



**AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA**

BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that the Code of Ordinances shall be amended as follows:

PART I. That Chapter 44 UTILITIES, **Division 7 CONSERVATION** be modified to read as follows:

DIVISION 7. CONSERVATION

The Town of Nags Head will implement the Dare County Regional Water Shortage Response Ordinance should water conservation measures be deemed necessary by the Town of Nags Head and/or Dare County or made mandatory by the State of North Carolina.

Sec. 44-211. Declaration of water shortage.

(a) Whenever the water supply of the county regional public water system is low and declining due to conditions that, as determined by the Town Manager, are likely to adversely affect the continued availability of water for human consumption, sanitation, health and fire protection, it shall become necessary to declare a water shortage and implementation of conservation requirements under the standards set forth in this division.

(b) A water shortage shall be declared to exist when the reserve supply available to the town will have reached the point where the citizens cannot be supplied with water to protect their health and safety without substantially curtailing the water demand. A water shortage shall also be declared to exist when production, transmission, or storage facilities are incapable of meeting all daily water demands without endangering the ability to protect public safety and health without substantially curtailing water demand.

(Code 1990, §§ 21-245, 21-246)

Cross References: Emergency management, ch. 14; environment, ch. 16.

Sec. 44-212. Notice to general public of water shortage.

If the county declares a water shortage of any of the four degrees of severity set forth in this division, the board of commissioners is authorized and empowered to give notice to the general public of the existence of such state and the severity thereof. In order to protect the health and safety of the citizens of the town supplied water by the county regional public water system, the board of commissioners shall place in effect restrictive provisions authorized in this division. Notice shall be given by public press announcements and by signing of an order by the mayor. The order shall become effective 24 hours following the press announcement and the signing of the order.

(Code 1990, § 21-247)

Sec. 44-213. Compliance required in the event of a water shortage.

(a) If the board of commissioners issues the notice described in section 44-112, then it shall be unlawful for any person to use or permit the use of water from the water system of the town for any purposes set forth in this division until such time as this division is amended or repealed, or until the town's board of commissioners has declared such provisions no longer in effect. In exercising this authority, considerations shall be given as to the following criteria: Water levels in the wells, capabilities of the water production and distribution systems, drawdown rates, outlook for precipitation, daily water use patterns, seasonal and long-term weather patterns, and the availability of water from other sources.

(b) Hospitals, nursing homes, and healthcare facilities shall comply with all restrictions imposed on residential and nonresidential water customers as shall be applicable to each individual institution to the extent compliance will not endanger the health of the patients or residents of the institution.

(c) Each hospital, nursing home, or healthcare facility shall survey its water usage patterns and requirements and implement such additional conservation measures as shall be possible, without endangering the health of its patients or residents, to achieve a further reduction in the institution's water usage.

(Code 1990, § 21-248)

Sec. 44-214. Restrictions

The Town of Nags Head will implement the Dare County Regional Water Shortage Response Ordinance should water conservation measures be deemed necessary by the Town of Nags Head and /or Dare County or made mandatory by the State of North Carolina. The restrictive measures in effect at each stage are as follows:

(1) Stage I water conservation alert. If the well water static levels do not conform to seasonal expectations as determined by the county water director and advised to the town public works director, or daily water demand is approaching 95 percent of system capacity as determined by the county water director and advised to the town public works director, a stage I water conservation alert shall be declared in effect, and the following voluntary water restrictions are requested: Voluntary commercial, manufacturing, institutional and residential conservation measures will be strongly encouraged and recommended including the following:

- a. Inspect and repair all faulty and defective parts of faucets and toilet.
- b. Use shower for bathing rather than bathtub and limit shower to no more than five minutes.
- c. Do not leave faucets running while shaving, rinsing dishes, or brushing teeth.
- d. Limit use of clothes washers and dishwashers and when used, operate fully loaded.
- e. Limit lawn watering to that necessary for plant survival.
- f. Water shrubbery the minimum required, reusing household water when possible.
- g. Limit vehicle washing.
- h. Do not wash down outside areas such as sidewalks, patios, driveways, etc.
- i. Install water flow restrictions in showerheads and other water saving devices.
- j. Use disposable and biodegradable dishes where possible.
- k. Install water saving devices in toilets, such as early closing flapper valves.
- l. Limit hours of water-cooled air conditioners.
- m. Do not fill swimming or wading pools.
- n. Do not serve drinking water in restaurants, cafeterias, or other food establishments, except as requested.

An extensive publicity campaign will be initiated using public media and specialized methods to inform the public of an impending water shortage. As a wholesale customer of the county regional public water system, the town hereby states its intention and willingness to cooperate. Water supply line pressure should be reduced where feasible to reduce water consumption if it will not affect operations of fixtures, equipment, or public safety devices. Conservation in public buildings, institutions, dormitories, and similar facilities is encouraged by restricting pressure at plumbing fixtures, and by installation of restricting devices. All residences, businesses, and institutions are requested to delay new landscape work until the water shortage has ended. Water conservation should be followed during all phases of construction related activities. Where appropriate, water should be obtained from supplemental sources and construction related activities that require water should be delayed until such time as the water emergency has ended. New service connections to the system shall be halted as per discretion of the town's board of commissioners.

