



BexarMet Water Conservation Rule 2006-001

Section 1. Definitions.

As used in this section, the following terms shall have the following meanings:

Air conditioning system(s). A mechanical system generally consisting of a compressor, thermostat and duct work permanently installed in a building for the purpose of controlling humidity and temperature. For the purposes of this division, an air conditioning system does not include window units.

Automatic irrigation controller. A device that automatically activates and deactivates an irrigation system at times selected by the operator.

Bexar Metropolitan Water District. BexarMet

Blowdown meter. A meter that tracks the amount of water discharged from a cooling tower system.

Concentration. Re-circulated water that has elevated levels of total dissolved solids as compared to the original make up water.

Water Efficiency Department. The Water Efficiency Department of Bexar Metropolitan Water District.

Conductivity controller. A device used to measure the conductivity of total dissolved solids in the water of a cooling system and control the discharge of water in order to maintain efficiency.

Director of Operations. The Director of the Operations Department of BexarMet which includes the Water Efficiency Department.

Impervious surface. Patios, pathways and other areas where firm footing is desired, constructed in such a way that does not allow water to penetrate the ground. Examples include but are not limited to concrete slab patios, sidewalks and driveways, asphalt streets or pavers set with mortar.

Irrigation system. A system with fixed pipes and emitters or heads that apply water to landscape plants or turfgrass, including, but not limited to, in-ground and permanent irrigation systems.

Irrigation system analysis. A zone-by-zone analysis of an irrigation system that, at a minimum, includes a review of the following elements: (1) design appropriateness for current landscape requirements, (2) irrigation spray heads and valves, (3) precipitation rates expressed in inches per hour and, (4) annual maintenance plan that includes irrigation system maintenance, landscape maintenance, and a basic summer and winter irrigation scheduling plan.

Large property. A land tract owned by a general customer that equals or exceeds five acres in size and has an irrigation system.

Low-flow toilet. A tank toilet that uses 1.6 gallons or less of water per flush.

Make-up Meter. A meter that measures the amount of water entering a cooling tower system.

NPDES / TPDES permit holders. Those entities that have valid state or federal permits commonly referred to as NPDES or TPDES [National Pollutant Discharge Elimination System / Texas Pollutant Discharge Elimination System] permits to satisfy requirements of the federal Clean Water Act.

Person. Any individual, corporation (including a government corporation), organization, state or federal governmental subdivision or agency, political subdivision of a state, interstate agency or body, business, trust, partnership, limited partnership, association, firm, company, joint stock company, joint venture, commission or any other legal entity.

Pervious Hardscape. Patios, pathways and other areas where firm footing is desired, constructed in such a way that allows for water to penetrate the ground. Examples include but are not limited to flagstone set in sand and wood plank decks, but exclude concrete slab patios and sidewalks or pavers set with mortar.

Positive shut-off. A valve that is held in a closed position by system pressure until overridden by an outside force.

Rain sensor. A device designed to stop the flow of water to an automatic irrigation system when rainfall has been detected.

Recycled Water. Domestic or municipal wastewater which has been treated to a quality suitable for a beneficial use in accordance with applicable law.

Requestor. A customer who requests a variance under this Division.

Residential Customer. A single or multi-family dwelling unit containing two (2) or fewer family units.

Summer dormancy. The ability of turfgrass to survive without water for a period of sixty (60) consecutive days during the months of May through September. Turfgrass with

summer dormancy capabilities approved for use is set forth in the approved low water use plant list. The approved low water use plant list, as may be amended from time to time, shall be available from BexarMet and located at www.bexarmet.org.

Turfgrass. Perennial ground cover plants and grasses that are adapted to regular mowing and traffic through management.

Variance Administrator. Staff person in the Water Efficiency Department responsible for administering and hearing variance requests under this Section 10.

Water flow restrictor. An orifice or other device through which water passes at a restricted rate.

Xeriscape. A landscape consisting of a maximum of 50% turfgrass, with the remaining percentage of landscape incorporating low water use plants and/or pervious hardscape. The approved low water use plant list, as may be amended from time to time, shall be available from BexarMet and located at www.bexarmet.org.

Zonal irrigation system. An irrigation system that segregates by station areas of shrubs, ground cover, bedding plants, and turf to accommodate a diversity of watering requirements.

Section 2. Affected Areas

Water Conservation Rule 2006-001 shall be in effect for all BexarMet service areas outside or within the jurisdictional and territorial limits of the City of San Antonio and BexarMet service areas in Atascosa, Comal and Medina counties.

Section 3. Activities to be regulated on and after May 1, 2006.

