

**Water Shortage Response Ordinance  
Duplin County**

Ordinance No. 5975

An ordinance authorizing the declaration of water shortage; establishing procedures and measures for the essential conservation of water resources; and prescribing certain penalties.

Be it Enacted by the Commissioners of the County of Duplin.

**1. Section 1. Purpose**

The purpose of this ordinance is to provide for the declaration of official phases of water supply shortage situations and the implementation of voluntary, mandatory, emergency and rationing water conservation measures throughout the County of Duplin in the event a shortage is declared. A shortage may be declared when the water supply is low and declining and is inadequate to meet demand. A water shortage shall also be declared to exist when production, transmission and storage facilities are incapable of meeting all daily water demands unless water demand is substantially reduced.

**2. Section 2. Definitions**

- a. "County" is the County of Duplin.
- b. "Customer" means any person using water for any purpose from the County of Duplin's water distribution system.
- c. "Emergency" means that water supplies are below the level necessary to meet normal needs and that serious shortages exist.
- d. "Non-Residential Customer" means commercial, industrial, institutional, public and all other such users, with the exception of hospitals and health care facilities.
- e. "ORC" is the Operator in Responsible Charge. This is the head operator of the County of Duplin's Water System.
- f. "Rationing" shall mean procedures established to provide for the equitable distribution of critically-limited water supplies, in order to balance demand and limited available supplies and to assure that sufficient water is available to preserve public health and safety.
- g. "Residential Customer" means any customers who receive water service for a single or multi-family dwelling unit. The term residential customer does not include educational or other institutions, hotels, motels or similar commercial establishments.
- h. "Water" means water available to the County of Duplin for treatment by virtue of its water rights or withdrawal permit or any water introduced by the County of Duplin into its water distribution system.

i. "Water Use Classifications" shall be established as follows:

**i. Class 1: Essential Water Uses**

1) Domestic Use

Domestic uses shall include: water necessary to sustain human life and the lives of domestic pets and to maintain minimum standards of hygiene and sanitation.

2) Health Care Facilities

Health care facilities shall include: patient care and rehabilitation, including swimming pools used for patient care and rehabilitation.

3) Public Use

Public uses shall include: firefighting, including testing and drills by the fire department if performed in the interest of public safety and if approved by the Board of Commissioners; flushing of sewers and hydrants as needed to ensure public health and safety and if approved by the Board of Commissioners.

**ii. Class 2: Socially or Economically Important Uses of Water**

1) Domestic Use

Domestic uses shall include: all domestic uses other than those included in Classes 1 and 3; home water use including kitchen, bathroom and laundry use; minimal watering of vegetable gardens and watering of trees where necessary to preserve them.

2) Commercial, Agricultural, Industrial and Institutional Uses

Commercial, Agricultural, Industrial and Institutional uses shall include: outdoor commercial watering (public or private) using conservation measures; irrigation for commercial vegetable gardens and fruit orchards or the maintenance of livestock; watering by commercial nurseries at a minimum level necessary to maintain stock; water use by arboretums and public gardens of national, state or regional significance where necessary to preserve specimens; use of fresh water at a minimum rate necessary to establish vegetation following earth-moving, where such vegetation is required by law or regulation; watering of golf course greens; filling and operation of swimming pools that serve more than 25 dwelling units or are used by health care facilities for patient care and rehabilitation, or municipal pools; commercial car and truck washes; commercial laundromats; commercial pressure washers; restaurants and clubs; air

conditioning (refilling for start up at the beginning of the cooling season, make up of water during the cooling season and refilling specifically approved by health officials and the municipal governing body, where the system has been drained for health protection or repair purposes); schools; churches; motels/hotels and similar commercial establishments.

**iii. Class 3: Non-Essential Uses of Water**

1) Ornamental Purposes

Ornamental purposes shall include: fountains, reflecting pools and artificial waterfalls.

