited during the hours of 10:00 a.m. – 6:00 p.m.

Sec. 82-373. Mandatory Watering Schedule for Stage 3; Prohibited Hours.

In the event the City Manager declares Stage 3, all of the requirements of Stages 1 and 2 remain in effect during Stage 3, except customers shall comply with the following

schedule for irrigation of existing landscape areas with hose-end sprinklers or irrigation systems:

A. Schedule:

- a) Residential Street addresses ending in odd numbers (1,3,5,7,9) may water on Mondays only.
- b) Residential Street addresses ending in even numbers (0,2,4,6,8) may water on Wednesdays only.
- c) Public Schools, All Non-Residential Businesses, City and HOA entries/medians may water on Fridays only.
- d) Limit landscape watering with sprinklers or irrigation systems between November 1 and March 31 to once every two weeks. All water customers using sprinklers or irrigation systems may only operate those systems on Thursdays, if needed. Specific dates will be published on the city website of designated watering days for designated service zones and water customers.

B. Prohibited Watering Hours. All watering is prohibited during the hours of 10:00 a.m. – 6:00 p.m.

Sec. 82-374. Water Rate Surcharge.

In the event the City Manager declares Stage 4, all of the requirements of Stages 2 and 3 remain in effect during Stage 4 with the same mandatory irrigation schedule listed in Stage 3 and, in addition, a customer will be charged a water rate surcharge for water usage as follows:

<u>Gallons</u>	<u>Rate</u>
0 – 15,000	1.25 times the regular rate
15,001-30,000	2 times the regular rate
30,001 – 45,000	2.5 times the regular rate
45,001 +	3 times the regular rate

The regular rate shall be established pursuant to the City’s fee ordinance on an annual basis.

Sec. 82-375. Variances to the Plan.

(a) Customers may water new planting of grass within the first thirty (30) days up to four (4) hours a day by any means. Watering is prohibited from 10:00 a.m. to 6:00 p.m.

(1) Prior to the first day of the thirty (30) day watering period, residents or businesses must provide the following information to the City:

- i. Address;
- ii. Company name;
- iii. Superintendent name;
- iv. Superintendent contact number;

- v. First day of thirty (30) day watering period;
- vi. Expiration date of thirty (30) day watering period; and
- vii. Starting and ending time of watering period.

(2) Customers are required to have a weather proof sign, capable of lasting the full thirty (30) day watering period, posted in the front yard. The sign shall be separate and not attached to any other signs. In addition, a window sign shall be posted on the inside of a window, on the front of the building. The sign shall be legible from the street on neon colored paper with black print. Window signs shall include the following information:

- i. Company name;
- ii. Address;
- iii. Approved thirty (30) day watering period;
- iv. Approved day of the week, as specified in Stage 3 Restrictions;
- v. Starting date and ending date of thirty (30) day water period; and
- vi. Starting and ending time of watering period.

(b) The City Manager or his/her designee may, in writing, grant a temporary variance of existing water uses otherwise prohibited under the Plan if the City Manager or his/her designee determines that the failure to grant such a variance would cause an emergency condition adversely affecting the public health, safety or welfare, or the person requesting the variance would suffer an undue hardship and the person demonstrates that:

- (1) Compliance with the Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect; or
- (2) Alternative methods can be implemented which will achieve a similar level of compliance.

(c) Plan or a particular drought response stage has been initiated. A petition for a variance must include the following:

- (1) The name and address of petitioners;
- (2) The purpose of the intended water use;
- (3) The specific requirement of the Plan from which the petitioner is requesting relief;
- (4) A detailed statement as to how the specific requirement creates a hardship unique to the petitioner or adversely affects the petitioner, and a statement as to what damage or harm will occur to the petitioner or others if the petitioner complies with this article;
- (5) A description of the relief requested;
- (6) The period of time for which the variance is sought; and
- (7) A description of what alternative water use restrictions or other measures the petitioner is taking or proposes to take in order to meet the intent of this Plan.

- (d) Unless waived or modified in writing by the City Manager or his/her designee, a variance granted under this section shall include a timetable for compliance and shall contain a condition terminating the variance if the petitioner fails to meet a specified requirement of the variance.
- (e) A variance expires when a particular Drought Response Stage is no longer in effect. No variance will be retroactive or otherwise justify any violation of this Plan that occurs prior to the issuance of the variance.

Sec. 82-376. Penalty; Enforcement of Restrictions.

(a) Any customer, defined pursuant to 30 Tex. Admin. Code Chapter 291, failing to comply with the provisions of the Plan and/or this ordinance shall be subject to a fine of up to two thousand dollars (\$2,000.00) and/or discontinuance of water service by the City. Proof of a culpable mental state is not required for a conviction of an offense under this section. Each day a customer fails to comply with the Plan is a separate violation. The City's authority to seek injunctive or other civil relief available under the law is not limited by this section.

