

ORDINANCE NUMBER: WTR-2010
GCID NUMBER: 20100934

GWINNETT COUNTY

BOARD OF COMMISSIONERS

LAWRENCEVILLE, GEORGIA

ORDINANCE ENTITLED: WATER CONSERVATION AND DROUGHT RESTRICTION ORDINANCE

READING AND ADOPTION:

At the regular meeting of the Gwinnett County Board of Commissioners held in the Gwinnett Justice and Administration Center, Auditorium, 75 Langley Drive, Lawrenceville, Georgia.

Name	Present	Vote
Shirley Lasseter, District 1	Yes	Yes
Bert Nasuti, District 2	Yes	Yes
Mike Beaudreau, District 3	Yes	Yes
Kevin Kenerly, District 4	Absent	Absent

On motion of Beaudreau which carried 3-0, the Code of Ordinances of Gwinnett County is hereby amended as follows: the Gwinnett County Outdoor Water Use, Conservation and Drought Restrictions Ordinance of 11 December 2007; the Gwinnett County Outdoor Water Use Ordinance of 2 November 2004; the Gwinnett County Utilities Ordinance of 21 April 1998; and Sections 114-51 through 114-59 of the Code of Ordinances of Gwinnett County are repealed in their entirety; and are replaced with the Water Conservation and Drought Restriction Ordinance and Sections 114-51 through 114-61 of the Code of Ordinances of Gwinnett County.

WHEREAS, the General Assembly has passed and the Governor has signed the Georgia Water Stewardship Act SB 370 of 2010; and

WHEREAS, pursuant to OCGA 12-5-7 local governments are required to adopt certain provisions of this Act by Ordinance; and

WHEREAS, the Board of Commissioners agrees that water conservation is important to the citizens of Gwinnett County and wishes to adhere to these requirements mandated by the Georgia Legislature.

NOW THEREFORE BE IT ORDAINED by the Gwinnett County Board of Commissioners that the Code of Ordinances of Gwinnett County is hereby amended as follows: the Gwinnett County Outdoor Water Use, Conservation and Drought Restrictions Ordinance of 11 December 2007; the Gwinnett County Outdoor Water Use Ordinance of 2 November 2004; the Gwinnett County Utilities Ordinance of 21 April 1998; and Sections 114-51 through 114-59 of the Code of Ordinances of Gwinnett County are repealed in their entirety; and are replaced with the Water Conservation and Drought Restriction Ordinance, Sections 114-51 through 114-61 of the Code of Ordinances of Gwinnett County.

BE IT RESOLVED this 1st day of December, 2010

BOARD OF COMMISSIONERS
GWINNETT COUNTY, GEORGIA

GWINNETT COUNTY BOARD OF COMMISSIONERS

By: Shirley Lassetter
SHIRLEY LASSETER, VICE CHAIRMAN

ATTEST:

By: Diane Kemp
DIANE KEMP, COUNTY CLERK



APPROVED AS TO FORM:

By: Jonall Seale
COUNTY ATTORNEY

Resolved this 16th day of November, 2010, by the Gwinnett County Board of Commissioners, the Code of Ordinances of Gwinnett County is hereby amended as follows: the Gwinnett County Outdoor Water Use, Conservation and Drought Restrictions Ordinance of 11 December 2007; the Gwinnett County Outdoor Water Use Ordinance of 2 November 2004; the Gwinnett County Utilities Ordinance of 21 April 1998; and Sections 114-51 through 114-59 of the Code of Ordinances of Gwinnett County are repealed in their entirety; and are replaced with the Water Conservation and Drought Restriction Ordinance, Sections 114-51 through 114-61 of the Code of Ordinances of Gwinnett County.

GWINNETT COUNTY
WATER CONSERVATION AND DROUGHT RESTRICTION ORDINANCE

ORDINANCE NO. WTR-2010

MUNICIPAL CODE PART II, CHAPTER 114 UTILITIES
ARTICLE II – WATER SERVICE
DIVISION 2 – WATER CONSERVATION AND DROUGHT RESTRICTION

Sec. 114-51 – Title, Authority, and Applicability

(a) *Title.* This division shall be known and may be cited as the Gwinnett County Water Conservation and Drought Restriction Ordinance.

(b) *Authority.* Gwinnett County has the authority to adopt this division pursuant to Article 9, Section 2, Paragraph I and Article 9, Section 2, Paragraph III of the Constitution of the State of Georgia, Section 31 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated, and the Georgia Department of Natural Resources (DNR) Rules for Outdoor Water Use, Ga. Comp. R. & Regs. Ch. 391-3-30 (hereinafter, the Rules).

(c) *Applicability.* This ordinance shall apply to all persons and jurisdictions receiving potable or reuse water from Gwinnett County.

