

SOUTHERN MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT
DROUGHT CONTINGENCY PLAN

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SOUTHERN MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT

ORDER AMENDING ITS DROUGHT CONTINGENCY PLAN; PROVIDING FOR IMPLEMENTATION AND ENFORCEMENT THEREOF; PROVIDING PENALTIES FOR VIOLATIONS; AND CONTAINING OTHER PROVISIONS RELATED TO THE SUBJECT

The Board of Directors ("Board") of Southern Montgomery County Municipal Utility District ("District") met at the Board's regular meeting place on April 15, 2009, with a quorum of directors present, as follows:

Kerry Masson, President
Bruce Harrison, Vice President
Albert H. Newton, Secretary
Christine Stebel, Treasurer

when the following business was transacted:

The order set out below was introduced for consideration of the Board. It was duly moved and seconded that said order be adopted; and, after due discussion, said motion carried by the following vote:

Ayes: All directors present.
Noes: None.

The order thus adopted is as follows:

Any order and amendments thereto, heretofore adopted by the Board of Directors, providing for a drought contingency plan for customers within the District, is hereby revoked upon the effective date of this order.

The order hereinafter set forth shall become effective on April 15, 2009.

SOUTHERN MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT

ORDER AMENDING AND ADOPTING ITS DROUGHT CONTINGENCY PLAN;
PROVIDING FOR IMPLEMENTATION AND ENFORCEMENT THEREOF;
PROVIDING PENALTIES FOR VIOLATIONS; AND CONTAINING OTHER PROVISIONS
RELATED TO THE SUBJECT

WHEREAS, SOUTHERN MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT of Montgomery County, Texas ("District") operates a water system for the District; and

WHEREAS, after due consideration the Board is of the opinion that the District's adoption of a drought contingency plan should now be amended to better protect the District's water system in times of drought; and

WHEREAS, the Board desires to amend its Drought Contingency Plan ("Plan") and to adopt such amended Plan as the official policy of the District;

NOW, THEREFORE, BE IT ORDERED BY THE BOARD OF DIRECTORS OF SOUTHERN MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT, THAT:

SECTION 1: APPROVAL OF THE PLAN. The Board hereby approves and adopts this Drought Contingency Plan.

SECTION 2: THE DROUGHT CONTINGENCY PLAN.

A. Trigger Conditions and Drought Response Measures. The Board hereby adopts a Drought Contingency Plan that includes the following Trigger Conditions and Drought Response Measures:

1. **Moderate Drought.**

a. Trigger Conditions. This condition exists when demand on the District's water supply facilities reaches or exceeds fifty percent (50%) of the production capacity of such facilities based on a 5 day average, as determined by the District's operator.

b. Drought Response Measures.

(1) Target: Achieve a five percent (5%) reduction in daily water demand.

(2) In the event of Moderate Drought Conditions, the following Drought Response Measures will be taken:

(i) The following outdoor water uses are prohibited: car washing; window or house washing; street, drive and sidewalk washing; and filling of swimming pools.

(ii) Yard and garden watering will be limited to the hours between 8pm and 10am. All other times only hand held watering by nozzle with an on/off switch lever will be allowed.

2. **Drought.**

a. Trigger Conditions. This condition exists when demand on the District's water supply facilities reaches or exceeds sixty percent (60%) of the production capacity of such facilities based on a 5 day average, as determined by the District's operator.

b. Drought Response Measures.

(1) Target: Achieve a ten percent (10%) reduction in daily water demand.

(2) In the event of Drought Conditions, the following Drought Response Measures will be taken:

(i) The following outdoor water uses are prohibited: car washing; window or house washing; street, drive and sidewalk washing; and filling of swimming pools.

(ii) Yard and garden watering will be limited to odd/even days between the hours of 8pm to 10 am. Customers on the west side of I-45 will be allowed to water on odd numbered days, customers on the east side of I-45 will be allowed to water on even numbered days. All other times only handheld nozzle with an on/off lever will be allowed.

(iii) The District will implement a revised rate structure for water usage billing designed specifically to discourage the use of larger quantities of water. A copy of the drought condition rate structure is attached as Appendix "A."