(b) Each day that one or more of the provisions in the Plan and/or this ordinance are violated shall constitute a separate offense. If a customer is convicted of three (3) or more distinct violations of the Plan and/or this ordinance, the City Manager or his/her designee shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a re-connection charge, hereby established at \$50, and any other costs incurred by the City in discontinuing service. In addition, suitable assurance must be given to the City Manager or his/her designee that the same action shall not be repeated while the Plan and/or this ordinance is in effect. Compliance with this Plan and/or this ordinance may also be sought through injunctive relief in the district court.

(c) Any person, including a person classified as a customer of the City, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parents' control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of the Plan and that the parent could not have reasonably known of the violation.

(d) Any employee of the city, police officer, or other employee designated by the City Manager, may issue a citation to a person he/she reasonably believes to be in violation of the Plan and/or this ordinance. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, the offense charged, and shall direct him/her to appear in the municipal court on the date shown on the citation for

which the date shall not be less than three (3) days nor more than five (5) days from the date the citation was issued. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over eighteen (18) years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in municipal court to enter a plea of guilty or not guilty for the violation of the Plan. If the alleged violator fails to appear in municipal court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant. These cases shall be expedited and given preferential setting in municipal court before all other cases.

#### Sec. 82-377. Mandatory Provisions in Wholesale Water Contracts.

All wholesale water contracts entered into or renewed after adoption of the Plan and/or this ordinance, including contract extensions, shall include a provision that requires all wholesale water customers of the City to comply with the provisions of the Plan and/or this ordinance.”

#### **SECTION 3. Filing of Plan.**

The City Manager or his designee is hereby directed to file a copy of the Plan and this Ordinance with the Commission in accordance with Title 30, Chapter 288 of the Texas Administrative Code.

#### **SECTION 4. Severability Clause.**

If any word, section, article, phrase, paragraph, sentence, clause or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect, for any reason, the validity of the remaining portions of this ordinance and the remaining portions shall remain in full force and effect.

#### **SECTION 5. Cumulative/Repealer Clause.**

This ordinance shall be cumulative of all provisions of State or Federal law and other ordinances of the City of Murphy, Texas, including the Plan attached hereto as Addendum A, whether codified or uncodified, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed to the extent of such conflict. Notwithstanding the foregoing, this ordinance repeals, in their entirety, Ordinance Nos. 06-07-699, 06-08-703 and 11-03-875.

#### **SECTION 6. Savings Clause.**

All rights and remedies of the City of Murphy, Texas, are expressly saved as to any and all violations of the provisions of this ordinance or any other ordinance which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or

not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**SECTION 7. Effective Date.**

This ordinance shall become effective immediately upon its passage and publication as required by law.

**DULY PASSED, APPROVED AND ADOPTED** by the City Council of the City of Murphy, Texas, on this the 18<sup>th</sup> day of October, 2011.

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Bret M. Baldwin, Mayor  
City of Murphy

ATTEST:

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Aimee Nemer, City Secretary  
City of Murphy

APPROVED AS TO FORM:

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Wm. Andrew Messer, City Attorney

**ADDENDUM A**

**City of Murphy  
Drought Contingency and  
Water Emergency Response Plan  
AS A North Texas Municipal Water District Customer**

**City of Murphy**  
**Drought Contingency and**  
**Water Emergency Response Plan**  
**AS A North Texas Municipal Water District Customer**

**1. INTRODUCTION AND OBJECTIVES**

This plan addresses all of the current TCEQ requirements for a drought contingency plan. .

The measures included in this drought contingency and water emergency response plan are intended to provide short-term water savings during drought or emergency conditions. Water savings associated with ongoing, long-term strategies are discussed in the *Model Water Conservation Plan for North Texas Municipal Water District Member Cities and Customers*.<sup>2</sup>

The purpose of this drought contingency and water emergency response plan is as follows:

- To conserve the available water supply in times of drought and emergency
- To maintain supplies for domestic water use, sanitation, and fire protection
- To protect and preserve public health, welfare, and safety
- To minimize the adverse impacts of water supply shortages
- To minimize the adverse impacts of emergency water supply conditions.

The NTMWD supplies treated water to its Customers. This plan was developed by NTMWD in consultation with its Member Cities. In order to adopt this plan, each NTMWD Customer will need to adopt ordinance(s) or regulation(s) implementing the plan, including the determination of fines and enforcement procedures. The plan calls for Customers to adopt drought stages initiated by NTMWD during a drought or water supply emergency. NTMWD Customers may also adopt more stringent drought or water emergency response stages than NTMWD if conditions warrant.

A drought is defined as an extended period of time when an area receives insufficient amounts of rainfall to replenish the water supply, causing water supply sources, in this case reservoirs, to be depleted. In the absence of drought response measures, water demands tend to increase during a drought due to the need for additional outdoor irrigation. The severity of a drought depends on the degree of depletion of supplies and on the relationship of demand to available supplies. The NTMWD considers a drought to end when all of its supply reservoirs refill to the conservation storage pool.