Sec. 114-52 – Purpose and Intent

(a) *Purpose.* The purpose of this division is to protect the public health, safety, environment, and general welfare through adopting and enforcing water use measures that encourage water conservation and ensure adequate supplies of water for the citizens of the County.

(b) *Policy and Intent.* It is the policy of the County to promote water conservation by regulating outdoor water use and by complying with the laws and regulations imposed by the state on outdoor water use.

(c) *Delegations.* The Board of Commissioners hereby delegates to the County Department of Water Resources (DWR) the authority and responsibility for the implementation of an effective outdoor water use regulatory program for the enforcement of the provisions of this division, and to the County Administrator to enact additional conservation measures as needed to protect public health, safety, or welfare, as may be consistent with the Authorities and constraints cited in Section 114-51(b).

Sec. 114-53 – Definitions

When used in this division, the following definitions apply:

Address means the house number that, together with the street name, describes a physical location of a specific property. Even numbered address means a house number ending with the number 0, 2, 4, 6, 8, or no house number. Odd numbered address means a house number ending with the number 1, 3, 5, 7, or 9.

Declared drought means one of four levels of drought that can be declared by the EPD based on the severity of drought conditions, with one being the least severe and four being the most severe.

Director means the Director of the County Department of Water Resources (DWR) or his/her designee who is vested with the authority and responsibility for the implementation of an effective outdoor water use program and for the enforcement of the provisions of this division.

Environmental Protection Division means the Georgia Environmental Protection Division (EPD), an agency of the state which is charged with issuing permits that authorize withdrawal of water and with administering the Rules.

Water waste or water wasting means the excessive expenditure or application of water from the Gwinnett County water system that results in water flowing down any gutter, street, storm drain, or adjacent property.

Sec. 114-54 – Outdoor Uses During Non-Drought Periods

(a) *Unrestricted Uses.* In accordance with OCGA 12-5-7, the following outdoor uses are allowed during drought and non-drought periods, seven days a week, twenty-four hours per day:

- (1) Commercial agricultural operations as defined in OCGA 1-3-3;
- (2) Capture and reuse of cooling system condensate or storm water in compliance with applicable local ordinances and state guidelines;
- (3) Reuse of gray water in compliance with OCGA 31-3-5.2 and applicable local board of health regulations adopted pursuant thereto;
- (4) Use of reclaimed waste water provided by DWR, unless otherwise limited by reuse permit conditions;
- (5) Irrigation of personal food gardens;
- (6) Irrigation of new and replanted plant, seed, or turf in landscapes, golf courses, or sports turf fields during installation and for a period of 30 days immediately following the date of installation;
- (7) Drip irrigation or irrigation using soaker hoses;
- (8) Hand watering with a hose with automatic cutoff or handheld container;
- (9) Use of water withdrawn from private water wells or surface water by an owner or operator of property if such well or surface water is on said property;
- (10) Irrigation of horticultural crops held for sale, resale, or installation;
- (11) Irrigation of athletic fields, golf courses, or public turf grass recreational areas;
- (12) Installation, maintenance, or calibration of irrigation systems;
- (13) Hydroseeding; and
- (14) Filling swimming pools.

(b) *Restricted Uses During Non-Drought Periods.* The following uses are restricted by hours of the day or by days of the week.

- (1) In accordance with OCGA 12-5-7, during non-drought periods persons may irrigate for purposes of planting, growing, managing, or maintaining ground cover, trees, shrubs, or other plants, seven days a week, but only between the hours of 4:00 p.m. and 10:00 a.m.

(2) Other outdoor water use not listed in sections (a) and (b)(1) immediately above may occur during non-drought periods twenty-four hours per day but only on the following days:

a. Outdoor water use at odd-numbered addresses is allowed on Tuesdays, Thursdays, and Sundays.

b. Outdoor water use at even-numbered addresses is allowed on Mondays, Wednesdays, and Saturdays.

(c) *Emergencies.* The exemptions listed in Section 114-54(a) may be revoked by resolution of the Board of Commissioners or by the County Administrator during a water system emergency or a water supply shortage which threatens public health, safety, or welfare, provided, however, that such emergency restrictions shall be valid for a period not exceeding seven days unless a variance is granted by the EPD.

Sec. 114-55 – Use Schedule During Declared Droughts

(a) *Outdoor Uses During Droughts Restricted.* When the EPD declares a drought as authorized by state law and its Rules, outdoor water use other than activities exempted in section 114-54(a) of this division shall occur only during scheduled hours on the scheduled days.