(iv) When a Drought Condition occurs, the water meters will be read as soon as possible, bills will be generated for the prior billing period, and the Drought Contingency Plan Rates will go

into effect. The District will monitor residential and commercial watering on a daily basis. Signs will be placed at major points of entry within the District to notify customers a Drought Condition has occurred. The Drought Condition will remain in effect until average daily demand is reduced to 50% of production capacity for five (5) consecutive days.

3. **Severe Drought.**

a. Trigger Conditions. This condition exists when demand on the District's water supply facilities reaches or exceeds seventy percent (70%) of the production capacity of such facilities based on a three (3) day average, as determined by the District's operator.

b. Drought Response Measures.

(1) Target: Achieve a twenty percent (20%) reduction in daily water demand.

(2) In the event of Severe Drought conditions, the following Drought Response Measures will be taken:

(i) The Revised rate structure described in 2.A.2.b.(2) (iii through iv) will be implemented (if a Drought Condition had not previously been declared) or continued (if the Drought Condition had been declared).

(ii) All outdoor use of water is prohibited; and

(iii) The District may prohibit water uses by certain industrial or commercial users which are not essential to the health and safety of the community so that remaining water is available for essential health and safety related uses.

4. **Emergency Conditions.**

This condition exists when the supply source has been contaminated or the demand on the District's water supply facilities approaches the capability of the water supply system to meet the demand due to equipment failures, damages to the system, low ground water levels, or other unexpected causes.

Under any of the Trigger Conditions (Moderate Drought, Drought, Severe Drought, Emergency Conditions), wasting water is prohibited. Wasting water includes, but is not limited to watering: (1) while it is raining; (2) lush green grass that shows no signs of water shortage; (3)

to the point that water runs into the street or ditch; (4) impervious surfaces; (5) during times of the day when evaporation is at its peak (10:00 AM to 5:00 PM); and (6) with a sprinkler or oscillator in one spot for more than 20 minutes.

B. Notice. Once one of the above Trigger Conditions has occurred, users will be notified that such Trigger Condition has occurred and of the Drought Response Measures (as defined below) to be taken. The process for notifying the users may include any of the following:

1. Mailing a written notice (including, but not limited to, newsletter or door hanger) of the required Drought Response Measures to each user;
2. Posting signs at the entrances to the District;
3. Posting notices at public places in the District; or
4. Disseminating press releases to the local news media.

Any notice issued must contain: (a) the date the Drought Response Measures will begin, (b) the date the Drought Response Measures will terminate, if known, and (c) a list of Drought Response Measures to be implemented, and (d) an explanation of penalties for violations of such Drought Response Measures.

C. Emergency Management Program and Drought Response Measure. The District hereby establishes and adopts the emergency management and Drought Response Measures for the respective Trigger Conditions listed in Section 2.A. The measures related to each Trigger Condition shall automatically become effective and shall be implemented by a joint agreement between the District Operations Manager, District General Manager, and at least one Board Director, upon determination that such Trigger Condition exists.

D. Termination of Trigger Conditions Notification. When a Trigger Condition occurs, the District will enforce the Drought Response Measures applicable to such Trigger Condition for a minimum of five (5) days after the last day the demand on the District's water supply facilities reaches or exceeds the limits of such Trigger Condition. After such five (5) days, and assuming no other Trigger conditions have occurred, the District will terminate the Drought Response Measures and the implementation and enforcement of such measures. The District will notify users of the termination of the particular Drought Response Measures and may utilize the same manner of notification used to inform users of the occurrence of the Trigger condition and implementation of the Drought Response Measures.

SECTION 3: EMERGENCY CONTINGENCY PLAN. In the event of a fire, flood, hurricane, lightning strike, tornado, windstorm, lowering of the water table serving the District's wells, or any other act of God, riot, terrorist act, or any other act of civil disobedience, or any other similar occurrence which results in the inability of the District to provide potable water to users (or the likelihood thereof), the Board, in its discretion, may, without prior notice, invoke all or any of the Drought Response Measures set forth in this Plan as "Emergency Response Measures". The Board may establish any of the penalties set forth in Section 5 for violations of the Emergency Response Measures.