**2. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY RULES**

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

Texas Administrative Code, a current copy of which is included in Appendix B. For the purpose of these rules, a drought contingency plan is defined as “a strategy or combination of strategies for temporary supply and demand management responses to temporary and potentially recurring water supply shortages and other water supply emergencies.”<sup>1</sup>

### Minimum Requirements

TCEQ’s minimum requirements for drought contingency plans are addressed in the following subsections of this report:

- 288.20(a)(1)(A) – Provisions to Inform the Public and Provide Opportunity for Public Input – Section 3.1
- 288.20(a)(1)(B) – Provisions for Continuing Public Education and Information – Section 3.2
- 288.20(a)(1)(C) – Coordination with the Regional Water Planning Group – Section 3.7
- 288.20(a)(1)(D) – Criteria for Initiation and Termination of Drought Stages – Section 3.3
- 288.20(a)(1)(E) – Drought and Emergency Response Stages – Section 3.4
- 288.20(a)(1)(F) – Specific, Quantified Targets for Water Use Reductions – Section 3.4
- 288.20(a)(1)(G) – Water Supply and Demand Management Measures for Each Stage – Section 3.4
- 288.20(a)(1)(H) – Procedures for Initiation and Termination of Drought Stages – Section 3.3
- 288.20(a)(1)(I) - Procedures for Granting Variances – Section 3.5
- 288.20(a)(1)(J) - Procedures for Enforcement of Mandatory Restrictions – Section 3.6
- 288.20(a)(3) – Consultation with Wholesale Supplier – Sections 1, 3.3, and 3.4
- 288.20(b) – Notification of Implementation of Mandatory Measures – Section 3.3
- 288.20(c)– Review and Update of Plan – Section 3.8

## **3. DROUGHT CONTINGENCY AND WATER EMERGENCY RESPONSE PLAN**

### **3.1 Provisions to Inform the Public and Opportunity for Public Input**

City of Murphy will provide opportunity for public input in the development of this drought contingency and water emergency response plan by the following means:

- Providing written notice of the proposed plan and the opportunity to comment on the plan by newspaper, posted notice, and notice on the City’s web site.
- Making the draft plan available on the City’s web site.
- Providing the draft plan to anyone requesting a copy.
- Holding a public meeting.

### **3.2 Provisions for Continuing Public Education and Information**

City of Murphy will inform and educate the public about the drought contingency and water emergency response plan by the following means:

- Preparing a bulletin describing the plan and making it available at city hall and other appropriate locations.
- Making the plan available to the public through the City's web site.
- Including information about the drought contingency and water emergency response plan on the City's web site.
- Notifying local organizations, schools, and civic groups that staff are available to make presentations on the drought contingency and water emergency response plan (usually in conjunction with presentations on water conservation programs).

At any time that the drought contingency and water emergency response plan is activated or the drought stage or water emergency response stage changes, City of Murphy will notify local media of the issues, the drought response stage or water emergency response stage (if applicable), and the specific actions required of the public. The information will also be publicized on the City's web site. Billing inserts will also be used as appropriate.

### **3.3 Initiation and Termination of Drought or Water Emergency Response Stages**

#### Initiation of a Drought or Water Emergency Response Stage

The City Manager, or official designee may order the implementation of a drought or water emergency response stage when one or more of the trigger conditions for that stage is met. The following actions will be taken when a drought or water emergency response stage is initiated:

- The public will be notified through local media and the City's web site as described in Section 3.2.
- The NTMWD will be notified by e-mail with a follow-up letter or fax that provides details of the reasons for initiation of the drought/water emergency response stage.
- If any mandatory provisions of the drought contingency and water emergency response plan are activated, City of Murphy will notify the Executive Director of the TCEQ and the Executive Director of the NTMWD within 5 business days.

Drought contingency and water emergency response stages imposed by NTMWD action must be initiated by Member Cities and Customers. For other trigger conditions internal to City of Murphy, the City Manager, or official designee may decide not to order the implementation of a drought response stage or water emergency even though one or more of the trigger criteria for the stage are met. Factors which could influence such a decision include, but are not limited to, the time of the year, weather conditions, the anticipation of replenished water supplies, or the anticipation that additional facilities will become available to meet needs. The reason for this decision should be documented.

#### Termination of a Drought or Water Emergency Response Stage

The City Manager or official designee may order the termination of a drought or water emergency response stage when the conditions for termination are met or at their discretion. The following actions will be taken when a drought or emergency response stage is terminated:

- The public will be notified through local media and the City's web site as described in Section 3.2.

- The NTMWD will be notified by e-mail with a follow-up letter or fax. If any mandatory provisions of the drought contingency and water emergency response plan that have been activated are terminated, City of Murphy will notify the Executive Director of the TCEQ and the Executive Director of the NTMWD within 5 business days. The City Manager or official designee may decide not to order the termination of a drought or water emergency response stage even though the conditions for termination of the stage are met. Factors which could influence such a decision include, but are not limited to, the time of the year, weather conditions, or the anticipation of potential changed conditions that warrant the continuation of the drought stage. The reason for this decision should be documented.