2) Outdoor Non-Commercial Watering

Outdoor non-commercial watering shall include (public or private): gardens; lawns; parks; golf courses (except greens); playing fields and other recreational areas; filling and operation of recreational swimming pools which serve fewer than 25 dwellings; non-commercial washing of motor vehicles; serving water in restaurants, clubs or eating places except by specific request; air conditioning (refilling cooling towers after draining except as specified in Class 1).

3) Public Use

Public uses shall include: fire hydrants (any purpose, including use of sprinkler caps and testing fire apparatus and for fire department drills, except as listed in Class 1); flushing of sewers and hydrants except as listed in Class 1.

**3. Section 3. Conditions Deemed Emergency**

- a. A state of emergency shall be deemed to exist whenever, in the opinion of the ORC, the availability and supply of water is critical so that a mechanical malfunction or failure of the water supply or a rapid draw down of the water storage would so deplete the availability of water as to threaten or cause to threaten the availability of water for human consumption, for firefighting purposes and other protection of lives and property, and the conservation of water is necessary in order to protect lives, safety and property within the County's service area. This includes, but is not limited to conditions as follows: drought, falling water levels within wells or elevated storage tanks, seasonal or otherwise high water consumption, limited capabilities of the water production and distribution system, poor outlook for precipitation and failure or incapacitation of one or more wells, one or more elevated water storage tanks or one or more water lines.
- b. The County's wells are monitored daily and withdrawals are recorded. Results of daily monitoring are submitted routinely to the North Carolina Department of Environment and

Natural Resources. The ORC will use this data to determine if a state of emergency should be declared.

**4. Section 4. Issuance of Water Shortage Proclamation / Restrictions / Limitations Imposed**

- a. In the event of an existing or threatening state of emergency endangering the safety, health or welfare of the people of the Duplin County service area, or threatening damage or destruction of property, arising from the shortage or threatened shortage of water, the County Manager, with the recommendation of the ORC, will advise the Commissioners of the existence of a state of emergency. The County Manager is hereby authorized and empowered to issue a public proclamation declaring the existence of such state of emergency.
- b. Such proclamation may specify the authorized uses of water and may place limitations, prohibitions and restrictions upon the usage of water for residential, business and commercial uses. Such proclamation may limit the use of water for non-crucial uses including but not limited to, the watering of lawns, washing of automobiles and similar activities and may be expanded thereafter to include other activities.
- c. The proclamation will use predetermined phases of water restrictions found in Section 7.

**5. Section 5. Notice of Water Shortage to General Public**

- a. In the event of a water shortage of any of the degrees of severity hereinafter set forth threatening the health and safety of the citizens, the County Manager is authorized and empowered, after communication with the Commissioners, 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 people supplied water by the County, the County Manager may place in effect the restrictive provisions hereinafter authorized. Notice shall be given by public press announcement and by signing an executive order. The order shall become effective twenty-four (24) hours following the press announcement and the signing of the order.
- b. Once a phase of water restriction is declared, the ORC shall review the status of the County's water system at least every day. A declared stage shall remain in effect for a minimum of two (2) days; provided that if conditions listed in Section 3 warrant, a more restrictive level may be enacted immediately. At the end of two (2) days and following the periodic review, the ORC shall notify the County Manager when there is no longer a shortage or threat of shortage to the County's water supply.
- c. In addition to the other powers contained in this Ordinance, the County Manager, when notified by the ORC that there is a serious and immediate threat to the County's water system because of reduced water quantity or quality, or other imminent condition, may temporarily impose restrictions on automated and manual sprinkling. Such restrictions may include, among others, limitations on methods of sprinkling, the hours and days and whether such sprinkling may occur at all. In such event the Notice provisions contained in Section 5a shall apply and the enforcement provisions of Section 9 shall be applicable.

The County Manager may terminate, by written notice, such restrictions when the threat has abated.

