

CHAPTER 19. DROUGHT RESPONSE

ARTICLE I. IN GENERAL

- 19.101. Declaration of Policy, Purpose and Intent.
- 19.102. Definitions.
- 19.103. Nonessential Water Use.
- 19.104. Responses to Moderate, Severe and Extreme Drought Alert Phases.
- 19.105. New Water Service Connections.
- 19.106. Water Rates and Fees.
- 19.107. Rationing.
- 19.108. Variances.
- 19.109. Enforcement.

ARTICLE II. LEGALITY OF CHAPTER

- 19.201. Control.

ARTICLE III. PENALTIES

- 19.301. Fines and Penalties.

CHAPTER 19. DROUGHT RESPONSE

Editor's Note. In 1985, the South Carolina General Assembly enacted Act No. 63 (§49-23-90 of the 1976 South Carolina Code of Laws) which affected every municipality in this state. The act required every municipality *engaged in the business...of supplying water for any purpose...to develop and implement drought response ordinances. They...must be consistent with State Drought Response Plan...* (In 1993 the Water Resources Commission was changed to the Department of Natural Resources.)

In 1987 the South Carolina Water Resources Commission required every city and town in the state to adopt an ordinance to guide the Mayor and Council in times of extreme drought. The Commission prepared a recommended ordinance that cities and towns adopted and which is included in this code. It is technical and may need clarification by the Commission, should the occasion arise. **It is to be noted that the ordinance is effective only in times of extreme drought.**

Further, the act provided that any proposed ordinance must first be submitted to the department for review to determine consistency with the State Drought Response Plan. This was accomplished on February 3, 1997, by ordinance.

Section 49-23-100 of the 1976 South Carolina Code of Laws, provides for penalties for municipalities not conforming to the provisions of Act No. 63.

ARTICLE I. IN GENERAL

19.101. DECLARATION OF POLICY, PURPOSE AND INTENT.

a. Purpose: To (1) meet the mandate and requirements of the South Carolina Department of Natural Resources and to (2) achieve the greatest public benefit from domestic water use, sanitation, fire protection, and to provide water for other purposes in an equitable manner, The Town of Yemassee, South Carolina, hereby adopts the following regulations and restrictions on the delivery and consumption of water.

b. This chapter is hereby declared to be necessary for the preservation of public health, safety and welfare and shall take effect upon its adoption.

c. Whenever, in the judgment of the Mayor and Council it becomes necessary to conserve water in the service area, due to drought or other causes, the Mayor is authorized to issue a proclamation that existing drought conditions prevent fulfillment of the usual water use demands. The proclamation shall attempt to prevent depleting the water supply to the extent that water use for human consumption, sanitation, fire protection and other essential needs become endangered. Immediately upon the issuance of such a proclamation, regulations and restrictions set forth herein shall become effective and remain in effect until the water shortage is terminated and the proclamation is rescinded.

d. Water uses, regulated or prohibited hereunder, are considered to be non-essential; continuation of such uses during times of water shortage is deemed to constitute a waste of water, subjecting the offender(s) to penalties.

19.102. DEFINITIONS.

For the purposes of this article, the following definitions shall apply:

Aesthetic water use shall mean water used for ornamental or decorative purposes such as fountains, reflecting pools and waterfalls.

Commercial and industrial water use shall mean water use integral to the production of goods and/or services by any establishment having financial profit as their primary aim.

Conservation shall mean reduction in water use to prevent depletion or waste of the resource.

Customer shall mean any person, company or organization using water supplied by the town.

Domestic water use shall mean water used for personal needs or for household purposes such as drinking, bathing, heating, cooking, sanitation or for cleaning a residence, business, industry or institution.

Drought alert phases:

a. Moderate drought shall mean when the Palmer Index reaches the range -1.50 to -2.99 and moderate drought conditions have been verified by best available information and conditions indicate this situation is expected to persist.

b. Severe drought shall mean when the Palmer Index reaches the range -3.00 to -3.99 and severe drought conditions have been verified by best available information.

c. Extreme drought shall mean when the Palmer Index reaches or falls below -4.00 and extreme drought conditions are verified by best available information.

d. Palmer Index shall mean a measure of the severity of a drought or a wet spell in an area. Dry conditions shall be associated with negative values; wet conditions with positive values and normal conditions shall have a value of zero.

Drought Response Committee shall mean a committee composed of state and local representatives created for the purpose of coordinating responses to water shortages within drought management areas and making recommendations for action to the South Carolina Department of Natural Resources and/or the Governor.

Essential water use shall mean water used specifically for fire fighting, maintaining instream flow requirements and to satisfy federal, state or local public health and safety requirements.