### **3.4 DROUGHT CONTINGENCY AND WATER EMERGENCY RESPONSE STAGES AND MEASURES**

#### **STAGE 1**

##### Initiation and Termination Conditions for Stage 1

- The NTMWD has initiated Stage 1, which may be initiated due to one or more of the following:
  - The NTMWD Executive Director, with the concurrence of the NTMWD Board of Directors, finds that conditions warrant the declaration of Stage 1.
  - Water demand is projected to approach the limit of the permitted supply.
  - The storage in Lavon Lake is less than 65 percent of the total conservation pool capacity.
  - NTMWD's storage in Jim Chapman Lake is less than 65 percent of NTMWD's total conservation pool capacity.
  - The Sabine River Authority has indicated that its Upper Basin water supplies used by NTMWD (Lake Tawakoni and/or Lake Fork) are in a Mild drought.
  - NTMWD has concern that Lake Texoma, the East Fork Raw Water Supply Project, or some other NTMWD source may be limited in availability in the next 6 months.
  - NTMWD water demand exceeds 90 percent of the amount that can be delivered to customers for three consecutive days.
  - Water demand for all or part of NTMWD's delivery system approaches delivery capacity because delivery capacity is inadequate.
  - NTMWD's supply source becomes contaminated.
  - NTMWD's water supply system is unable to deliver water due to the failure or damage of major water system components.
- City's water demand exceeds 90 percent of the amount that can be delivered to customers for three consecutive days.
- City's water demand for all or part of the delivery system approaches delivery capacity because delivery capacity is inadequate.
- Supply source becomes contaminated.
- City's water supply system is unable to deliver water due to the failure or damage of major water system components.
- City's individual plan may be implemented if other criteria dictate.

Stage 1 may terminate when NTMWD terminates its Stage 1 condition or when the circumstances that caused the initiation of Stage 1 no longer prevail.

#### Goal for Use Reduction and Actions Available under Stage 1

Stage 1 is intended to raise public awareness of potential drought or water emergency problems. The goal for water use reduction under Stage 1 is a two percent reduction in the amount of water produced by NTMWD. The City Manager or official designee may order the implementation of any of the actions listed below, as deemed necessary:

- Request voluntary reductions in water use by the public.
- Increase public education efforts on ways to reduce water use.
- Review the problems that caused the initiation of Stage 1.
- Intensify efforts on leak detection and repair.
- Reduce non-essential city government water use. (Examples include street cleaning, vehicle washing, operation of ornamental fountains, etc.)
- Notify major water users and work with them to achieve voluntary water use reductions.
- Reduce city government water use for landscape irrigation.
- Ask the public to follow voluntary landscape watering schedules.

## **STAGE 2**

#### Initiation and Termination Conditions for Stage 2

- The NTMWD has initiated Stage 2, which may be initiated due to one or more of the following:
  - The NTMWD Executive Director, with the concurrence of the NTMWD Board of Directors, finds that conditions warrant the declaration of Stage 2.
  - Water demand is projected to approach the limit of the permitted supply.
  - The storage in Lavon Lake is less than 55 percent of the total conservation pool capacity.
  - NTMWD's storage in Jim Chapman Lake is less than 55 percent of NTMWD's total conservation pool capacity.
  - The Sabine River Authority has indicated that its Upper Basin water supplies used by NTMWD (Lake Tawakoni and/or Lake Fork) are in a Mild drought.
  - NTMWD has concern that Lake Texoma, the East Fork Raw Water Supply Project, or some other NTMWD source may be limited in availability in the next 3 months.
  - NTMWD water demand exceeds 95 percent of the amount that can be delivered to customers for three consecutive days.
  - NTMWD water demand for all or part of the delivery system equals delivery capacity because delivery capacity is inadequate.
  - NTMWD's supply source becomes contaminated.
  - NTMWD's water supply system is unable to deliver water due to the failure or damage of major water system components.
- City's water demand exceeds 95 percent of the amount that can be delivered to customers for three consecutive days.

- City’s water demand for all or part of the delivery system equals delivery capacity because delivery capacity is inadequate.
- Supply source becomes contaminated.
- City’s water supply system is unable to deliver water due to the failure or damage of major water system components.
- City’s individual plan may be implemented if other criteria dictate.

Stage 2 may terminate when NTMWD terminates its Stage 2 condition or when the circumstances that caused the initiation of Stage 2 no longer prevail.

#### Goal for Use Reduction and Actions Available under Stage 2

The goal for water use reduction under Stage 2 is a five percent reduction in the amount of water produced by NTMWD. If circumstances warrant or if required by NTMWD, the City Manager, or official designee can set a goal for greater water use reduction. The City Manager, or official designee may order the implementation of any of the actions listed below, as deemed necessary. Measures described as “requires notification to TCEQ” impose mandatory requirements on customers. The City must notify TCEQ and NTMWD within five business days if these measures are implemented:

- Continue or initiate any actions available under Stage 1.
- Initiate engineering studies to evaluate alternatives should conditions worsen.
- Further accelerate public education efforts on ways to reduce water use.
- Halt non-essential city government water use. (Examples include street cleaning, vehicle washing, operation of ornamental fountains, etc.)
- Encourage the public to wait until the current drought or emergency situation has passed before establishing new landscaping.
- **Requires Notification to TCEQ** – Limit landscape watering with sprinklers or irrigation systems to no more than two days per week. An exception is allowed for landscape associated with new construction that may be watered as necessary for 30 days from the date of the certificate of occupancy. An exemption is also allowed for registered and properly functioning ET/Smart irrigation systems and drip irrigation systems, which do not have restrictions to the number of days per week of operation.
- **Requires Notification to TCEQ** – Restrict landscape and lawn irrigation from 10 AM to 6 PM beginning April 1 through October 31 of each year.
- **Requires Notification to TCEQ** – Prohibit planting of cool season grasses (such as rye grass or other similar grasses) that intensify cool season water requirements.

