

AN ORDINANCE OF THE COMMISSIONERS OF HARNETT COUNTY AMENDING THE WATER SHORTAGE & CONSERVATION ORDINANCE OF HARNETT COUNTY, NORTH CAROLINA

BE IT ORDAINED by the Commissioners of Harnett County: The “WATER SHORTAGE & CONSERVATION ORDINANCE” is deleted in its entirety and the following is substituted in lieu thereof:

Section I. Introduction.

1. The purpose of this water shortage response ordinance is to provide for the declaration of increasingly serious stages of water shortages and to define voluntary and mandatory water conservation measures to be implemented during these various stages. These written procedures will minimize the need to make last minute decisions and will allow Harnett Regional Water (HRW) to respond quickly to changing conditions, which will preserve the water resources of Harnett County to provide for the water demands of human consumption, sanitation, and fire protection throughout the service area of the County.
2. This ordinance shall apply to all users connected directly or indirectly to the Harnett Regional Water public potable water supply, regardless of whether the user is located within the jurisdictional boundary of Harnett County.

Section II. Objectives of ordinance.

The specific objectives of this ordinance are as follows:

1. To establish the authority of the Director of Harnett Regional Water to declare water shortage conditions and implement and enforce the procedures established in this ordinance;
2. To establish a chain of command for implementation of the procedures established herein;
3. To establish voluntary and mandatory water conservation measures;
4. To establish enforcement protocol for violations of mandatory water conservation measures outlined in this article.

Section III. Definitions.

1. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
 - (a) **Contamination** means the addition to any watershed area, reservoir, storage tank, or distribution system of any material that appears in an above-normal concentration or has high nuisance or harmful effect on the consumer or the system.
 - (b) **Emergency** means, when referring to water shortage, that conditions exist such that treated water supplies cannot meet customer demands and that serious treated water shortages exist.
 - (c) **Essential Use** means:
 - (1) Use of water to sustain human life and to maintain minimum standards of hygiene and sanitation;
 - (2) Use of water for patient care and rehabilitation;
 - (3) Firefighting, including certain testing and drills by the fire department if conducted in the interest of public safety and if approved by Harnett Regional Water;
 - (4) Health and public protection purposes, if specifically approved by health officials and Harnett Regional Water, including flushing of water lines and hydrants.
 - (d) **Non-Essential Use** shall include but not be limited to:
 - (1) Use of water for fountains, reflecting pools, or artificial waterfalls;
 - (2) Watering of gardens, lawns, parks, golf courses (except greens), playing fields, and other recreational areas;
 - (3) Filling and operation of recreational swimming pools;
 - (4) Non-commercial washing of motor vehicles;
 - (5) Serving water in restaurants, clubs or eating establishments except by specific request;
 - (6) Refilling of cooling towers except as specified in Section 28-263.1.c of this Article.
 - (e) **Mandatory Conservation** means that conservation measures are not voluntary, and that if users fail to comply, they are subject to the penalties outlined in this ordinance.
 - (f) **Harnett Regional Water** means Harnett Regional Water (HRW) acting through its Director, Assistant Director, agent, or designated representative.

- (g) ***Treated Water*** means water that has been withdrawn from an approved source and has been processed by the Harnett Regional Water.
- (h) ***User*** means any person or entity using water for any purpose from the Harnett Regional Water's water distribution system, either directly or indirectly, and for which either a regular charge is made or, in the case of bulk sales, a cash charge is made at the site of delivery. Any municipal or private contract water recipient is also deemed a "user".
- (i) ***Water Shortage*** means that conditions exist when the demands and requirements of water customers served by the Harnett Regional Water cannot be satisfied without depleting the available supply of treated water or the available water supply to or below a critical level, i.e., the level at which the continued availability of water for human consumption, sanitation, and fire protection is jeopardized. Conditions contributing to a water shortage may include but are not limited to the following:
 - (1) Water supplies are below the level necessary to meet needs;
 - (2) Water quality has been threatened due to a contamination situation;
 - (3) Power outages or equipment malfunction;
 - (4) Peak customer demands on the water system;
 - (5) Inability to maintain adequate pressure and/or water supply throughout every portion of the Harnett Regional Water's water distribution system;
 - (6) Natural disasters.
- (e) ***Water Supply*** means any body of water from which Harnett Regional Water obtains water for treatment and subsequent distribution into the potable water supply system.