SECTION 4: GENERAL MANAGER TO SERVE AS ADMINISTRATOR. The District's General Manager will act as the administrator of the Plan. The Manager will keep adequate records for Plan verification, and will report to the Board at Board meetings regarding actions taken and which need to be taken under the Plan. The District's Manager will advise the President of the Board (or if the President is unavailable to receive notification, another member of the Board) as soon as reasonably practicable when a particular Trigger Condition has been reached under the Plan and when a particular drought condition no longer exists.

SECTION 5: VIOLATIONS AND PENALTIES

A. Violations. Any person or entity who violates this Plan will receive a door hanger notifying them of the violation. The notification must include the date of the violation, the nature of the violation, the Drought Response Measure(s) violated, and a warning of penalties for violations.

1. First Violation. The first violation of this Plan will result in a door hanger notification and a notice posted to the user's utility billing account.

2. Subsequent Violation(s). Subsequent violation(s) of this Plan will result in a door hanger notification stating that it is a subsequent violation subject to termination of service and/or imposition of a fine; a notice posted to the user's utility billing account; and a letter advising of the date and time of a public hearing before the Board for the purpose of levying a fine and/or disconnecting service as described in the Penalties section below.

B. Penalties.

1. Monetary Penalties for Noncompliance. If any person or entity violates any provision of this Plan more than one time (which violation shall constitute an unauthorized use of District services and/or facilities), then the Board, after providing required notice, may impose a penalty of up to \$5,000.00 for each violation. Each day that a breach of any provision of this Plan continues shall be considered a separate violation. This penalty will be in addition to any other legal rights and remedies of the District that may be allowed by law. Penalties assessed by the Board shall be paid with the next regular billing cycle.

2. Disconnection for Noncompliance. If any person or entity violates any provision of this Plan more than two times (which shall constitute an unauthorized use of District services and/or facilities), then in addition to any other remedies, penalties, sanctions and enforcement procedures provided for in this Order or other District policy, the District has the right to terminate water and sewer service to such person or entity. Service will only be disconnected after sending the user written notice and providing the user with an opportunity to appear and/or present evidence at a scheduled meeting of the Board to contest, explain, or correct the violation or disconnection. The notice must inform the user of the violation, the date service will be disconnected, and the user's rights to contest, explain, or correct the violation or disconnection. No user will be disconnected for a violation of this Plan if the user has informed the District or the District's General Manager that the user plans to contest or explain the apparent violation. If the user appears in person before the Board or presents evidence, the Board will consider the matter and inform the user of the Board's determination by sending written notice to the user by first class United States mail stating whether service will be continued or disconnected.

SECTION 6: VARIANCES

The General Manager may, in writing, grant a temporary variance for a period not to exceed five (5) days for a specific existing water use otherwise prohibited under this Plan if the General Manager determines by objective evidence that failure to grant the variance would cause an emergency condition adversely affecting the health, safety, sanitation, fire protection or welfare of the public or the user requesting such variance and if one or both of the following conditions are met:

1. Compliance with this Plan cannot reasonably be accomplished or would violate applicable laws or regulations related to the health, safety or welfare of the public.

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

Users requesting a variance from this Plan, including users to which a temporary variance has been granted by the General Manager, must file a request for the variance with the District's Board at the District's administrative offices within five (5) days after this Plan or a particular drought response stage (as applicable to the variance requested) has been invoked. All requests for variances will be reviewed by the Board. Requests must include the following:

1. Name and address of the user making the request.
2. Purpose of water use.
3. Specific provision(s) of this Plan from which the user is requesting relief.
4. Detailed statement as to why this Plan cannot be technically accomplished or how the specific provision of this Plan adversely affects the user or what damage or harm will occur to the user or others if the user complies with this Plan, including, if applicable, the specific law or regulation which may be violated by compliance with this Plan. Certified statements from doctors must be furnished to support claims regarding personal health conditions.
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 user is taking or proposes to take to meet the requirements of this Plan and the compliance date.
8. Other pertinent information and other information specifically requested by the Board.

