

# CARLSBAD, NEW MEXICO

## Code of Ordinances Excerpt

### ARTICLE V. - WATER CONSERVATION, EMERGENCY RESPONSE AND DROUGHT MANAGEMENT

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#### **Sec. 52-171. - Title and purpose.**

(a)

This article shall be known as the "Water Conservation, Emergency Response and Drought Management Ordinance."

(b)

The purpose of this article is to establish water conservation measures and to establish a response management plan for drought and other emergency situations affecting the quality or quantity of the city's potable water supply.

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(Ord. No. 2003-08, § 1, 6-24-03)

#### **Sec. 52-172. - Definitions.**

When used in this article, the following words or phrases shall be defined as:

*Aquifer level* shall mean the distance below ground surface ("bgs") to the surface of the water in a well as measured at city monitor well no. 4 or city monitor well no. 6.

*Chloride concentration level* shall mean the average chloride concentrations in the operating Sheep Draw production wells measured in parts per million.

*City water* shall include all water supplied or intended to be supplied through the City of Carlsbad municipal water system for use. The term shall not include effluent water or water obtained from either a private well or from private irrigation water rights.

*Critical water situation* shall exist when the cumulative monthly acre-feet diversion of water plus the rolling ten-year average diversion for the remaining months of the calendar year exceed the city's annual permitted diversion water right.

*Cumulative diversion* shall mean that amount of water measured in acre-feet diverted for use by the city and its inhabitants therein including any system losses due to leaks or system failures.

*Permitted annual diversionary water right* shall mean the maximum amount of water measured in acre-feet that the city is legally entitled to divert from its municipal water wells on an annual basis.

*Person* shall mean any individual, entity, partnership, association, agency, or corporation, both profit and not for profit, or any other organization of any kind, except a municipal corporation.

*Private well* shall mean any water well for which a valid permit and diversion right has been granted to any person by the office of the state engineer.

*Swimming pool* shall include any structure that is 24 or more inches in depth and capable of containing at least 1,122 gallons of water and that is intended primarily for recreational purposes. The term shall not include indoor pools used for medical or rehabilitative purposes.

*System failure* shall mean the malfunctioning of any part of the City of Carlsbad municipal water system resulting in the inability to divert or deliver all or part of the city's water supply as a result of any cause, including, without limitation, technical malfunction, power outages, vandalism or terrorism. The city administrator shall determine the level of water rationing required based on the severity of the system failure.

*Treated effluent* shall mean only those waters the city recovers through its sanitary sewer system and treats at the City of Carlsbad wastewater treatment plant facility for irrigation purposes, for discharge into the Pecos River, or for other permissible and appropriate purposes.

*Wash a vehicle* includes the washing of any vehicle by an individual or individuals including the operation of vehicle washes as a fund-raiser, subject to the limitations contained in sections 52-174(b)(4) and 52-175(b)(5) of this article. It does not include the washing of vehicles when that activity is conducted either by attendants, with automatic equipment, or by self-service, and it is done as part of normal business operation on the premises of a commercial car wash or a commercial service station, provided that such business holds a current business license from the city.

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*(Ord. No. 2003-08, § II, 6-24-03)*

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### **Sec. 52-173. - Stage one water rationing.**

**(a)**

*Stage one implementation.*

**(1)**

The city administrator shall impose stage one water rationing measures whenever any of the following conditions occur:

**a.**

The aquifer level reaches or exceeds 188 feet bgs in city monitor well no. 4 or 154 feet bgs in city monitor well no. 6, and the chloride concentration level reaches or exceeds 50 ppm; or

**b.**

A system failure occurs.

**(2)**

The city administrator shall announce the implementation of stage one water rationing through regional print, broadcast media and the city's website. The announcements shall include a description of the stage one rationing measures.

**(3)**

After the city administrator has imposed stage one water rationing measures, the city council shall, at its next regularly scheduled meeting consider whether to continue the stage one water rationing measures or to discontinue the rationing measures as circumstances warrant.

**(b)**

*Stage one rationing measures.* During stage one water rationing, the following water rationing measures shall be in effect:

**(1)**

The outdoor use of city water through a sprinkler, sprinkler system, hose, or any other source except as provided herein to water any grass, trees, plants, or other vegetation shall occur only as follows:

- a. City water users with odd numbered street addresses shall use water for the above described purposes only on Wednesday, Friday, and Sunday;
- b. City water users with even numbered street addresses shall use water for the above described purposes only on Tuesday, Thursday, and Saturday;
- c. No outdoor watering shall be done between the hours of 10:00 a.m. and 6:00 p.m.;
- d. Newly seeded or sodded lawns or newly planted trees or shrubs shall be exempted from the restrictions imposed for stage one water rationing for the time period needed to establish the lawn, tree, or shrub, which time period shall not exceed 60 days from the seeding, sodding, or planting. No lawns shall be seeded or sodded and no trees or shrubs shall be planted while stage one rationing is in effect; and
- e. Plants which cannot be kept alive without daily watering may be watered from a bucket, but may not be watered through a sprinkler, sprinkler system, hose or any other source on the days or during the times when watering is otherwise prohibited;