Even numbered address shall mean street addresses, box numbers or rural route numbers ending in 0, 2, 4, 6, 8 or letters A-M and locations without addresses.

Odd numbered address shall mean addresses, box numbers or rural route numbers ending in 1, 3, 5, 7, 9 or letters N-Z.

Institutional water use shall mean water used by government, public and private educational institutions, public medians and rights of way, churches and their places of worship, water utilities and other lands, buildings and organizations within the public domain.

Landscape water use shall mean water used to maintain gardens, trees, lawns, shrubs, flowers, athletic fields, rights of way and medians.

Water shortage shall mean a lack of adequate available water to meet normal demands due to lower than normal precipitation, reduced stream flows or soil moisture and/or lowering of the potentiometric surface in wells which causes water supplies to be less than usual.

19.103. NONESSENTIAL WATER USE.

Nonessential water use categories may be curtailed during severe or extreme drought. Examples of nonessential water uses shall be as follows:

1. Residential and Institutional:

(a) Washing sidewalks, walkways, driveways, parking lots, tennis courts or other hard surfaced areas.

(b) Washing buildings or structures for purposes other than immediate fire protection.

(c) Flushing gutters or permitting water to run or accumulate in any gutter or street.

(d) Washing any motor bike, motor vehicle, boat, trailer or other vehicle.

(e) Maintaining fountains, reflection ponds and decorative water bodies for aesthetic or scenic purposes, except where necessary to support aquatic life.

(f) Filling or maintaining public or private swimming pools.

(g) Sprinkling lawns, plants, trees and other flora on private or public property, except as otherwise provided under this chapter.

2. Commercial and Industrial:

(a) Serving water routinely in restaurants.

(b) Increasing water levels in scenic and recreational ponds and lakes, except for the minimum amount required to support fish and wildlife.

(c) Irrigating golf courses and any portion of its grounds, except as otherwise provided under this chapter.

(d) Obtaining water from hydrants for construction purposes, fire drills or for any purpose other than fire fighting.

(e) Serving customers who have been given a ten (10) day notice to repair leaks and have failed to comply.

(f) Expanding commercial nursery facilities, placing new irrigated agricultural land in production or planting or landscaping when required by site design review process.

19.104. RESPONSES TO MODERATE, SEVERE AND EXTREME DROUGHT ALERT PHASES.

Levels of drought, as set forth in the South Carolina Drought Response Act of 1985, are classified as moderate, severe and extreme.

Proclamations by the Mayor shall coordinate an appropriate response to the level of drought that exists.

Proclamations by the Mayor and Council setting forth responses to the various drought alert phases shall be based upon drought monitoring data, recommendations, declarations and/or notifications supplied by the regional Drought Response Committee or the South Carolina Department of Natural Resources.

1. Moderate Drought Alert Phase: When conditions indicate that a moderate drought condition is present, and is expected to persist, the South Carolina Department of Natural

Resources will activate the Drought Information Center. It will notify the Mayor by certified mail and issue press releases concerning the drought conditions to the news media.

(a) Goal:

(1) A fifteen percent (15%) voluntary water use reduction for agricultural, commercial, industrial and institutional purposes.

(2) A thirty percent (30%) voluntary water use reduction for residential customers.

(b) General Responses:

(1) Issue a public notice of drought conditions of water supply and demand in a local newspaper of general circulation which shall include a list of nonessential water uses as provided herein.

(2) Institute an increased water supply system maintenance effort to identify and correct water leaks.

(3) Encourage water customers to comply with the listed voluntary water-use restrictions in all categories, while moderate drought conditions exist.

(c) Water-use restrictions:

(1) Agriculture, Irrigation and Livestock:

(a) Implement conservation techniques, explore different water saving methods and use alternative sources.

(2) Commercial, Industrial, and Institutional:

(a) Reduce aesthetic, domestic, landscaping and water-based recreational activities such as swimming pools, water slides and other related water activities.

(3) Residential:

(a) Reduce water use to seventy-five (75) gallons per person per day, and a maximum of three hundred (300) gallons per household per day.

(b) Reduce domestic, landscaping and water-based recreational activities such as swimming pools, water slides and other related water activities.

2. Severe Drought Alert Phase: A drought of this severity usually requires an official declaration and implementation of mandatory water use restrictions by the South Carolina Department of Natural Resources. In such cases, the Commission will notify the Mayor and issue press releases concerning the drought conditions to the news media.

(a) Goal:

(1) A fifteen percent (15%) water use reduction for agricultural, commercial, industrial and institutional purposes.

(2) A thirty percent (30%) water use reduction for residential customers.