### **STAGE 3**

#### Initiation and Termination Conditions for Stage 3

- The NTMWD has initiated Stage 3, which may be initiated due to one or more of the following:
  - The NTMWD Executive Director, with the concurrence of the NTMWD Board of Directors, finds that conditions warrant the declaration of Stage 3.
  - Water demand is projected to approach or exceed the limit of the permitted supply.
  - The storage in Lavon Lake is less than 45 percent of the total conservation pool capacity.

- NTMWD’s storage in Jim Chapman Lake is less than 45 percent of NTMWD’s total conservation pool capacity.
  - The Sabine River Authority has indicated that its Upper Basin water supplies used by NTMWD (Lake Tawakoni and/or Lake Fork) are in a Moderate drought. (Measures required by SRA under a Moderate drought designation are similar to those under NTMWD’s Stage 3.)
  - The supply from Lake Texoma, the East Fork Raw Water Supply Project, or some other NTMWD source has become limited in availability.
  - NTMWD water demand exceeds 98 percent of the amount that can be delivered to customers for three consecutive days.
  - NTMWD water demand for all or part of the delivery system exceeds delivery capacity because delivery capacity is inadequate.
  - NTMWD’s supply source becomes contaminated.
  - NTMWD’s water supply system is unable to deliver water due to the failure or damage of major water system components.
- City’s water demand exceeds 98 percent of the amount that can be delivered to customers for three consecutive days.
  - City’s water demand for all or part of the delivery system exceeds delivery capacity because delivery capacity is inadequate.
  - Supply source becomes contaminated.
  - City’s water supply system is unable to deliver water due to the failure or damage of major water system components.
  - City’s individual plan may be implemented if other criteria dictate.

Stage 3 may terminate when NTMWD terminates its Stage 3 condition or when the circumstances that caused the initiation of Stage 3 no longer prevail.

### Goals for Use Reduction and Actions Available under Stage 3

The goal for water use reduction under Stage 3 is a reduction of ten percent in the amount of water obtained from NTMWD. If circumstances warrant or if required by NTMWD, the City Manager, or official designee can set a goal for a greater water use reduction.

The City Manager or official designee must implement any action(s) required by NTMWD. In addition, the City Manager, or official designee may order the implementation of any of the actions listed below, as deemed necessary. Measures described as “requires notification to TCEQ” impose mandatory requirements on customers. The City must notify TCEQ and NTMWD within five business days if these measures are implemented:

- Continue or initiate any actions available under Stages 1 and 2.
- Implement viable alternative water supply strategies.
- **Requires Notification to TCEQ** – Initiate mandatory water use restrictions as follows:
  - Prohibit hosing of paved areas, buildings, or windows. (Pressure washing of impervious surfaces is allowed.)
  - Prohibit operation of all ornamental fountains or other amenity impoundments to the extent they use treated water.
  - Prohibit washing or rinsing of vehicles by hose except with a hose end cutoff nozzle.
  - Prohibit using water in such a manner as to allow runoff or other waste.

- **Requires Notification to TCEQ** – Limit landscape watering with sprinklers or irrigation systems at each service address to once every seven days. Exceptions are as follows:
  - Foundations, new landscaping, new plantings (first year) of shrubs, and trees may be watered for up to 2 hours on any day by a hand-held hose, a soaker hose, or a dedicated zone using a drip irrigation system.
  - Golf courses may water greens and tee boxes without restrictions.
  - Public athletic fields used for competition may be watered twice per week.
  - Locations using other sources of water supply for irrigation may irrigate without restrictions.
  - Registered and properly functioning ET/Smart irrigation systems and drip irrigation systems may irrigate without restrictions.
- **Requires Notification to TCEQ** – Limit landscape watering with sprinklers or irrigation systems between November 1 and March 31 to once every two weeks. An exception is allowed for landscape associated with new construction that may be watered as necessary for 30 days from the date of the certificate of occupancy, temporary certificate of occupancy, or certificate of completion.
- **Requires Notification to TCEQ** – Prohibit hydroseeding, hydromulching, and sprigging.
- **Requires Notification to TCEQ** – Existing swimming pools may not be drained and refilled (except to replace normal water loss).
- **Requires Notification to TCEQ** - Initiate a rate surcharge as requested by NTMWD.
- **Requires Notification to TCEQ** - Initiate a rate surcharge for all water use over a certain level.
- **Requires Notification to TCEQ** – Prohibit watering of golf courses using treated water, except as needed to keep greens and tee boxes alive.