The activities set forth in the provisions herein, unless otherwise specified, shall be regulated on and after May 1, 2006. A person affected by such regulations may request a variance in the manner set out in Section 10. Violations of BexarMet Water Conservation Rule 2006-001 shall be subject to the enforcement provisions set out in Section 11. It shall be and is hereby declared unlawful for any person to violate, refuse or fail to implement the requirements set forth herein.

Section 4. BexarMet adopts the following year-round water restrictions:

Landscape watering is not allowed after 10:00 a.m. and before 8:00 p.m. every day, except for hand held hose, five gallon bucket, or properly installed drip irrigation system; charity car washes are permitted only at commercial car wash facilities; and water waste is prohibited at all times.

Section 5. Adoption of the Edward’s Aquifer Management Plan by BexarMet.

BexarMet adopts and incorporates by reference Stages 1-3 of the Edwards Aquifer Management Plan for all BexarMet service areas. The stage alerts take effect when the Aquifer reaches the following mean sea level at the monitored well:

- Stage 1 650 feet
- Stage 2 640 feet
- Stage 3 630 feet

Stage 1-3 restrictions are set forth in Attachments 1-3 and fully incorporated herein and made a part of BexarMet’s Water Conservation Rule 2006-001.

Section 6. Minimum irrigation area and flow direction.

Newly installed irrigation systems using pop-up spray or rotor technology shall not be used in landscaped areas which have both: (a) dimensions less than five feet in length and/or width; and, b) impervious pedestrian or vehicular traffic surfaces along two (2) or more perimeters. Where pop-up sprays and rotor heads are allowed in newly installed irrigation systems, they (a) must direct flow away from any adjacent impervious surface and (b) shall not be placed within four (4) inches from an impervious surface.

Section 6 (a). Annual irrigation system analysis for athletic fields, golf courses, and large properties.

(i) An annual irrigation system analysis shall be required for all athletic fields, golf courses and large properties and shall be submitted in writing to BexarMet’s Water Efficiency Department on or before June 1st of each year, beginning on June 1, 2006. Golf courses shall comply with residential irrigation requirements on areas other than tee boxes, fairways and greens.

(ii) Municipal tenants and lessees of golf courses, sports and athletic playing fields, and any other municipally owned properties, shall be responsible for compliance with this section and subsection. BexarMet shall look directly to such tenants and lessees for compliance unless the municipality concedes by contractual agreement with the tenant / lessee to assume the tenant / lessee’s responsibility for compliance.

Section 6 (b). Zonal System.

In-ground irrigation systems installed on and after June 1, 2006, shall be zonal irrigation systems.

Section 6 (c). Rain Sensors.

Effective June 1, 2006, rain sensors shall be installed and maintained on all irrigation systems equipped with automatic irrigation controllers.

Section 7 (a). Xeriscape Option.

Effective June 1, 2006, homebuilders and/or developers subdividing lots and/or constructing new single family residential homes shall offer a xeriscape option in any series of landscaping options offered to prospective home buyers.

Section 7 (b). Model Homes.

Effective June 1, 2006, homebuilders and/or developers who construct model homes for a designated subdivision shall have at least one model home per subdivision landscaped according to a xeriscape design.

Section 8. Commercial Dining Facilities.

Commercial dining facilities shall:

- (a) Serve water only upon request.
- (b) Utilize positive shut-offs for hand-held dish-rinsing wands.
- (c) Utilize water flow restrictors for all garbage disposals.

Section 9 (a). Turfgrass soil support.

(i) Turfgrass installed during or associated with new construction on and after June 1, 2006, shall have a minimum of four (4) inches of soil under the turfgrass.

(ii) Drainage utility projects, water and power utility projects, public property maintenance or repair, and those governmental activities necessary to NPDES / TPDES compliance with federal or state rules and regulations implementing the federal Clean Water Act; or governmental actions to comply with the Americans with Disabilities Act, shall not be deemed new construction for purposes of this subsection.

Section 9 (b). Turfgrass dormancy qualities.

Turfgrass installed after January 1, 2007 shall have summer dormancy capabilities.

Section 10. Variances.

The authority to grant a variance and an appeal from such variance to the provisions set forth herein is hereby delegated to BexarMet's Water Efficiency Department in the manner described herein. A determination by BexarMet pursuant to this section shall be deemed final for purposes of appeal. Appeal procedures are detailed below.

Section 10 (a). Variance.