Section IV. Procedure for Implementation of Water Shortage Plans

The Director of Harnett Regional Water shall be responsible for continually monitoring the water supply, water demands, and area conditions. Based upon any one or more of the triggers established by Section IX, the Director will notify the County Manager that water conservation measures are warranted. The Director shall be empowered to declare and implement conservation stages I and II. In instances in which declaration and implementation of stages III and IV are required, the Director shall notify the County Manager, who shall issue a proclamation declaring the implementation of a water conservation stage III or IV. The Director, or his designee, shall also notify all municipal and private contract water recipients, all local government agencies, and the media, to include local television and newspapers. Notifications will also be sent to HRW customers and will include but not be limited to the description of the conservation stage and the conservation measures enacted. The following notification methods will be used to inform HRW customers and employees of a water shortage declaration: employee email announcements, posted notices at strategic Harnett County buildings, notices in utility bills and on the Harnett County website. Required water shortage response measures will be communicated through public service announcements on local radio and television stations.

Declaration of emergency water restrictions or water rationing will be communicated to all customers by telephone using the County's call notification system.

Once a conservation stage is declared or changed, the conservation stage shall remain in effect until lifted by the Director or in the case of stage III or IV, the Harnett County Manager. The Director shall continually monitor the conditions responsible for activation of the conservation stage, and if the trigger for a more stringent stage is met, then the Director shall be empowered to declare the more stringent stage consistent with the above paragraph. If, after thirty days, the current stage triggers have abated then the stage shall either be reduced to the appropriate stage or all conservation measures rescinded depending on conditions. This chain of command process shall be repeated whenever a change in the status of the conservation stage or conservation measures is necessary.

During the effective period of any water shortage, Harnett Regional Water is empowered to promulgate such regulations or policies as may be necessary to carry out the provisions of this Ordinance. The Director, or his duly authorized agent charged with implementation and enforcement of this Ordinance shall be and is hereby granted the authority to implement and enforce any of the treated water use restrictions.

The Director shall have authority to implement, maintain, modify, and rescind any one or more of the conservation measures in a conservation stage and to make them applicable during various times of the month, week, or day as he deems appropriate to protect the public health, safety, and welfare until the Harnett Regional Water determines that the conditions requiring their imposition no longer exist.

Section V. Water Conservation Stage I – Voluntary Water Shortage Alert

1. When a Voluntary Water Shortage Alert is declared, the following voluntary conservation measures by users shall be in effect:
 - (a) For addresses that end in the number 1, 3, 7, or 9 watering of lawns, grass, shrubbery, trees, flowers, and vegetable gardens shall only be done on Sunday, Tuesday, and Thursday. For addresses that end in the number 0, 2, 4, 6, or 8 watering shall only be done on Monday, Wednesday and Saturday. Additionally, customers should reduce outdoor water usage by decreasing the frequency and duration of landscape irrigation.
 - (b) Washing of automobiles, trucks, trailers, boats, airplanes, or any other type of mobile equipment should be limited.
 - (c) Outside areas such as streets, driveways, service station aprons, parking lots, office buildings, exteriors of existing or newly constructed homes or apartments, sidewalks, or patios should not be washed.

- (d) Introduction of water into any pond, ornamental fountain, pool, or other structure should be postponed until the water conservation measures are lifted.
- (e) Water from public or private fire hydrants used for purposes other than fire suppression, other public emergency, or water department needs should be minimized or alternative sources utilized.
- (f) Use of potable water for dust control or compaction should be limited.

Section VI. Water Conservation Stage II--Water Shortage Warning.