The Board will consider the request at the first meeting held following receipt of the request and will provide the user with notice of the date, time and place of the meeting and an opportunity to address the Board at said meeting. The Board may elect, in its sole and absolute discretion, not to impose any penalties for violations of this Plan which occur following the date the petition is filed and before the date a final determination is made by the Board with respect to the grant or denial of the variance request.

Variances granted shall include a timetable for compliance. Variances granted will expire at the earlier of their specified termination date or when this Plan is no longer in effect

unless the Board determines, in its sole discretion, to continue a variance under a new or amended Plan. If a user who has been granted a variance fails to meet requirements specified in the variance, the variance may be immediately revoked by the Board.

SECTION 7: REMEDIES CUMULATIVE. All rights, remedies, sanctions, penalties and enforcement procedures provided for in this Order are cumulative. In addition, the District retains the right to exercise and enforce any and all rights and remedies provided by law or in equity.

The president is authorized to execute and the secretary to attest this order on behalf of the Board and the District.

Passed and adopted, this April 15, 2009.

Kerry Masson, President

ATTEST:

Albert H. Newton, Secretary

SEAL

**SOUTHERN MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT
MONTHLY WATER RATES
DROUGHT CONTINGENCY PLAN
APPENDIX "A"**

RESIDENTIAL

<u>Range (gals.)</u>	<u>Cost (per 1,000 gals.)</u>	<u>Gallons</u>	<u>Example</u>	<u>Total</u>
Minimum 10,000		(Minimum)		\$20.00
10,001 to 15,000	\$2.50	15,000		\$32.50
15,001 to 20,000	\$3.50	20,000		\$50.00
20,001 to 25,000	\$5.00	25,000		\$75.00
25,001 to 30,000	\$6.00	30,000		\$105.00
Each 1,000 Gal. Thereafter	\$7.00			

RESIDENTIAL OVER 65

<u>Range (gals.)</u>	<u>Cost (per 1,000 gals.)</u>	<u>Gallon</u>	<u>Example</u>	<u>Total</u>
Minimum 10,000		(Minimum)		\$15.00
10,001 to 15,000	\$2.00	15,000		\$25.00
15,001 to 20,000	\$3.00	20,000		\$40.00
20,001 to 25,000	\$4.00	25,000		\$60.00
25,001 to 30,000	\$5.00	30,000		\$85.00
Each 1,000 Gal. Thereafter	\$6.00			

COMMERCIAL/IRRIGATION

<u>Range (gals.)</u>	<u>Cost (per 1,000 gals.)</u>	<u>Gallon</u>	<u>Example</u>	<u>Total</u>
Minimum 5,000		(Minimum)		\$30.00
5,001 to 10,000	\$3.00	10,000		\$45.00
10,001 to 15,000	\$4.00	15,000		\$65.00
15,001 to 20,000	\$5.50	20,000		\$92.50
20,001 to 25,000	\$7.00	25,000		\$127.50
Each 1,000 Gal. Thereafter	\$9.00			

APARTMENTS

<u>Range (gals.)</u>	<u>Cost (per 1,000 gals.)</u>	<u>Gallon</u>	<u>Total</u>
Minimum 5,000		(Minimum)	\$100.00
Each 1,000 Gal. Thereafter	\$3.00		

I, the undersigned Secretary of the Board of Directors of Southern Montgomery County Municipal Utility District, hereby certify that the foregoing is a true and correct copy of the Order Amending its Drought Contingency Plan; Providing for Implementation and Enforcement Thereof; Providing Penalties for Violations; and Containing Other Provisions Related to the Subject, adopted by said Board at its meeting of April 15, 2009, together with excerpts from the minutes of said Board's meeting on that date showing the adoption of said order, as same appear of record in the official minutes of the Board, on file in the District's office.

I further certify that said meeting was open to the public, and that notice thereof was posted in compliance with the provisions of Tex. Gov't. Code Ann. § 551.001 et seq.

Witness my hand and the official seal of said District, this April 15, 2009.

Secretary