A person who is affected by these provisions may seek a variance in the manner set out herein. A person shall request a variance within thirty (30) days of the date a provision becomes apparently applicable to that person's activities and/or properties. For example, a person will have standing to seek a variance within thirty (30) days following receipt of a formal (citation) or informal notice of violation; prior to a notice of violation; or at the discretion of the variance administrator when, in the administrator's judgment to deny standing to pursue a variance would clearly deny the applicant an opportunity to have justice and equity done for the applicant's case. In the latter situation, for purposes of justice and equity, the standard for allowing a variance application to be heard or considered are the common notions of rightness and fair play.

Section 10 (b) Time, date, place.

A person seeking a variance under these provisions shall make such request in writing to the Water Efficiency Department. Such request shall be reviewed by the variance administrator. If the application, on its face, warrants a variance, the administrator may grant the request without hearing. Otherwise, the administrator shall review such request within thirty (30) days of receipt and shall inform the requestor in writing of the time, date and place for variance hearing. if necessary.

Section 10 (c) Representation and notice of BexarMet's response. First Hearing.

The requestor may be represented by a duly authorized representative and may introduce such evidence as the requestor believes to be relevant. The administrator and appropriate Water Efficiency personnel shall hear the request. The requestor shall receive written notification by the administrator within thirty (30) days of the date of the hearing whether such variance is granted or denied.

Section 10(d) Appeal.

In the event the variance is granted, the decision of the administrator shall be final. Should the variance be denied, however, the requestor shall have ten (10) days from receipt of the denial of the variance to seek an appeal in writing. Within thirty (30) days of the written request for an appeal from the denial of a variance, the Director of Operations shall hear the appeal. The requestor shall be informed in writing of the time, date and place where such appeal shall be heard. The requestor and/or his authorized representatives may present evidence to the Director of Operations why such appeal should be granted. The Director of Operations shall inform the requestor within thirty (30) days of the date of the hearing of the appeal whether the appeal has been granted or denied. The determination of the Director of Operations shall be final and shall be in writing. If a judicial appeal is pursued, applicant must take such appeal to a court of competent jurisdiction within 30 days of the Director of Operations' final determination, which further appeal shall be pursued under appropriate standards of the substantial evidence rule.

Section 10 (e) Variance qualifications.

Variances to the regulated activities may be issued through the Water Efficiency Department's variance administrator provided that the general intent has been met, and compliance is proven to be impracticable to accomplish and to cause unnecessary hardship. The criteria to determine hardship shall include, but not be limited to, a showing of level of capital outlay and technical complexity in relation to conservation benefit to be derived, and time and effort required to accomplish compliance with the provisions set forth herein.

Section 10(f) Criteria for Variances

BexarMet's Director of Operations shall also develop specific criteria to be used for the granting of variances from the provisions set forth herein, which are appropriate to the provision for which a variance is being sought. Such criteria shall be applied equally to each request for variance under a particular provision. A requestor shall be furnished with the criteria to be utilized by the administrator and/or Director of Operations prior to his/her variance application and/or appeal being heard.

Section 11. Enforcement

BexarMet's General Manager or designee(s) is hereby authorized to enforce these provisions in the manner and to the extent allowed by law, pursuant to Section 49.004 of the Texas Water Code, including, but not limited to, filing complaints in the appropriate court of jurisdiction in the county in which BexarMet's principal office is located.

Section 11 (a) Enforcement by Peace Officers

Pursuant to Section 49.216 of the Texas Water Code, BexarMet may employ its own peace officers with power to enforce the provisions herein, including, but not limited to making arrests when necessary to prevent or abate the commission of any offense against the rules of the District.

Section 11 (b) Presumption and Exception.

For purposes of this Section, it shall be presumed that the person, in whose name a water meter connection is registered with the water purveyor servicing the property, is the responsible party who has made, caused, allowed, or permitted a violation of the provisions herein. Proof that the particular premises had a water meter connection registered in the name of the person cited in a complaint filed pursuant to this section shall constitute a prima facie presumption that person is the person who made, caused, allowed or permitted a violation pursuant to the provisions set forth herein. [Exception to this presumption is found in subsection 6 (a) (ii) above, wherein a city, whose premises are used by a tenant / lessee, is generally not responsible for the tenant / lessee's compliance. In such cases the tenant / lessee of the city is responsible for compliance.]

Section 11 (c) Warnings, Fines and Fees

BexarMet will give only **one** warning to the person who is in violation of any of the provisions set forth herein. After the first warning, BexarMet shall impose a fine after each violation as follows:

1 st violation:	\$100.00
2 nd violation:	\$250.00
3 rd violation*:	\$1,000.00

*3rd and all subsequent violations