1. When a Water Shortage Warning is declared, the following mandatory conservation measures shall be in effect:
 - (a) For addresses that end in 1,3,5,7, or 9 watering of lawns, grass, shrubbery, trees, flowers and vegetable gardens shall only be done on Sunday and Thursday. For addresses that end in the number 0,2,4,6, or 8 watering shall only be done on Wednesday and Saturday. Provided however, that a person regularly engaged in the sale of plants shall be permitted to use water for such purposes at any time or any day.
 - (b) It shall be unlawful to wash automobiles, trucks, trailers, boats, airplanes, or any other type of mobile equipment except at commercial car wash facilities; Any person regularly engaged in a commercial operation that requires equipment be washed shall be permitted to use water for such purposes as long as the amount of water being used is minimized.
 - (c) It shall be unlawful to wash down outside areas such as streets, driveways, service station aprons, parking lots, office buildings, exteriors of existing or newly constructed homes or apartments, sidewalks, or patios, or to use water for other similar purposes; provided, however, that any person regularly engaged in the business of washing such areas shall be permitted to use water for such purposes.
 - (d) It shall be unlawful to introduce water into any pond, ornamental fountain, or other structure making similar use of water.
 - (e) It shall be unlawful to use water from public or private fire hydrants for any purpose other than fire suppression or other public emergency or water department need. The Director or his designee may grant exceptions on a case-by-case basis.
 - (f) It shall be unlawful to use water for dust control or compaction without demonstrating a lack of alternative sources and obtaining written permission from the Director or his designee

- (g) It shall be unlawful to fill newly constructed swimming or wading pools or refill swimming or wading pools that have been drained. The water level in any swimming pool filled prior to the effective date of this declaration may be supplemented only to the extent necessary to provide for safe operation of the pool's chemical feed equipment.
- (h) It shall be unlawful to intentionally waste treated water.
- (i) All industrial, manufacturing, and commercial enterprises shall reduce consumption to any degree feasible with a goal of reduction of at least 20%. It is the primary responsibility of each non-residential customer to meet its mandated water use reduction in whatever manner possible, including limitation of operating hours, or days, if necessary.
- (j) The owner or occupant of any land or building which receives water from Harnett Regional Water and that also utilizes water from a well or supply other than that of Harnett Regional Water shall post and maintain in a prominent place thereon a sign furnished by Harnett Regional Water giving public notice of the use of the well or other sources of supply.

Section VII. Water Conservation Stage III--Water Shortage Emergency.

1. In the event of a Water Shortage Emergency, in addition to the restrictions heretofore imposed, the following mandatory water conservation measures shall apply:
 - (a) It shall be unlawful to water or sprinkle any lawn, grass, shrubbery, trees, or flowers with treated water using an automated irrigation or sprinkler system. Watering is permitted only by hand held hose with a spring-loaded nozzle, by container, or by installed drip type irrigation. Provided, however, that any person regularly engaged in the sale of plants shall be permitted to use automated irrigation or sprinkler systems but only in amounts necessary to prevent the loss of nursery stock.
 - (b) It shall be unlawful to re-fill or supplement swimming and/or wading pools.
 - (c) Restaurants and other food serving establishments shall use single serving utensils, plates, and cups and shall serve water only at the patron's request.
 - (d) Except as provided in subparagraph (a) above, it shall be unlawful to use treated water outdoors for any reason other than fire suppression, emergencies relating to health and safety issues, or as needed by Harnett Regional Water to maintain the water system.
 - (e) All industrial, manufacturing, and commercial enterprises shall reduce consumption to any degree feasible with a goal of reduction of at least 40%. It is the primary responsibility of each non-residential customer to meet its mandated

water use reduction in whatever manner possible, including limitation of operating hours, or days if necessary.

Section VIII. Water Conservation Stage IV--Water Shortage Crisis.

1. In the event of a Water Shortage Crisis, in addition to the restrictions made unlawful heretofore, the following mandatory conservation measures shall be in effect:
 - (a) Residential users shall reduce water consumption to a level necessary to sustain human life and the lives of domestic pets and to maintain minimum standards of hygiene and sanitation.
 - (b) Fire protection must be maintained, but where possible, tank trucks shall use untreated water.
 - (c) It shall be unlawful to wash automobiles, trucks, trailer, boats, airplanes, or any other type of mobile equipment.
 - (d) It shall be unlawful to make any non-essential use of treated water for commercial or public use.
 - (e) All industrial, manufacturing, and commercial enterprises (to include nursery operations) shall reduce consumption to and degree feasible with a goal of a reduction of at least 50%. It is the primary responsibility of each non-residential customer to meet its mandated water use reduction in whatever manner possible, including limitation of operating hours, or days if necessary.
 - (f) The Director may declare additional measures of mandatory conservation controls such as larger percentage reductions in consumption, termination of service to specific areas in the water system on a rotating basis, prohibition of all industrial uses of treated water, etc., or whatever is necessary to protect the health and safety of the customers of the water system.