(1) Declared drought response level one. Outdoor water use may occur on scheduled days within the hours of 12:00 midnight to 10:00 a.m. and from 4:00 p.m. to 12:00 midnight.

a. Scheduled days for odd-numbered addresses are Tuesdays, Thursdays and Sundays.

b. Scheduled days for even-numbered addresses are Mondays, Wednesdays and Saturdays.

c. Use of hydrants for any purpose other than firefighting, public health, safety or flushing is prohibited.

(2) Declared drought response level two. Outdoor water use may occur on scheduled days within the hours of 12:00 midnight to 10:00 a.m.

a. Scheduled days for odd-numbered addresses are Tuesdays, Thursdays and Sundays.

b. Scheduled days for even-numbered addresses and golf course fairways are Mondays, Wednesdays and Saturdays.

c. The following uses are prohibited during level two droughts:

1. Using hydrants for any purpose other than firefighting, public health, safety or flushing.

2. Washing pavement, such as streets, gutters, sidewalks and driveways except when necessary for public health and safety.

(3) Declared drought response level three. Outdoor water use may occur on the scheduled day within the hours of 12:00 midnight to 10:00 a.m.

a. The scheduled day for odd-numbered addresses is Sunday.

b. The scheduled day for even-numbered addresses and golf course fairways is Saturday.

c. The following uses are prohibited during level three droughts:

1. Using hydrants for any purpose other than firefighting, public health, safety or flushing.
2. Washing pavement, such as streets, gutters, sidewalks, driveways, except when necessary for public health and safety.
3. Washing vehicles, such as cars, boats, trailers, motorbikes, airplanes, golf carts, unless such washing occurs at facilities certified under DNR regulations at 391-3-31-.02.
4. Washing buildings or structures except for immediate fire protection.
5. Non-commercial fund-raisers, such as car washes.
6. Using water for ornamental purposes, such as fountains, reflecting pools, and waterfalls except when necessary to support aquatic life.

(4) Declared drought response level four. No outdoor water use is allowed, other than the activities exempted in section 114-54(a) of this division, or as the EPD may allow.

(5) The Board of Commissioners hereby delegates to the County Administrator the authority to apply to the EPD for a variance to impose more stringent restrictions on outdoor water use than those imposed by the state during a level four drought. Said application for a variance may include reducing the exemptions listed in Section 114-54(a).

(b) *Curtailment by Resolution.* To the extent allowed by the Authorities cited in Section 114-51(b), the Board of Commissioners may enact additional measures by resolution to curtail indoor and outdoor water usage during any declared drought or in response to judicial decisions which jeopardize water supply. These measures may include but are not limited to the following actions: curtailment or total cessation of water sales to jurisdictions which are not wholly inside Gwinnett County borders; reduction of wholesale sales to water purveyors inside Gwinnett County; and or the adoption of emergency water rate structures.

(c) *Emergencies.* The exemptions listed in Section 114-54(a) may be revoked by resolution of the Board of Commissioners or by the County Administrator during a water system emergency or a water supply shortage which threatens public health, safety, or welfare provided, however, that such emergency restrictions shall be valid for a period not exceeding seven days unless a variance is granted by the EPD.

Sec. 114-56 – Water Wasting Prohibited

Wasting water is prohibited if such usage leaves a trail of flowing water for more than fifty feet off the property. Water waste also includes irrigation for more than twenty minutes during precipitation, and failure to repair a controllable leak. Water wasting, including water wasting by exempt uses in Section 114-54(a), is subject to fines, penalties, and enforcement up to and including termination of service.

Sec. 114-57 – Administrative Orders and Fines

(a) *Cease and Desist Orders.* When the Director finds that a water user has violated, or continues to violate, any provision of this Ordinance, the Director may issue an order to the non-conserving water user directing it to cease and desist all such violations and directing the non-conserving water user to:

(1) Immediately comply with all conservation requirements; and

(2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the non-conserving water user.

(b) *Administrative Fines.* When the Director finds that a water user has violated, or continues to violate, any provision of this Ordinance, the Director may fine such non-conserving water user on an escalating schedule. Such fines shall be assessed on a per-violation, per-day basis. No single-day fine shall exceed two hundred and fifty dollars (\$250).

(1) Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of ten percent (10%) per month.

(2) Water users desiring to dispute such fines must file a written request for the Director to reconsider the fine along with full payment of the fine amount within fourteen (14) days of being notified of the fine. Where a request has merit, the Director may convene an administrative hearing on the matter. In the event the water user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the water user. The Director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(3) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the non-conserving water user.

Sec. 114-58 – Civil Penalties for Violation

(a) *Violations.* Violations of division 2 of this article may also be prosecuted upon citations issued by officers of the County Police Department, by other employees of the County Department of Police Services designated by the Chief of Police or by employees of the County DWR designated by the Director of that department.