## **STAGE 4**

### Initiation and Termination Conditions for Stage 4

- The NTMWD has initiated Stage 4, which may be initiated due to one or more of the following:
  - The NTMWD Executive Director, with the concurrence of the NTMWD Board of Directors, finds that conditions warrant the declaration of Stage 4.
  - Water demand is projected to approach or exceed the limit of the permitted supply.
  - The storage in Lavon Lake is less than 35 percent of the total conservation pool capacity.
  - NTMWD's storage in Jim Chapman Lake is less than 35 percent of NTMWD's total conservation pool capacity.
  - The Sabine River Authority has indicated that its Upper Basin water supplies used by NTMWD (Lake Tawakoni and/or Lake Fork) are in a severe drought or emergency.
  - The supply from Lake Texoma, the East Fork Raw Water Supply Project, or some other NTMWD source has become severely limited in availability.

- NTMWD water demand exceeds the amount that can be delivered to customers.
- NTMWD water demand for all or part of the delivery system seriously exceeds delivery capacity because the delivery capacity is inadequate.
- NTMWD's supply source becomes contaminated.
- NTMWD's water supply system is unable to deliver water due to the failure or damage of major water system components.
- City's water demand exceeds the amount that can be delivered to customers.
- City's water demand for all or part of the delivery system seriously exceeds delivery capacity because the delivery capacity is inadequate.
- Supply source becomes contaminated.
- City's water supply system is unable to deliver water due to the failure or damage of major water system components.
- City's individual plan may be implemented if other criteria dictate.

Stage 4 may terminate when NTMWD terminates its Stage 4 condition or when the circumstances that caused the initiation of Stage 4 no longer prevail.

#### Goals for Use Reduction and Actions Available under Stage 4

The goal for water use reduction under Stage 4 is a reduction of whatever amount is necessary in the amount of water obtained from NTMWD. If circumstances warrant or if required by NTMWD, the City Manager, or official designee can set a goal for a greater water use reduction.

The City Manager or official designee must implement any action(s) required by NTMWD. In addition, the City Manager, or official designee may order the implementation of any of the actions listed below, as deemed necessary. Measures described as "requires notification to TCEQ" impose mandatory requirements on member cities and customers. The City must notify TCEQ and NTMWD within five business days if these measures are implemented.

- Continue or initiate any actions available under Stages 1, 2, and 3.
- Implement viable alternative water supply strategies.
- **Requires Notification to TCEQ** – Prohibit the irrigation of new landscaping using treated water.
- **Requires Notification to TCEQ** – Prohibit washing of vehicles except as necessary for health, sanitation, or safety reasons.
- **Requires Notification to TCEQ** – Prohibit commercial and residential landscape watering, except that foundations and trees may be watered for 2 hours on any day with a hand-held hose, a soaker hose, or a dedicated zone using a drip irrigation system. ET/Smart controllers and drip irrigation systems are not exempt from this requirement..
- **Requires Notification to TCEQ** – Prohibit golf course watering with treated water except for greens and tee boxes.
- **Requires Notification to TCEQ** – Prohibit the permitting of private pools. Pools already permitted may be completed and filled with water. Existing private and public pools may add water to maintain pool levels but may not be drained and refilled.
- **Requires Notification to TCEQ** – Require all commercial water users to reduce water use by a percentage established by the City Manager, or official designee.

- **Requires Notification to TCEQ** - Initiate a rate surcharge for all water use over normal rates for all water use.

### **3.5 Procedures for Granting Variances to the Plan**

The City Manager or official designee may grant temporary variances for existing water uses otherwise prohibited under this drought contingency and water emergency response plan if one or more of the following conditions are met:

- Failure to grant such a variance would cause an emergency condition adversely affecting health, sanitation, or fire safety for the public or the person or entity requesting the variance.
- Compliance with this plan cannot be accomplished due to technical or other limitations.
- Alternative methods that achieve the same level of reduction in water use can be implemented.

Variances shall be granted or denied at the discretion of the City Manager or official designee. All petitions for variances should be in writing and should include the following information:

- Name and address of the petitioners
- Purpose of water use
- Specific provisions from which relief is requested
- Detailed statement of the adverse effect of the provision from which relief is requested
- Description of the relief requested
- Period of time for which the variance is sought
- Alternative measures that will be taken to reduce water use
- Other pertinent information.

### **3.6 Procedures for Enforcing Mandatory Water Use Restrictions**

Mandatory water use restrictions may be imposed in Stage 2, Stage 3 and Stage 4 drought contingency and water emergency response stages. The penalties associated with the mandatory water use restrictions will be determined by City Ordinance.

### **3.7 Coordination with the Regional Water Planning Group and NTMWD**

The City will send a draft of its ordinance(s) or other regulation(s) implementing this plan to NTMWD for their review and comment. The City will also send the final ordinance(s) or other regulation(s) to NTMWD.

### **3.8 Review and Update of Drought Contingency and Water Emergency Response Plan**

As required by TCEQ rules, the City of Murphy must review the drought contingency and water emergency response plan every five (5) years. The plan will be updated as appropriate based on new or updated information.

