

WATER SHORTAGE RESPONSE ORDINANCE
TOWN OF CRESWELL, NORTH CAROLINA
April 2008
ORDINANCE # 05-21-08

1.0 INTRODUCTION

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, and emergency water conservation measures and regulations throughout the Town of Creswell in the event a Water Supply Shortage is likely to occur or has occurred. This ordinance also prescribes penalties for water conservation violations. The Water Shortage Response Plan (WSRP) is to be used in conjunction with this ordinance. This Water Shortage Response Ordinance (WSRO) includes the following Sections:

2.0	Definitions	Page 1
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This document should be accessible to all personnel responsible for Water Supply Shortage response at all times. In addition this document should be made available to the North Carolina Public Water Supply (NCPWS) upon request. In the event that the information below should change or become dated, this WSRO should be updated immediately.

The WSRP shall be made available to the public for review and comment 30 days prior to adoption by the governing board of the Town of Creswell.

2.0 DEFINITIONS

(a) "Allotment," as the term is used in this ordinance, shall mean the maximum quantity of water allowed for each customer over any applicable period as established in the water rationing provisions of this ordinance.

(b) "Any Water," as the term is used in this ordinance, shall mean any type of water, including fresh water, brackish water, wastewater, or reclaimed water.

(c) "Brackish Water," as the term is used in this ordinance, shall mean water containing more than 1000 parts per million of dissolved salts.

(d) "Customer," as the term is used in this ordinance, shall mean any person using water for any purpose from the Town of Creswell's water distribution system and for which either a regular charge is made or, in this case of bulk sales, a cash charge is made at the site of delivery.

(e) "Emergency," as the term is used in this ordinance, shall mean that water supplies are below the level necessary, to meet normal needs and that a serious Water Supply Shortage exists in the area.

(f) "Fresh Water," as the term is used in this ordinance, shall mean water withdrawn from surface or groundwater which has not been previously used, other than brackish water.

- (g) "Governing Body," as the term is used in this ordinance, shall mean those who are responsible (i.e. Mayor, Town Commissioner) for enacting and enforcing the WSRO.
- (h) "Mandatory Conservation," as the term is used in this ordinance, shall mean that raw water supplies (i.e., streamflow, reservoir levels or groundwater levels) are consistently below seasonal averages, and if they continue to decline, may not be adequate to meet normal needs.
- (i) "Reclaimed Water," as the term used in this ordinance, shall mean wastewater which has been treated to allow reuse.
- (j) "Residential Customer," as the term is used in this ordinance, shall mean 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, motel, or similar commercial establishments.
- (k) "Service Interruption," as the term is used in this ordinance, shall mean the temporary suspension of water supply, or reduction of pressure below that required for adequate supply, to any customer, portion of a water supply, or entire system.
- (l) "Voluntary Conservation," as the term is used in this ordinance, shall mean that conditions exist which indicate the potential for a serious Water Supply Shortage.
- (m) "Waste of Water," as the term is used in this ordinance, includes, but is not limited to (1) permitting water to escape down a gutter, ditch, or other surface drain, or (2) failure to repair a controllable leak of water due to defective plumbing.
- (n) "Wastewater," as the term is used in this ordinance, shall mean water which has been previously used for industrial, municipal, domestic, or other purpose, and has not been returned to the surface or groundwater source.
- (o) "Water," as the term is used in this ordinance, shall mean water available to the Town of Creswell treatment by virtue of its water rights or withdrawal permit or any treated water introduced by the Town of Creswell into its water distribution system, including water offered for sale.
- (p) "Water Supply Shortage," as the term is used in this ordinance, shall mean that raw water supplies are below the level necessary to meet normal needs.
- (q) "Water Use Classes," as the term is used in this ordinance, shall mean classification of water use by type of use within different sectors of the community. Classes include Essential, Socially and Economically Important, and Non-essential

3.0 DECLARATION OF PHASED CONSERVATION MEASURES AND RESTRICTIONS

Phase 1: Declaration of Voluntary Conservation

Voluntary Conservation shall be initiated when a potential Water Supply Shortage exists. When the governing body of the Town of Creswell finds that a potential Water Supply Shortage is indicated, it shall be empowered to declare by adoption of an ordinance that Voluntary Conservation conditions exist, and that the Director of Public Works, on a daily basis, monitors the supply and demand upon that supply. In addition the governing body is authorized to call upon all water customers to employ Voluntary Conservation measures (see WSRP Section 4.0 and 5.0) to limit water use (especially Class 3 uses) and eliminate the waste of water. This resolution shall be published in a newspaper of general circulation in the area which qualifies under GS 1-597, and may be publicized through the general news media or any other appropriate method for making such resolutions public. A Water Shortage Advisory shall be issued.

Phase 2: Declaration of Mandatory Conservation

Mandatory Conservation shall be initiated when water supplies are consistently below seasonal averages and the continued decline of water supplies would result in a Water Supply Shortage due to an inadequate water supply to meet normal needs. When the governing body of the Town of Creswell finds raw water supplies to be consistently below seasonal averages, and if they continue to decline and may not be adequate to meet normal needs, it shall be empowered to declare by adoption of an ordinance that Mandatory Conservation conditions exist. The governing body of the Town of Creswell shall continue to encourage voluntary water conservation measures defined under the Voluntary Conservation declaration, and further shall impose a ban on all Class 3 (see WSRP Section 4.0 and 5.0) water uses for the duration of the Water Supply Shortage until it is declared ended by ordinance of the governing board. Publication of these ordinances shall follow the provisions declaration in WSRP Section 3.0. A Water Shortage Alert shall be issued.