(2) Stage II water shortage warning. If well water static levels continue to drop below seasonal expected levels as determined by the county water director and advised to the town public works director or daily water production approaches 100 percent of daily capacity of the water production and distribution systems, a stage II water shortage warning shall be declared in effect and the following mandatory water restrictions shall be imposed. It shall be unlawful to use water from the county regional public water system for the following purposes:

- a. To water lawns, grass, shrubbery, trees, flower and vegetable gardens, except by hand held hose, container, or drip irrigation system; provided, however, that a person regularly engaged in the sale of plants shall be permitted to use water for irrigation of their commercial stock in trade.

- b. To fill newly constructed swimming pools and/or wading pools or refill or top off, swimming and/or wading pools.
- c. To operate water-cooled air conditioners or other equipment that does not recycle cooling water, except when health and safety are adversely affected.
- d. To wash automobiles, trucks, trailers, boats, airplanes, or any other type of mobile equipment; provided, however, that any person regularly engaged in the business of washing motor vehicles and commercial car wash facilities shall be permitted to use water for such purposes.
- e. To wash down outside areas such as streets, driveways, parking lots, office buildings, exteriors of existing or newly constructed homes or apartments, sidewalks, or patios, or to use water for similar purposes; provided, however, that hand washing of exterior surfaces of a building for the purpose of preparing them for painting shall be permitted.
- f. To operate or introduce water into any ornamental fountain, pool, or pond or other structure making similar use of water.
- g. To use water from any public or private fire hydrants for any purpose other than fire suppression or other public emergency or public services need.
- h. To use water for dust control or compaction.
- i. To use water for any unnecessary purpose or to intentionally waste water.

The owner or occupant of any land or building that receives water from the town and also uses water from a private well shall post a sign giving notice of the use of the private well or other source of supply. All industrial, manufacturing, and commercial enterprises shall reduce consumption to any degree feasible with a goal of a reduction of at least 25 percent.

(3) Stage III water shortage danger. If well water static levels continue to decrease in spite of restrictions as imposed above, a stage III water shortage danger shall be declared to exist as determined by the county water director and advised to the town public works director, and in addition to the restrictions heretofore imposed under stage II, the following mandatory water restrictions shall be imposed. It shall be unlawful to:

- a. Water or sprinkle any lawn, grass, shrubbery, trees, or flowers except from a watering can or other container not exceeding three gallons in capacity with used wash water from inside a structure; provided, however, that a person regularly engaged in the sale of plants shall be permitted to use water for irrigation of their commercial stock in trade. State, county, and town licensed landscape contractors shall continue to water plantings, which are under written warranty, by hand held hose, container or drip irrigation.
- b. Water any vegetable garden except by hand held hose, container, or drip irrigation system.
- c. Make any nonessential use of water for commercial or public use.

All industrial, manufacturing, and commercial enterprises shall reduce consumption to any degree feasible with a goal of a reduction of at least 50 percent, and customers regularly engaged in the business of washing motor vehicles and commercial car washes shall reduce consumption to any degree feasible with a goal of at least 30 percent, as compared with their usage during the corresponding billing period for the most recent 12-month period ending June 30, in which no stage of this division was in effect; provided, however, that this goal shall not apply to those customers who wash parts of vehicles where federal, state, or local laws require such washing.

(4) Stage IV water shortage emergency. If previous restrictions are not sufficient to eliminate reductions in water supply reserves and the town manager is advised that water reserves and production capabilities are critically low, he shall notify the town's board of commissioners in writing. Upon such notification, the board of commissioners shall declare a stage IV water shortage emergency to exist. Upon such declaration, the town shall be deemed in a state of emergency with respect to its water supply and residential customers shall reduce their consumption to any degree possible with a goal of a reduction of at least 25 percent of their average usage. In addition to the restrictions heretofore imposed in stages II and III, the following mandatory water restrictions shall be imposed. It shall be unlawful to:

- a. Use water outside a structure for any other than emergency use involving fire or as needed by the town public works department to maintain the system, except that flowers, plants, and shrubs shall be watered from a watering can or other container not exceeding three gallons in capacity with used wash water from inside a structure.
- b. Wash any vehicle for any purpose.

c. Exceed the following water usage mandate: All customers shall reduce their water usage by 25 percent as compared with their usage during the corresponding billing period for the most recent 12-month period, ending June 30, in which no stage of this division was in effect.