Section IX. Water Conservation Stage Triggers

There are a variety of conditions that might contribute to a water shortage, including but not limited to: peak customer demands on the water system; water supplies below the level necessary to meet needs; water quality threatened or impaired due to contamination; power outages or equipment malfunction; and natural disasters. The following water conservation stage triggers have been established to allow HRW to respond to a water shortage with the appropriate stage of conservation.

1. Triggers Based on Water Supply

Water Conservation Stage	HRW Trigger
Voluntary Water Shortage Alert	Unusually dry conditions result in severely low stream flows that are consistently below seasonal norms and dry conditions are forecast.
Water Shortage Warning	Target flow of the Cape Fear River at Lillington is reduced to 250 CFS or less.
Water Shortage Emergency	Daily demands exceed 50% of available flow.
Water Shortage Crisis	Daily demands exceed 75% of available flow.

2. Triggers Based on Daily Water Demands

Water Conservation Stage	HRW Trigger
Voluntary Water Shortage Alert	3 consecutive days of demand exceeding 85% of available capacity
Water Shortage Warning	3 consecutive days of demand exceeding 90% of available capacity
Water Shortage Emergency	5 consecutive days of demand exceeding 90% of available capacity
Water Shortage Crisis	1 consecutive day of demand exceeding 100% of available capacity

Section X. Enforcement.

1. Any user who violates the provisions of this ordinance, who fails to carry out the duties and responsibilities imposed by this ordinance, or who impedes or interferes with any action undertaken or ordered pursuant to this ordinance shall be subject to enforcement actions.
2. The Director of Harnett Regional Water shall be responsible for monitoring and enforcement of this Ordinance. Enforcement actions may include, but are not limited to, the following:
 - (a) Written Warning

Whenever the Director or his duly authorized representative finds that any user has violated or is violating this Ordinance or any prohibition, limitation, or requirement contained herein, or policy issued pursuant thereto, a written warning

shall be issued to such offender by an authorized representative of the HRW. The written warning shall notify the violator of the nature of the violation and the need to take corrective action and that failure to do so will result in the issuance of a Notice of Violation and a minimum fine/civil penalty of \$100.00.

(b) Notice Of Violation

If, after a Written Warning, the violation continues, the Director or his duly authorized agent shall serve upon such offender a written Notice of Violation stating the nature of the violation. The written Notice of Violation shall be affixed to the property where the violation occurred and/or mailed certified with return receipt requested to the customer of record and to any other person known to HRW to be responsible for the violation or its correction. When a customer of record refuses to accept a Notice of Violation by certified mail, hand delivery of the written Notice of Violation to the customer of record or to the person in charge of the premises where the violation occurred shall also constitute service. The notice of violation shall inform the user of the violation, their responsibility to discontinue the activity within a specified period of time, the civil penalty associated with the violation and possible termination of service if the violation continues.

(c) Civil penalties.

The Director of Harnett Regional Water may assess a civil penalty to any offender who shall continue any violation beyond the time limit provided for in the aforementioned Written Warning. Each day in which a violation of any provision of this ordinance shall occur or continue shall constitute a separate and distinct offense. The amount of the civil penalty shall be a minimum of \$100.00 to a maximum of \$500.00 depending on the severity of the violation. Appeals of civil penalties assessed in accordance with this section shall be as provided in section XI.

(d) Suspension of Service

If after issuance of a Civil Penalty, the penalty is not paid within 30 days, the Director or his duly authorized agent may immediately terminate or restrict the service to the premise where such violation has occurred and may in addition thereto, or in the alternative, take such other appropriate legal action as provided by law.