**6. Section 6. Compliance Required in the Event of a Water Shortage**

- a. In the event the County Manager issues the notice described in Section 5, it shall be unlawful for any person to use or permit the use of water from the water system of the County for any of the purposes hereinafter set forth until such time as this Article is amended or repealed, or until the County Manager has declared such provisions no longer in effect. In exercising this authority, considerations shall be given to the following criteria: the water level of the aquifers, water levels in the elevated storage tanks, capabilities of the water production and distribution system, draw down rates, outlook for precipitation, daily water use patterns, seasonal and long-term weather patterns and availability of water from other sources, including County wells and the emergency interconnection with other water systems.
- b. Hospitals, nursing homes and health care facilities shall comply with all restrictions imposed on residential and non-residential water customers as may be applicable to each individual institution to the extent compliance will not endanger the health of the patients for residents of the institution.
- c. Each hospital, nursing home or health care facility shall survey its water usage patterns and requirements and implement such additional conservation measures as may be possible without endangering the health of its patients or residents to achieve a further reduction in the institution's water usage.
- d. The following shall apply at all times to the outdoor sprinkling of lawns, shrubbery, trees, flowers, gardens and other outside irrigation systems.
  - i. It shall be unlawful to operate any sprinkler system during times of rain or to operate a sprinkler, at any time, so as to disperse water on an impervious surface.
  - ii. Any violation of Section 6 (d) (i) by a residential user shall be treated as a Mandatory Phase violation for the purpose of imposing civil penalties.

**7. Section 7. Restrictions Applicable to Various Phases of Water Shortage**

- a. The severity of the water shortages shall be determined primarily by the County Manager from the recommendation by the ORC.
- b. The restrictive measures in effect at each stage are as follows:
  - i. **Voluntary Conservation Phase**

Declaration of voluntary conservation measures will be enacted when the ORC of the County finds that a potential shortage of water supply is indicated using the

criteria set out in Section 3. After complying with those Notice provisions contained in Section 5a., the following voluntary water restrictions shall be requested.

- 1) 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 toilets.
  - (b) Use shower for bathing rather than bathtub and limit shower to no more than five (5) 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, one inch of water per week including rainfall.
  - (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, faucet aerators and other water saving devices.
  - (j) Use disposable and biodegradable dishes where possible.
  - (k) Limit hours of water-cooled air conditioners.
  - (l) Do not fill swimming or wading pools.
- 2) Water supply line pressure should be reduced where feasible to reduce water consumption if it will not affect the operation of fixtures, equipment, public safety or health devices.
- 3) Conservation in public buildings, institutions and similar facilities is encouraged by the installation of restricting devices.

- 4) Water conservation should be followed during all phases of construction related activities. Where appropriate, water needed should be obtained from supplemental sources.

All users shall reduce consumption to any degree feasible with a goal of a reduction of at least fifteen percent (15%) of the average usage as compared with their usage during the corresponding billing period for the most recent twelve (12) month period ending June 30, in which no stage of this ordinance was in effect: provided, this goal shall not apply to those customers who wash parts of vehicles where such washing is required by Federal, state or local laws or for health or safety reasons.

**ii. Mandatory Conservation Phase**

Declaration of mandatory conservation measures will be enacted when the previous voluntary restrictions are not sufficient to eliminate the water shortage and the ORC of the County finds that there is a potential for a water emergency situation to occur (**Potential exists if the amount of elevated storage is 150 gallons per user per day or less**). The County shall continue to encourage voluntary water conservation measures defined under the voluntary conservation declaration, and further shall impose the following restrictions. It shall be unlawful to:

- 1) Water or sprinkle any lawn, vegetable garden, grass, shrubbery, trees or flowers except by a hand held hose, container or drip irrigation system. Provided that a person regularly engaged in the sale of plants shall be permitted to use water for irrigation of their commercial stock in trade.
- 2) Operate water-cooled air conditioners or other equipment that does not recycle cooling water, except when health and safety are adversely affected.
- 3) Wash automobiles, trucks, trailers, boats, airplanes or any other type of mobile or processing equipment; except that parts of vehicles or processing equipment may be washed where required by federal, state or local laws or for health and safety reasons. Provided that any commercial or business operated car wash facility or any facility that requires water in their processing shall be permitted to use water for such necessary purposes.
- 4) 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 similar purposes; provided, hand washing of exterior surfaces of a building for the purpose of preparing them for painting shall be permitted. Provided further, licensed commercial pressure washers shall be permitted to operate.