It is the primary responsibility of each nonresidential customer to meet its mandated water use reduction in whatever manner possible, including limitation of operating hours, or days, if necessary. If the mandated reduction in water usage cannot be obtained without threatening health or safety, or if there has been a significant change in the customer's circumstances, the customer shall apply to the town's mayor, or his designee, for a variance to the mandate. Any customer who exceeds the allotments established to this mandate shall be subject to termination of their water service.
(Code 1990, § 21-249)

Sec. 44-215. Compliance with division provisions.

Personnel of the town's public works department, the town's police division, and other such personnel as designated by the town manager, shall enforce compliance with the provisions of this division. Failure to comply with any of the regulations of this division shall be unlawful.
(Code 1990, § 21-250)

Sec. 44-216. Civil penalties.

Any person who shall violate any provision of this division shall be subject to a civil penalty. Civil penalties shall be as follows: A warning for the first offense; the amount of \$50.00 for the second offense; and \$100.00 for the third, and successive, offenses. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation by posting a notice on the front door of the property being served, or by hand delivery, or by first class mail, to such person. A notice that is posted, or mailed, shall be conclusively presumed to be delivered to the violating person when posted on the premises or deposited in the United States mail. The notice shall state the date and nature of the violation and the amount of the penalty. The notice shall further order the person to immediately cease the violating activity. If payment of the civil penalty is not received within 15 days from date of notice, the penalty will be added to the customer's regular water billing. If the customer refuses payment, a civil action shall be instituted in the nature of a debt to collect the civil penalties and court costs as shall be assessed.
(Code 1990, § 21-251)

Sec. 44-217. Criminal fines.

Upon a fourth violation of this division, a criminal warrant shall be issued to the offending person. Any violations of the provisions of this division shall constitute class 3 misdemeanors punishable, upon conviction, by a fine not exceeding a maximum of \$500.00, as provided by G.S. 14-4 and in addition thereto such violation shall be enjoined and restrained as provided in G.S. 160A-175. The issuing of a criminal warrant shall not prohibit the imposition of further civil penalties.
(Code 1990, § 21-252)

Sec. 44-218. Continuing and separate violations.

Each day's continuing violation of this division shall be a separate and distinct criminal and civil offense. Each violation of the division shall be a separate offense even if occurring on the same day.
(Code 1990, § 21-253)

Sec. 44-219. Discontinuance of service.

The town mayor shall have the authority to discontinue, or restrict, water service to any person or structure in the event of a violation of the provisions of this division during a water shortage period. Prior to such termination, or restriction of water supply, the public works director shall give at least two working days' written notice of intent to terminate or restrict. Within the two days, the person, upon petition to the town mayor or his designee, shall be heard as to why such termination should not be enforced. When a water service is discontinued or turned off, it shall be unlawful to reactivate such service without the permission of the town's public works director.
(Code 1990, § 21-254)

Sec. 44-220. Termination of declared emergency.

The town's board of commissioners shall determine termination of any phase of the emergency provisions of this chapter when it is found that the water supply of the county regional public water system is no longer so low as to constitute a water emergency.
(Code 1990, § 21-255)

Sec. 44-221. Exceptions.

The use of private wells located outside the fresh pond area of environmental concern by residences, businesses, and institutions for nonpotable uses shall be exempt from the provisions of this division.

(Code 1990, § 21-257)

Sec. 44-222. Authorization Information.

Cliff Ogburn Interim Town Manager
P. O. Box 99
Nags Head, NC 27959
Phone: 252-449-2010
E-Mail: ogburn@townofnagshead.net

Sec. 44-223. Public Comment.

A notice will be placed on the water bills announcing the availability of the Water Shortage Response Plan at the Town of Nags Head Public Works Department Office for review and comment.

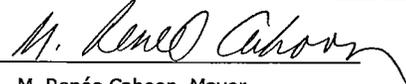
Sec.44-224. Effectiveness.

The effectiveness of the Town of Nags Head water shortage plan will be determined by comparing the stated water conservation goals with the observed water use reduction data. Other factors to be considered include frequency of plan activation, any problem periods without activation, total number of violation citations, desired reductions achieved and evaluation of demand reductions compared to previous seasonal data.

Sec.44-225. Plan Revision.

The Town of Nags Head public Works Director will review the Water Shortage Response Plan after each activation and every five (5) years at a minimum.
A work group will review procedures after each emergency reduction stage to recommend necessary improvements to the Town of Nags Head Board of Commissioners.

PART II. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. This ordinance shall be in full force and effect from and after the 3rd day of June 2009.

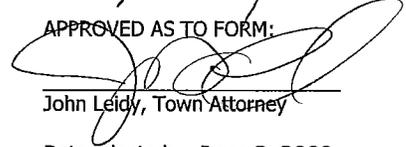


M. Renée Cahoon, Mayor
Town of Nags Head

ATTEST:


Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:


John Leidy, Town Attorney

Date adopted: June 3, 2009

Motion to adopt by Commissioner _____
Motion seconded by Commissioner _____
Vote: _____ AYES _____ NAYS