(b) *Citations.* Citations for alleged violations of this article shall be issued as follows:

(1) For households, citations can be issued to any of the following: a home owner, renter, any person 17 or older living at the address of the alleged violation, or any person or institution deriving some type of economic benefit from said address;

(2) For businesses doing business in a corporate form, citations shall be issued in the business name and served on either the registered agent or on any officer of the corporation; and

(3) For unincorporated business, citations shall be issued in the business name and served to the owner or manager of the business.

(c) *Escalated Enforcement.* Prior to the issuance of a citation, either a written warning or an administrative fine will be issued. For any subsequent alleged violations of this article within any twelve-month period, the violator may be given either an administrative fine or a citation.

(d) *Penalties.* Any person, upon conviction by a court of competent jurisdiction of any violation of this section at any address after the issuance of a citation as provided pursuant to subsection (c), above, shall be guilty of a violation of this ordinance and shall be punished as follows:

(1) 1st address citation:

a. Household: \$250 fine, which fine shall not be subject to suspension, stay or probation, except as provided in subsection (5) below; and

b. Business: \$500 fine, which fine shall not be subject to suspension, stay or probation;

(2) 2nd address citation:

a. Household: \$500 fine, which fine shall not be subject to suspension, stay or probation, except as provided in subsection (5) below, plus not more than two days of Work Alternative Program (WAP), which shall mean an in-custody eight-hour community service work day, which shall be subject to the court's discretion; and

b. Business: \$1,000 fine, which fine shall not be subject to suspension, stay or probation, and the business licensing division shall be notified of the conviction;

(3) 3rd address citation:

a. Household: \$1,000 fine, which fine shall not be subject to suspension, stay or probation, except as provided in subsection (5) below, plus not more than ten days to serve or not more than 20 days of WAP, which shall be subject to the court's discretion; and

b. Business: \$1,000 fine, which fine shall not be subject to suspension, stay or probation; and the business licensing division shall be notified of the conviction;

(4) 4th address citation:

a. Household: \$1,000 fine, which fine shall not be subject to suspension, stay or probation, except as provided in subsection (5) below, plus not more than 60 days to serve and WAP as appropriate, which shall be subject to the court's discretion; and

b. Business: \$1,000 fine, which fine shall not be subject to suspension, stay or probation, and the business licensing division shall be notified of the conviction;

(5) If the payment of the penalty imposed for a household violation pursuant to this subsection (d) will impose an economic hardship on the defendant, the court, in its sole discretion, may order the defendant to pay such penalty in installments and such order may be enforced through a contempt proceeding.

Sec. 114-59 – Termination of Service

(a) *Provisions for Service Termination.* The Director shall have the authority to adopt procedures providing for termination of water service at any address upon conviction or plea of nolo contendere of a 2nd or subsequent citation violation, as provided in subsection 114-58(d).

(b) *Posting.* The Director is authorized to post the address of any location where water service has been terminated pursuant to this article in such media or on such websites as will provide public notice of the action.

(c) *Mandatory Repairs.* The Director shall have the authority to adopt procedures requiring any customer to repair leaking facilities that are located on the customer's side of the water meter and providing for termination of water service at any address if such leaks are not repaired within 45 days after service of such repair order on a customer.

(d) *Water Wasting.* The Director shall have the authority to temporarily terminate water service where water is being wasted if the owner or occupant of the property is apparently not on the premises or non responsive.

(e) *Service Restoration Fee.* The Director is authorized to impose a service restoration fee in the amount of \$500 to restore water service that has been terminated as provided in paragraphs (a) or (d) of this Section.

Sec. 114-60 – Conservation Billing

(a) *Water Use Surcharge.* As a proactive and continuous conservation measure, water use surcharge rates shall apply to water use as measured by the meter on those accounts subject to such conservation surcharge, in accordance with rate resolutions and DWR billing policies and procedures.

(b) *Sewer Billing.* Sewer volumetric charges shall apply to all water use as measured by the meter on non-irrigation accounts which are also connected to the sewer system, in accordance with rate resolutions, DWR billing policies and procedures, and the wastewater volume measurement provisions of Section 114-104.

(c) *Billing Adjustments Precluded.* No billing adjustments shall be provided to any account where water wasting or violations of the outdoor use restrictions have occurred. The date of occurrence shall be that documented by the most recent warning, fine, or citation. This preclusion of billing adjustments shall begin on the date of occurrence and remain in effect for the ensuing twelve months.

Sec. 114-61 – Authority to Implement

The Director is authorized to make all necessary and reasonable rules and policies with respect to the enforcement of this division. All such rules, policies, and procedures shall be consistent with the provisions of this division and shall be effective thirty days after being filed with DWR.