(2) No swimming pool shall be filled with city water. Swimming pools that were filled before stage one water rationing was imposed, may add city water to make up losses from evaporation. Water lost as a result of draining or leakage may not be made up during stage one water rationing;

(3) Restaurants and food service facilities shall provide drinking water to customers only upon request;

(4) Any leak in a system which carries, delivers, or stores city water must be repaired within five working days of the discovery of the leak; and

(5) The city shall implement mandatory reductions in the volume of city water used on city parks and grounds. Such reductions shall be accomplished as determined by the city administrator.

(c) *Applicability.* These stage one water rationing measures shall apply to all users of city water, including persons, residences, businesses, agencies, institutions, or other entities. These restrictions shall not apply to any person engaged in the business of growing or selling plants of any kind, provided that such business holds a current business license from the city.

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(Ord. No. 2003-08, § III, 6-24-03)

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## **Sec. 52-174. - Stage two water rationing.**

(a) *Stage two implementation.*

(1) The city administrator shall impose stage two water rationing measures whenever any of the following conditions occur:

- a. The aquifer level reaches or exceeds 189 feet bgs in city monitor well no. 4 or 155 feet bgs in city monitor well no. 6, and the chloride concentration level reaches or exceeds 50 ppm;
- b. A system failure occurs; or
- c. A critical water situation arises.

(2)

The city administrator shall announce the implementation of stage two water rationing through regional print, broadcast media and the city's website. The announcements shall include a description of the stage two rationing measures.

(3)

After stage two water rationing is imposed, the mayor shall call an emergency session of the city council, at which meeting the city council shall consider whether to continue stage two water rationing measures, or to discontinue the rationing measures as circumstances warrant.

(b)

*Stage two rationing measures.* During stage two water rationing, the following water rationing measures shall be in effect:

(1)

The outdoor use of city water through a sprinkler, sprinkler system, hose or any other source except as provided herein to water any grass, trees, plants, or other vegetation shall occur only as follows:

- a. City water users with odd numbered street addresses shall use water for the above described purposes only on Sunday;
- b. City water users with even numbered street addresses shall use water for the above described purposes only on Saturday;
- c. No outdoor watering shall be done between the hours of 10:00 a.m. and 6:00 p.m.;
- d. Newly seeded or sodded lawns or newly planted trees or shrubs shall be exempted from the restrictions imposed for stage two water rationing for the time period needed to establish the lawn, tree, or shrub, which time period shall not exceed 60 days from the seeding, sodding, or planting. No lawns shall be seeded or sodded and no trees or shrubs shall be planted while stage two rationing is in effect; and
- e. Plants which cannot be kept alive without daily watering may be watered from a bucket, but may not be watered through a sprinkler, sprinkler system, hose or any other source on the days or during the times when watering is prohibited;

(2)

No swimming pool shall be filled with city water and no city water shall be added to any swimming pool;

(3)

No city water shall be used to operate an ornamental fountain or similar structure;

(4)

No city water shall be used to wash a vehicle; provided, however, the washing of vehicles conducted as part of normal business operations on the premises of a commercial car wash or commercial service station, holding a current business license from the city, shall be limited to ten hours per day;

(5)

No city water shall be used to wash sidewalks, driveways, parking areas, tennis courts, patios, or other surface areas impervious to water except in emergencies to remove spills of hazardous materials or to eliminate dangerous conditions which threaten the public health, safety, or welfare;

(6)

Restaurants and food service facilities shall provide drinking water to customers only upon request;

(7)

Any leak in a system which carries, delivers, or stores city water must be repaired within three working days of the discovery of the leak; and

(8)

The city shall implement mandatory reductions in the volume of city water used on city parks and grounds. Such reductions shall be accomplished as determined by the city administrator.

(c)

*Applicability.* These stage two water rationing measures shall apply to all users of city water, including persons, residences, businesses, agencies, institutions, or other entities. These restrictions shall not apply to any person engaged in the business of growing or selling plants of any kind, provided that such business holds a current business license from the city.

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(Ord. No. 2003-08, § IV, 6-24-03)

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### **Sec. 52-175. - Stage three water rationing.**

(a)

*Stage three implementation.*

(1)

The city administrator shall impose stage three water rationing measures whenever any of the following conditions occur:

a.

The aquifer level reaches or exceeds 190 feet bgs in city monitor well no. 4 or 156 feet bgs in city monitor well no. 6, and the chloride concentration level reaches or exceeds 50 ppm;

b.