(b) General Responses:

(1) Issue a public notice of drought conditions of water supply and demand in a local newspaper of general circulation which shall include a list of water use curtailment measures.

(2) Require water customers to comply with the listed water-use restrictions in all categories while severe drought conditions exist.

(c) Water-Use Restrictions:

(1) Agriculture, Irrigation, and Livestock:

(a) Implement conservation techniques, explore different water saving methods and use alternative sources.

(b) Restrict irrigation use from 7:00 p. m. to 7:00 a. m. and prohibit water run-off.

(2) Commercial, Industrial, and Institutional:

(a) Prohibit aesthetic water use.

(b) Reduce domestic water use to minimum levels necessary for maintaining health and safety.

(c) Limit water-based recreational activities to new facilities that require filling such as swimming pools, water slides and other related water activities.

(d) Use low-volume hand-held applications only and prohibit sprinklers, other remote broadcast devices and water run-off in landscape design and maintenance.

(e) Restrict landscape watering to Wednesday and Saturday for odd numbered addresses and Thursday and Sunday for even numbered addresses.

(3) Residential:

(a) Restrict water use to seventy-five (75) gallons per person per day, and a maximum of three hundred (300) gallons per household per day.

(b) Limit water-based recreational activities to new facilities that require filling such as swimming pools, water slides and other related water activities.

(c) Use low-volume hand-held applications only and prohibit sprinklers, other remote broadcast devices and water run-off in landscape design and maintenance.

(d) Restrict landscape watering to Wednesday and Saturday for odd numbered addresses and Thursday and Sunday for even numbered addresses.

3. Extreme Drought Alert Phase: The South Carolina Department of Natural Resources will notify the Mayor by certified mail and issue press releases concerning the drought conditions to the news media. **Water use restrictions imposed during extreme drought conditions shall be mandatory.**

(a) Goal:

(1) A fifteen percent (15%) water use reduction for agricultural, commercial and industrial purposes.

(2) A thirty percent (30%) water use reduction for Institutional and residential customers.

(b) General Responses:

(1) Issue a public notice of drought conditions of water supply and demand in a local newspaper of general circulation which shall include a list of water use curtailment measures.

(2) Require water customers to comply with the listed water-use restrictions in all categories while severe drought conditions exist.

(c) Water-Use Restrictions:

(1) Agriculture, Irrigation, and Livestock:

(a) Implement conservation techniques, explore different water saving methods and use alternative sources.

(b) Restrict irrigation use from 7:00 p. m. to 7:00 a. m. and prohibit water run-off.

(2) Commercial and Industrial:

(a) Prohibit aesthetic water use.

(b) Reduce domestic water use to minimum levels necessary to maintain health and safety.

(c) Prohibit water-based recreational activities that require filling such as swimming pools, water slides and other related water activities.

(d) Use low-volume hand-held applications only and prohibit sprinklers, other remote broadcast devices and water run-off in landscape design and maintenance.

(e) Restrict landscape watering to Wednesday and Saturday for odd numbered addresses and Thursday and Sunday for even numbered addresses.

(3) Institutional:

(a) Prohibit aesthetic water use.

(b) Reduce domestic water use to minimum levels necessary to maintain health and safety.

(c) Prohibit water-based recreational activities that require filling such as swimming pools, water slides and other related water activities.

(d) Use low-volume hand-held applications only and prohibit sprinklers, other remote broadcast devices and water run-off in landscape design and maintenance.

(e) Restrict landscape watering to Wednesday and Saturday for odd numbered addresses and Thursday and Sunday for even numbered addresses.

(4) Residential:

(a) Restrict water use to fifty-five (55) gallons per person per day, and a maximum of two hundred twenty (220) gallons per household per day.

(b) Reduce domestic water use to minimum levels necessary to maintain health and safety.

(c) Prohibit water-based recreational activities that require filling such as swimming pools, water slides and other related water activities.

(d) Use low-volume hand-held applications only and prohibit sprinklers, other remote broadcast devices and water run-off in landscape design and maintenance.

(e) Restrict landscape watering to Wednesday and Saturday for odd numbered addresses and Thursday and Sunday for even numbered addresses.

19.105. NEW WATER SERVICE CONNECTIONS.

a. Correspondence regarding water availability, pipeline extension agreements and applications requesting service shall include conditions relating to water shortages.

b. No applications for new, additional, further expanded or an increase in size of water service connections, meters, service lines, pipeline extensions, mains or other water service facilities of any kind shall be allowed, approved or installed, unless such action is in compliance with the provisions of this chapter.