- 5) Operate or introduce water into any ornamental fountain, pool or pond or other structure making similar use of water.
- 6) Serve drinking water in restaurants, cafeterias or other food establishments, except as requested.
- 7) Use water from any public or private fire hydrants for any purpose other than fire suppression or other public emergency or Water Resources Department needs.
- 8) Use water for dust control or compaction.
- 9) Use water for any unnecessary purpose or intentionally waste water.

All users shall reduce consumption to any degree feasible with a goal of a reduction of at least ten percent (10%) of the average usage as compared with their usage during the corresponding billing period for the most recent twelve (12) month period ending June 30, in which no stage of this ordinance was in effect: provided, this goal shall not apply to those customers who wash parts of vehicles where such washing is required by Federal, state or local laws or for health or safety reasons.

**iii. Emergency Phase**

Declaration of water shortage emergency measures will be enacted when the previous voluntary and mandatory restrictions are not sufficient to eliminate the water shortage and the ORC of the County finds that a water emergency situation exists (**A water shortage emergency situation exists if the amount of elevated storage is 125 gallons per user per day or less**). After complying with those Notice provisions contained in Section 5a, the following mandatory water restrictions, in addition to those imposed in the Mandatory Conservation Phase shall be imposed. It shall be unlawful to:

- 1) Water or sprinkle any lawn, grass, shrubbery, trees or flowers except from a watering can or other container not exceeding three (3) gallons in capacity with used wash water from inside a structure, except that shrubbery, trees or flowers planted within the last 120 days may be watered by hand-held hose. It is the owner's responsibility to provide a receipt for proof of planting date. 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 and County licensed landscape contractors may continue to water plantings, under written warranty, by hand-held hose, container or drip irrigation.
- 2) Water any vegetable garden except by hand-held hose, container or drip irrigation system.



- 3) Fill or refill any single-family swimming or wading pool.
- 4) Make any nonessential use of water for commercial or public use.

All users shall reduce consumption to any degree feasible with a goal of a reduction of at least fifteen percent (15%) of their average usage as compared with their usage during the corresponding billing period for the most recent twelve (12) month period ending June 30, in which no stage of this ordinance was in effect; provided, this goal shall not apply to those customers who wash parts of vehicles where such washing is required by Federal, state or local laws or for health or safety reasons.

**iv. Rationing Phase**

When the governing body of the County has declared a Water Shortage Emergency and finds a need to provide for the equitable distribution of critically-limited water supplies, in order to balance demand and limited available supplies, and to assure that sufficient water is available to preserve public health and safety, it shall be empowered to provide for mandatory rationing. After complying with those provisions contained in Section 5a, the following rationing restrictions, in addition to those imposed in the mandatory and emergency conservation phase shall be imposed. **(A water shortage rationing situation exists if the amount of elevated storage is 100 gallons per user per day or less).** It shall be unlawful to:

- 1) Use water outside a structure for any use other than emergencies involving fire or as needed by the ORC to maintain the system, except that flowers, plants and shrubs may be watered from a watering can or other container not exceeding three (3) gallons in capacity with used wash water from inside a structure.
- 2) Operate an evaporative air conditioning unit that recycles water except during the operating hours of the business.
- 3) Wash any vehicle for any purpose, whether inside or outside a structure, except those parts of vehicles may be washed where required by Federal, state or local laws or for health or safety.
- 4) Exceed the following water usage mandate. All non-residential customers shall reduce their water usage by twenty percent (20%) of their average usage during the corresponding billing period for the most recent 12-month period, ending June 30, in which no phase of this Ordinance was in effect; except that water may not be used to fill or top off any swimming or wading pool. If new meter readings are recorded or otherwise available for a customer's billing period an average of similar users will be established for the customer by the ORC.