At such time the Director is satisfied that the offender(s) are no longer in violation of any treated water use restrictions, Harnett Regional Water may reinstate water service to the premise following the payment of all civil penalties assessed as well as any applicable suspension/reconnection fees as outlined in HRW's Ordinance Regulating the Use of Water and Sewer Facilities Operated by the County of Harnett Fixing Rents, Rates, Fees and Other Charges and Providing For Collection of the Same.

Section XI. Adjudicatory hearing/appeals and variance protocols.

1. Any user whose water use has been restricted or terminated or who has been assessed a civil penalty under Section X shall have the right to an adjudicatory hearing before a hearing officer designated by the Director of Harnett Regional Water. Users requesting an adjudicatory hearing must do so by submitting a written request, which identifies the specific issues to be contended, to the Director of Harnett Regional Water within 72 hours following notice of the issuance of a civil penalty. Unless such demand is made within the time specified in this section, the decision to restrict or terminate the water use, or the civil penalty assessment, shall be final and binding.
2. The hearing officer shall notify the user of the date, time, and place for the hearing. The hearing shall take place within 10 business days of the written request for a hearing. A decision shall be made within 10 calendar days from the date of the hearing and a copy of the written decision shall be mailed to the user by certified mail, return receipt requested.
3. When a final decision is issued pursuant to the above subsection, Harnett Regional Water shall prepare an official record of the case that includes:
 - (a) All notices, motions, and other like pleadings;
 - (b) A copy of all documentary evidence introduced;
 - (c) A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken;
 - (d) A copy of the final decision of Harnett Regional Water.
4. Any user against whom a final decision of Harnett Regional Water is entered pursuant to the hearing procedure under this Section may appeal the order or decision by filing a written petition for judicial review within 30 days after receipt of notice by certified mail of the order or decision to the general court of justice of the county or of the county where the order or decision is effective, along with a copy to Harnett Regional Water. Within 30 days after receipt of the copy of the petition of judicial review, Harnett Regional Water shall transmit to the reviewing court the original or a certified copy of the official record, as outlined in Section XI of this Ordinance.
5. Applications for water use variance requests are available at the Harnett Regional Water Business Center and on the Harnett County Website. All applications must be submitted to HRW for review by the Director or his or her designee. A decision to approve or deny individual variance requests will be determined within one week of submittal after careful consideration of the following criteria: impact on water demand, expected duration,

alternative source options, social and economic importance, purpose (i.e. necessary use of drinking water) and the prevention of structural damage.

Section XII. Effectiveness

The effectiveness of the Harnett County Water Shortage & Conservation Ordinance will be determined by comparing the state water conservation goals with 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 attained and evaluation of demand reductions compared to the previous year's seasonal data.

Section XIII. Ordinance Revision and Public Comment

The Harnett County Water Shortage & Conservation Ordinance will be reviewed and revised as needed to adapt to new circumstances affecting water supply and demand, following implementation of emergency restrictions, at a minimum of every five years in conjunction with the updating of the Local Water Supply Plan. Further, a water shortage response planning work group will review procedures following each emergency or rationing stage to recommend any necessary improvements to the ordinance to Harnett County's Board of Commissioners. The HRW Director is responsible for initiating all subsequent revisions.

HRW customers will have multiple opportunities to comment on the provisions of the ordinance. First, a draft plan will be available at the Harnett Regional Water Business Center and on the Harnett County website for customers to view. A notice advising of any subsequent proposed revisions will be published at least 30 days prior to an adoption vote by the Harnett County Board of Commissioners.

Section XIV. Severability

If any section, subsection, sentence, or clause of this article is adjudged to be unconstitutional or otherwise invalid, such adjudication shall not affect the validity of the remaining portion of this article. It is hereby declared that this article would have been passed, and each section, sentence, or clause thereof, irrespective of the fact that any one or more sections, subsections, sentences, or clauses might be adjudged to be unconstitutional, or for any other reason invalid.

ADOPTED this ____ day of _____, 2023.

Harnett County Board of Commissioners

By: _____
Matthew Nicol, Chairman

ATTEST:

Melissa Capps
Clerk to the Board