**APPENDIX A**  
**LIST OF REFERENCES**

## APPENDIX A LIST OF REFERENCES

- (1) Title 30 of the Texas Administrative Code, Part 1, Chapter 288, Subchapter B, Rule 288.20, downloaded from <http://www.tnrcc.state.tx.us/oprd/rules/pdflib/288a.pdf>, July 2007.
- (2) Freese and Nichols, Inc.: North Texas Municipal Water District Water Conservation and Drought Contingency and Water Emergency Response Plan, prepared for the North Texas Municipal Water District, Fort Worth, March 2008.

The following conservation and drought contingency plans and related documents were reviewed in the development of this plan. References marked with a \* were used heavily in the development of this plan.

- (3) City of Austin Water Conservation Division: "City of Austin Water Drought Contingency Plan, Developed to Meet Senate Bill 1 Regulatory Requirements," Austin, August 1999.
- (4) City of Austin Water Conservation Division: "City of Austin Water Conservation Plan, Developed to Meet Senate Bill 1 Regulatory Requirements," Austin, August 1999.
- (5) Upper Trinity Regional Water District: "Water Conservation Plan and Emergency Water Demand Management Plan," adopted by the Board of Directors, Lewisville, August 5, 1999.
- (6) Upper Trinity Regional Water District: "Water Conservation Plan and Emergency Water Demand Management Plan (2002 Amended)," adopted by the Board of Directors, Lewisville, February 2002.
- (7) \*City of Dallas Water Utilities Department: "City of Dallas Water Management Plan," adopted by the City Council, Dallas, September 1999.
- (8) Updates to City of Dallas Water Management Plan found at <http://www.dallascityhall.com> in September 2003.
- (9) \*City of Dallas Water Utilities Department: "City of Dallas Water Conservation Plan," adopted by the City Council, Dallas, September 1999.
- (10) \*City of Fort Worth: "Water Conservation plan for the City of Fort Worth," Fort Worth, August 1999.
- (11) Updates to the City of Fort Worth water conservation plan found at <http://ci.fort-worth.tx.us> in September 2003.
- (12) \*City of Fort Worth: "Emergency Water Management Plan for the City of Fort Worth," Fort Worth, August 19, 2003.
- (13) HDR Engineering, Inc.: "Water Conservation and Emergency Demand Management Plan," prepared for the Tarrant Regional Water District, Austin, February 2000.
- (14) Freese and Nichols, Inc.: "Water Conservation and Drought Contingency Plan," prepared for Brown County Water Improvement District No. 1, Fort Worth, August 1999.
- (15) Freese and Nichols, Inc.: "Water Conservation and Drought Contingency Plan," prepared for the Sabine River Authority of Texas, Fort Worth, September 1994.
- (16) HDR Engineering, Inc.: "Water Conservation and Emergency Demand Management Plan," prepared for the Tarrant Regional Water District, Austin, June 1998.
- (17) HDR Engineering, Inc.: "Water Conservation Plan for the City of Corpus Christi," adopted by the City of Corpus Christi City Council, August 24, 1999.
- (18) City of Houston's water conservation plan downloaded September 2003 from <http://www.cityofhouston.gov>
- (19) City of Houston: "Ordinance N. 2001-753, Amending Chapter 47 of the Code of Ordinances Relating to Water Emergencies," Houston, August 2001.
- (20) City of Houston: "Ordinance No. 98-764, Relating to Water Conservation," Houston, September 1998.

- (21) City of Houston: "Water Conservation Plan," 1998.
- (22) City of Houston: "Water Emergency Response Plan," Houston, July 15, 1998.
- (23) City of Lubbock: "Water Conservation Plan," ordinance number 10177 adopted by the City Council in August 1999.
- (24) City of El Paso Water Conservation Ordinance downloaded August 14, 2003 from <http://www.epwu.org/ordinance.html>
- (25) San Antonio Water System: "Water Conservation and Reuse Plan," San Antonio, November 1998 with June 2002 updates.
- (26) North Texas Municipal Water District: "District Policy No. 24 Water Conservation Plan Containing Drought Contingency Plan," adopted August 1999.
- (27) GDS Associates, Inc.: "Water Conservation Study," prepared for the Texas Water Development Board, Fort Worth, 2002.
- (28) A & N Technical Services, Inc.: "BMP Costs & Savings Study: A Guide to Data and Methods for Cost-Effectiveness Analysis of Urban Water Conservation Best Management Practices," prepared for The California Urban Water Conservation Council, Santa Monica, California, July 2000.
- (29) \*City of Dallas: "City of Dallas Ordinances, Chapter 49, Section 21.1," Dallas, October 1, 2001.