A system failure occurs;

c.

If after one month of stage two water rationing, the conditions that lead to the imposition of stage two water rationing have not improved; or

d.

The mayor and/or the city council find that the city is in a state of emergency and stage three rationing measures are necessary to protect the health and welfare of the citizens.

(2)

The city administrator shall announce the implementation of stage three water rationing through regional print, broadcast media and the city's website. The announcements shall include a description of the stage three rationing measures.

(3)

After stage three water rationing is imposed, the mayor shall call an emergency session of the city council, at which emergency meeting the city council shall consider whether to continue stage three water rationing measures, or to discontinue the rationing measures as circumstances warrant.

(4)

It shall be the policy of the city to keep stage three water rationing in effect for no longer than is necessary. The city council shall lift the stage three rationing measures as soon as possible, provided such restrictions are no longer necessary for public health and/or safety.

(5)

While stage three water rationing is in effect, the city administrator will make weekly written reports to the mayor and city council and shall give a report at every city council meeting.

(b)

*Stage three rationing measures.* During stage three water rationing, the following water rationing measures shall be in effect:

(1)

All use of city water for outdoor watering shall be prohibited;

(2)

The watering of all grass, trees, plants, or other vegetation at all parks and public buildings owned by the city which are watered using city water shall cease;

(3)

No swimming pool shall be filled with city water and no city water shall be added to any swimming pool;

(4)

No city water shall be used to operate an ornamental fountain or similar structure;

(5)

No city water shall be used to wash a vehicle; provided, however, the washing of vehicles conducted as part of normal business operations on the premises of a commercial car wash or commercial service station, holding a current business license from the city, shall be limited to ten hours per day;

(6)

City water shall not be used to wash sidewalks, driveways, parking areas, tennis courts, patios, or other surface areas impervious to water except in emergencies to remove spills of hazardous materials or to eliminate dangerous conditions which threaten the public health, safety, or welfare;

(7)

Restaurants and food service facilities shall provide drinking water to customers only upon request;

(8)

Any leak in a system which carries, delivers, or stores city water must be repaired immediately after the discovery of the leak. City water service may be discontinued by the city at any location where a leak is not repaired within one business day after notification by the city; and

(9)

Locations with significant leaks, as determined by the city administrator, are subject to immediate discontinuation of city water service without notice.

(c)

*Applicability.* These stage three water rationing measures shall apply to all users of city water, including persons, residences, businesses, agencies, institutions, or other entities. These restrictions shall not apply to any person engaged in the business of growing or selling plants of any kind, provided such business holds a current business license from the city.

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**Sec. 52-176. - Conservation measures.**

(a)

In the interest of conservation and regardless of drought or emergency conservation measures, the city encourages the following water conservation measures:

(1)

Water-efficient fixtures and appliances, including toilets, urinals, showerheads, and faucets;

(2)

Low water-use landscaping and efficient irrigation; and

(3)

Implementation of appropriate water conservation and recycling measures at businesses using water for commercial purposes including but not limited to water recycling systems for car washes and drip irrigation or other water saving methods for nurseries or other establishments selling plants for commercial purposes.

(b)

The city shall establish a program for purposes of disseminating information regarding water-use efficiency measures, including public education programs and demonstrations of water-saving techniques.

(c)

The city shall enforce all applicable provisions of the Uniform Building and Plumbing Code as amended or adopted from time to time by the state, where those provisions relate to the conservation of water and are otherwise consistent with this article.

(d)

The wasteful use of water is prohibited. Water waste means any non-beneficial use of water, but does not include the malfunction of plumbing or irrigation systems where unforeseen and unpreventable.

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*(Ord. No. 2003-08, § VI, 6-24-03)*

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**Sec. 52-177. - Enforcement.**

(a)

No person shall be convicted of violating the provisions of this article unless such person used water, turned on water, directed the turning on of water, or kept water turned on after learning that it was turned on in violation of this article. It is not necessary, however, to present a witness who saw the accused using or turning on the water, if circumstances indicate the accused did do that activity.

(b)

Any person found to have violated any provision of this article shall be, for each offense, fined not less than \$25.00 and not more than \$500.00, or imprisoned for not more than 90 days, or both. In addition to those penalties, the person's access to city water may be terminated or restricted. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues to occur.

(c)

The environmental services manager, environmental services officer, code enforcement officer, water department superintendent, and officers of the city police department are authorized to write citations for violations of this article.

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*(Ord. No. 2003-08, § VII, 6-24-03)*

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FOOTNOTE(S):<sup>(67)</sup> **Editor's note**— Ord. No. 2003-08, §§ I—VII, adopted June 24, 2003, did not specifically amend the Code. Hence, its inclusion herein as article V, sections 52-171—52-177, was at the discretion of the editor.

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