19.106. WATER RATES AND FEES.

a. In the event of extreme drought related water shortage, the Mayor and Council is hereby authorized to monitor water use and limit households to sixty (60) gallons per household member per day. Domestic water use above this limit shall be subject to a per gallon fee.

b. Institutional, commercial, industrial and recreational water users shall be subject to a water use fee per one thousand (1000) gallons of water used, if the town deems adequate conservation measures have not been implemented.

c. Such fees shall be as set forth in the "*Schedule of Rates and Fees*" as shown on Exhibit 1 of this code.

19.107. RATIONING.

In the event a drought threatens the preservation of public health and safety, the rationing of water by the Mayor and Council is hereby authorized.

19.108. VARIANCES.

a. Persons not capable of immediate water use reduction, or curtailment, because of equipment damage or other extreme circumstances, shall commence gradual reduction of water use curtailment/reduction and shall apply for a variance from curtailment.

b. Persons requesting exemption from the provisions of this chapter shall file a petition with the Mayor and Council for variance within ten (10) days after such curtailment becomes effective.

c. When the provisions of this chapter have been invoked, persons requesting an exemption shall file a petition for variance with the town within ten (10) days of the effective date of water use curtailment or reduction. The town shall respond to requests for variances within five (5) days of receipt of information or within twenty (20) days of declaration of the curtailment, whichever comes first.

d. Petitions shall contain the following information:

- (1) Name and address of the petitioner(s).
- (2) Purpose of water use.
- (3) Specific provision from which relief is requested.
- (4) Detailed statement as to how the curtailment declaration adversely affects the petitioner.
- (5) Description of the relief desired.
- (6) Period of time for which the variance is sought.
- (7) Economic value of the water use.
- (8) Damage or harm to the petitioner or others if petitioner complies with this article.
- (9) Restrictions with which the petitioner is expected to comply and the compliance date.
- (10) Steps the petitioner is taking to meet the restrictions from which variance is sought and the expected date of compliance.
- (11) Other pertinent information, as requested.

e. In order for a variance to be granted, petitioner shall show one or more of the following conditions:

(1) Compliance cannot be technically accomplished during the duration of the water shortage;

(2) Alternative methods can be implemented which will achieve the same level of reduction in water use.

f. The Mayor and Council may, in writing, grant temporary variances for existing water uses otherwise prohibited if it is determined that failure to grant such variances would cause an emergency condition adversely affecting health, sanitation or fire protection for the public or the petitioner and if one or more of the aforementioned conditions is met. The Mayor and Council shall ratify or revoke any such variance at its next scheduled meeting. Any such variance so ratified may be revoked by later action of the Mayor and Council.

g. No such variance shall be retroactive or otherwise justify any violation occurring prior to the issuance of the variance.

h. Variances granted by the Mayor and Council shall be subject to the following conditions, unless waived or modified thereby:

(1) Variances granted shall include a timetable for compliance.

(2) Variances granted shall expire when the water shortage no longer exists, unless the petitioner has failed to meet specified requirements.

19.109. ENFORCEMENT.

a. Employees of the town shall, in addition to duties imposed by law, diligently enforce the provisions of this chapter.

b. They shall have the authority to issue written notices to appear when violations of this chapter occur during any declared moderate, severe or extreme drought or water shortage.

ARTICLE II. LEGALITY OF CHAPTER

19.201. CONTROL.

a. In the event that any portion of this chapter is held to be unconstitutional for any reason, the remaining portions hereof shall not be affected.

b. The provisions of this chapter shall prevail and control in the event of any inconsistency between this chapter and other rules and regulations of the town.

ARTICLE III. PENALTIES

19.301. FINES AND PENALTIES.

a. Except as otherwise stated herein, violators of any provision of this chapter shall be subject to the following penalties:

| <u>Violation</u> | <u>Classification</u> | <u>Penalty</u> |
|---|-----------------------|----------------|
| First offense | Infraction | \$ 25.00 |
| Second offense | Infraction | \$ 50.00 |
| Third and subsequent offense within the same drought period | Misdemeanor | \$ 100.00 |

The aforementioned fines and penalties may be in lieu of, or in addition to, any other penalty provided by law.

b. After issuing one warning by certified mail, the water service of any person or customer may be disconnected whenever it is determined that such person has failed to comply with the provisions of this chapter.

(1) Services disconnected under such circumstances shall be restored only upon payment of a reconnection fee. Such fee shall be as set forth in the "*Schedule of Rates and Fees*" as shown on Exhibit 1 of this code, and any other costs incurred by the town in discontinuing service.

(2) In addition, suitable assurances shall be given to the town that the same action shall not be repeated during the drought or water shortage.