- (a) 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.
  - (b) Each customer shall provide access to County personnel for the purpose of reading and monitoring of compliance with this Ordinance.
  - (c) 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 may apply to the County Manager, or his designee for a variance to the mandate. Any appeal of this administrative decision shall be to the Superior Court as provided by law.
  - (d) Any water customer who exceeds the allotments established pursuant to this water rationing will be subject to the following excess-use water rates.
    - (i) "Excess-use water rates" will be collected based on the amount by which a customer's monthly use exceeds the water allotments established pursuant to the local water rationing declaration computed on the basis that all water used in excess of the allotment shall be at ten (10) times the normal rate.
    - (ii) Any monies collected through excess-use water rates shall be placed in a reserve account that is dedicated to addressing water shortage problems and water conservation initiatives.
    - (iii) Failure of the customer to remit the periodic amount billed within the allotted time may result in termination of water service to the customer pursuant to the water and sewer regulations.
- 5) Make any new service connections to the County's water system except for public and other schools satisfying the compulsory education requirements of the laws of the State of North Carolina, public facilities for sheriff, police, fire protection, hospitals and emergency medical services and facilities of public service companies regulated as public utilities under the laws of the State of North Carolina.

All users shall reduce consumption to any degree feasible with a goal of a reduction of at least twenty percent (20%) of the average usage as compared with their usage during the corresponding billing period for the most recent twelve (12)

month period ending June 30, in which no stage of this ordinance was in effect: provided, this goal shall not apply to those customers who wash parts of vehicles where such washing is required by Federal, state or local laws or for health or safety reasons.

**8. Section 8. Compliance**

Compliance with the provisions of this Section shall be enforced by personnel of the County, the Duplin County Sheriff's Department and other such personnel as designated by the County Manager. Failure to comply with any of the regulations of this Section shall be unlawful and a violation of the Ordinance and remedies authorized by law for noncompliance with the Ordinance, including the issuance of a civil penalty citation or action for injunctive relief, may be exercised to enforce its provisions. It shall be unlawful to fail to act in accordance therewith or to use water in any manner so as to attempt to evade or avoid such water restrictions.

**9. Section 9. Enforcement and Civil Penalty**

a. Residential Users

Any residential user who shall violate any provision of this Ordinance shall be subject to civil penalties. Civil penalties for a violation of Mandatory restrictions shall be as follows: a warning for the first offense; a civil penalty in the amount of \$100.00 for the second offense; a civil penalty in the amount of \$250.00 for the third and successive offenses. In the Water Shortage Emergency or Rationing phase, there shall be no warnings given for violations by residential users of the mandatory restrictions of this phase and the penalties shall be \$100.00 for the first offence, \$250.00 for the second and successive offenses.

b. Non-Residential Users

Any non-residential user who shall violate any provision of this Ordinance shall be subject to a civil penalty. Civil penalties for a violation of any Mandatory, Emergency or Rationing phase of this Ordinance shall be as follows: a civil penalty of \$250.00 for the first violation; a civil penalty of \$500.00 for the second violation; and a civil penalty of \$1,000.00 for the third and successive offenses.

**10. Section 10. Severability**

If any provision of this ordinance is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and its applicability to other person and circumstances shall not be affected thereby.

**11. Section 11. Effective Date**

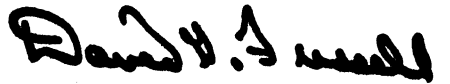
This ordinance shall take effect immediately upon adoption or passage by the County Commissioners.

12. Section 12. Effective Period

This ordinance will remain in effect until terminated by action of the County Commissioners.

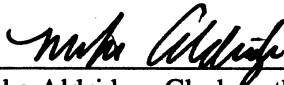
This ordinance shall be in full force and effective upon its adoption.

Adopted this the 5<sup>th</sup> day of November, 2007.



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David G. Fussell, Chairman  
County of Duplin



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Mike Aldridge, Clerk to the Board  
County of Duplin