**APPENDIX B**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY RULES ON  
DROUGHT CONTINGENCY PLANS**

**APPENDIX B**  
**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY RULES ON**  
**DROUGHT CONTINGENCY PLANS**

**Texas Administrative Code**

<b><u>TITLE 30</u></b>	ENVIRONMENTAL QUALITY
<b><u>PART 1</u></b>	TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
<b><u>CHAPTER 288</u></b>	WATER CONSERVATION PLANS, DROUGHT CONTINGENCY PLANS, GUIDELINES AND REQUIREMENTS
<b><u>SUBCHAPTER B</u></b>	DROUGHT CONTINGENCY PLANS
<b>RULE §288.20</b>	<b>Drought Contingency Plans for Municipal Uses by Public Water Suppliers</b>

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- (a) A drought contingency plan for a retail public water supplier, where applicable, must include the following minimum elements.
- (1) Minimum requirements. Drought contingency plans must include the following minimum elements.
- (A) Preparation of the plan shall include provisions to actively inform the public and affirmatively provide opportunity for public input. Such acts may include, but are not limited to, having a public meeting at a time and location convenient to the public and providing written notice to the public concerning the proposed plan and meeting.
- (B) Provisions shall be made for a program of continuing public education and information regarding the drought contingency plan.
- (C) The drought contingency plan must document coordination with the regional water planning groups for the service area of the retail public water supplier to ensure consistency with the appropriate approved regional water plans.
- (D) The drought contingency plan must include a description of the information to be monitored by the water supplier, and specific criteria for the initiation and termination of drought response stages, accompanied by an explanation of the rationale or basis for such triggering criteria.
- (E) The drought contingency plan must include drought or emergency response stages providing for the implementation of measures in response to at least the following situations:
- (i) reduction in available water supply up to a repeat of the drought of record;
  - (ii) water production or distribution system limitations;
  - (iii) supply source contamination; or
  - (iv) system outage due to the failure or damage of major water system components (e.g., pumps).

- (F) The drought contingency plan must include the specific, quantified targets for water use reductions to be achieved during periods of water shortage and drought. The entity preparing the plan shall establish the targets. The goals established by the entity under this subparagraph are not enforceable.
  - (G) The drought contingency plan must include the specific water supply or water demand management measures to be implemented during each stage of the plan including, but not limited to, the following:
    - (i) curtailment of non-essential water uses; and
    - (ii) utilization of alternative water sources and/or alternative delivery mechanisms with the prior approval of the executive director as appropriate (e.g., interconnection with another water system, temporary use of a non-municipal water supply, use of reclaimed water for non-potable purposes, etc.).
  - (H) The drought contingency plan must include the procedures to be followed for the initiation or termination of each drought response stage, including procedures for notification of the public.
  - (I) The drought contingency plan must include procedures for granting variances to the plan.
  - (J) The drought contingency plan must include procedures for the enforcement of any mandatory water use restrictions, including specification of penalties (e.g., fines, water rate surcharges, discontinuation of service) for violations of such restrictions.
- (2) Privately-owned water utilities. Privately-owned water utilities shall prepare a drought contingency plan in accordance with this section and incorporate such plan into their tariff.
  - (3) Wholesale water customers. Any water supplier that receives all or a portion of its water supply from another water supplier shall consult with that supplier and shall include in the drought contingency plan appropriate provisions for responding to reductions in that water supply.
- (b) A wholesale or retail water supplier shall notify the executive director within five business days of the implementation of any mandatory provisions of the drought contingency plan.
  - (c) The retail public water supplier shall review and update, as appropriate, the drought contingency plan, at least every five years, based on new or updated information, such as the adoption or revision of the regional water plan.

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**Source Note:** The provisions of this §288.20 adopted to be effective February 21, 1999, 24 TexReg 949; amended to be effective April 27, 2000, 25 TexReg 3544; amended to be effective October 7, 2004, 29 TexReg 9384.

**APPENDIX C**

**LETTERS TO REGION C AND REGION D  
WATER PLANNING GROUPS**

Sample letter to

**Date**

Region C Water Planning Group  
c/o North Texas Municipal Water District  
P.O. Box 2408  
Wylie, TX 75098

Dear Sir:

Enclosed please find a copy of the updated Drought Contingency and Water Emergency Response Plan for City of Murphy of the North Texas Municipal Water District. I am submitting a copy of this plan to the Region C Water Planning Group in accordance with the Texas Water Development Board and Texas Commission on Environmental Quality rules. The Board of the North Texas Municipal Water District adopted the updated model plan on March 2008.

Sincerely,

James Fisher, City Manager  
City of Murphy

**Sample letter by NTMWD**

Date

Mr. Jim Thompson  
Chair, Region D Water Planning Group  
P.O. Box 1107  
Atlanta, TX 75551

Dear Mr. Thompson:

Enclosed please find a copy of the recently updated Drought Contingency and Water Emergency Response Plan for City of Murphy of the North Texas Municipal Water District. I am submitting a copy of this plan to the Region C Water Planning Group in accordance with the Texas Water Development Board and Texas Commission on Environmental Quality rules. The Board of the North Texas Municipal Water District adopted the updated model plan on -----date.

Sincerely,

James M. Parks, Executive Director  
North Texas Municipal Water District

**APPENDIX D**  
**ORDINANCE ADOPTING DROUGHT CONTINGENCY**  
**AND WATER EMERGENCY RESPONSE PLAN**