Phase 3: Declaration of a Water Shortage Emergency

A Water Shortage Emergency shall be initiated when raw water supplies are below the level necessary to meet normal needs and a serious Water Supply Shortage exists. When the governing body of the Town of Creswell finds that raw water supplies are below the level necessary to meet normal needs and a serious Water Supply Shortage exists, it shall be empowered to declare by adoption of an ordinance that a Water Shortage Emergency exists. Class 1, Essential Uses shall be identified, in specific, as targets for voluntary conservation initiatives. Also, all Class 2, Socially or Economically Important uses shall be banned in addition to the Class 3, Non-Essential Uses (see WSRP Section 4.0 and 5.0). These restrictions shall continue until the emergency is declared ended by ordinance of the governing body. Publication of these ordinances shall follow the provisions in WSRP Section 3.0. A Water Shortage Emergency shall be issued.

Declaration of Returning to Normal Water Use

When Phased Conservation Measure and Restrictions have been put into effect due to the conditions described, Phased Conservation Measures and Restrictions will expire incrementally when the governing body of the Town of Creswell finds that the water supply is returning to normal conditions. When a Water Shortage Emergency is put into effect, expiration of the phase will occur when the Town of Creswell agrees with the Director of Public Works that the raw water supply is not below the level necessary to meet normal needs and that a serious Water Supply Shortage no longer exists. When Mandatory Conservation is put into effect, expiration of the phase will occur when the Town of Creswell agrees with the Director of Public Works that water supplies are no longer consistently below seasonal averages and that the continued decline in water supplies would not result in an inadequate water supply to meet normal needs. When Voluntary Conservation is put into effect, expiration of the phase will occur when the Town of Creswell agrees with the Director of Public Works that the potential of a Water Supply Shortage no longer exists.

4.0 ENFORCEMENT

Regulations

Any person 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 the following penalties:

(a) If the Mayor, Town Commission, Director of Public Works, or other Town of Creswell official or officials charged with implementation and enforcement of this ordinance or a Water Supply Shortage resolution learns of any violation of any water use restriction imposed pursuant to this ordinance, a written notice of the record shall be affixed to the property where the violation occurred and mailed to the customer and to any other person known to the Town of Creswell who is responsible for the violation or its correction. Said notice shall describe the violation and order that is to be corrected, cured, or abated immediately or within such specified time as the governing body of the Town of Creswell determines is reasonable under the circumstances. If the order is not complied with, the governing body of the Town of Creswell may terminate water service to the customer subject the following procedures:

1. The Town of Creswell shall give the customer notice by mail that, due to the violation, water services will be discontinued within a specified time and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before the Town of Creswell governing body or a Town of Creswell official designated as a hearing officer by the governing body;
2. If such a hearing is requested by the customer charged with the violation, he or she shall be given a full opportunity to be heard before termination is ordered; and,
3. The governing body or hearing officer shall make findings of fact and order whether service should continue or be terminated.

(b) A fee of \$50 shall be paid for the reconnection of any water service terminated pursuant to subsection (a). In the event of subsequent violation the reconnection fee shall be \$200 for the second violation and \$300 for each additional violations.

(c) Any customer may also be charged with violation of this ordinance and prosecuted in District Court. Any person so charged and found guilty of violating the provisions of this ordinance shall be guilty of a misdemeanor. Each day's violation shall constitute a separate offense. The penalty for violation shall be a maximum fine of \$50 or imprisonment for not more than 30 days.

Civil Penalties

In addition to or in lieu of criminal prosecution, violation of this ordinance may subject the offender to civil penalties in the amounts provided or otherwise an amount of \$25 per day, collectible in a civil action in the nature of debt.

Variances

Customers seeking variance from the conservation requirements in the WSRP should submit in writing to the Town of Creswell a request for variance, with the following items:

- Name;
- Address;
- Utilities account number;
- Date of Request;
- Proposed duration for requested variance;

Detailed explanation for requested variance; and
Justification for approval of the requested variance.

Variances shall be evaluated by the Director of Public Works. The Director of Public Works will then make a recommendation to the Governing Body of the Town of Creswell. The governing body of the Town of Creswell shall make the final decision within 30 days after receipt of the request.

5.0 CONSERVATION PRICING RATES

Upon the declaration of a Water Supply Shortage the governing body of the Town of Creswell shall have the power to adopt Water Supply Shortage rates by ordinance designed to conserve water supplies. Such rates may provide for, but not be limited to:

(a) higher charges per unit for increasing usage (increasing block rates); (b) uniform charges for water usage per unit of use (uniform unit rate); (c) extra charges for use in excess of a specified level (excess demand surcharge); or (d) discounts for conserving water beyond specific levels.

6.0 SEVERABILITY

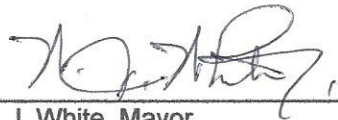
If any provision of this ordinance is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and its applicability to other person and circumstances shall not be affected thereby.

7.0 EFFECTIVE DATES AND AUTHORIZATION OF ORDINANCE

This ordinance shall take effect immediately upon adoption or passage by the governing body of the Town of Creswell.

This ordinance will remain in effect until terminated by action of the governing body of the Town of Creswell.

Passed by the governing body of the Town of Creswell this 21st day of May 2008.



W. J. White, Mayor
Town of Creswell

ATTEST:



Penny Chapman, Town Clerk
Town of Creswell