

TOWN OF NEDERLAND, COLORADO

ORDINANCE NUMBER 679

AN ORDINANCE AMENDING ARTICLE III OF CHAPTER 13 OF THE NEDERLAND MUNICIPAL CODE TO ADOPT A WATER CONSERVATION PROGRAM

WHEREAS, the Town of Nederland, Colorado (“Town”) is authorized pursuant to C.R.S. § 31-35-401 *et seq.*, to establish and operate a municipal water utility; and

WHEREAS, pursuant to this authority, the Town operates a water utility; and

WHEREAS, the Town Board of Trustees (“Board”) has acted to adopt laws concerning the water utility and such laws are currently codified within Chapter 13 of the Nederland Municipal Code (“Code”); and

WHEREAS, the Town is also authorized to adopt laws in furtherance of the public health, safety and welfare; and

WHEREAS, the Board finds that it is necessary and desirable to authorize the imposition of water conservation measures from time to time because of the Town’s geographical location in the relatively dry western region of the United States; and

WHEREAS, the Board further finds that is both environmentally and socially responsible to create incentives for water conservation by users of the Town water supply, to prevent unnecessary depletion of the raw and treated water supply of the Town, to attempt to supply a continuing level of satisfactory service to existing water utility customers, and to insure the Town’s ability to meet the present and future basic water needs of Town residents; and

WHEREAS, the Board therefore desires to adopt the water conservation program measures as set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Nederland, Colorado, as follows:

Section 1. Article III of Chapter 13 of the Nederland Municipal Code, concerning the Town water system, is hereby amended by amending Sections 13-71 through 13-74, current “Reserved,” to read in their entirety as follows:

Sec. 13-71. Water Conservation Program

(1) Application. The water conservation program set forth in this Article III shall apply to all users of water supplied through the Town water system, including, without limitation, customers of any water and sanitation district or any public or private water supply company to which the Town supplies water.

(2) Notice. The Town Administrator may implement the water conservation program adopted pursuant to this Article after twenty-four (24) hours' public notice, or upon publication in a newspaper of daily circulation in the Town, whichever occurs first, whenever in the Administrator's reasonable judgment such measures are necessary to maintain, conserve, replenish, or protect the water supply of the Town. The Administrator, with the consent of the Board of Trustees, shall determine the extent and duration of any water conservation measures implemented.

Sec. 13-72. Water Conservation Measures.

(1) The Town Administrator may prohibit or restrict the use of water from the Town water system or from any other source of water owned by the Town.

(2) The Town Administrator may impose water conservation measures, including, without limitation, the following:

(a) Restrictions limiting water which may be used for lawn irrigation or other purposes outside a residence, apartment, commercial or industrial building or any other structure on a schedule established by the Administrator.

(b) Restrictions on filling swimming pools.

(c) Restrictions on vehicle washing, including, without limitation, the restriction that vehicles may be washed only with a bucket or a hose running with an automatic shut-off nozzle but not with any free-running hose.

(d) Restrictions on the hours during which water may be utilized for outside irrigation of laws, gardens, or landscaping.

(e) A moratorium on out-of-Town water permits under which no new permits to take or use water from the Town water system to serve property located outside the Town's corporate limits are issued.

(f) If the Town Administrator imposes a moratorium on out-of-Town water permits, the Administrator may, upon recommendation of the Director of Public Works, permit special requests to the Town Board of Trustees and only upon a written finding of extreme hardship resulting in immediate danger to life or property. The Administrator may impose such reasonable conditions upon the grant of any exception authorized herein as the Administrator deems advisable.

(3) Before any water conservation measure is adopted, implemented or otherwise imposed by the Town Administrator, such measure shall be approved by the Board of Trustees.

Sec. 13-73. Special Permits.

(1) When water conservation measures are in effect pursuant to Section 13-72, the Director of Public Works may issue special permits to authorize additional water use as follows:

(a) For watering newly sodded lawns, each day for a period not exceeding fourteen consecutive days;

(b) For watering newly seeded lawns, each day for a period not exceeding twenty-five consecutive days;

(c) For periodic watering of outside stock at nurseries, greenhouses, and stores;

(d) When there are circumstances that do not permit a water user to deliver three-fourths of an inch of water per week on landscaped grounds of the user's premises, if the water user submits a plan describing the area to be served and the method to be used to deliver an adequate amount of water; and

(e) For water schedules otherwise prohibited, in cases of a clear and present hardship.

(2) An applicant for a special permit shall pay the special permit fee established by Resolution of the Board of Trustees pursuant to Code Section 4-151, and apply in writing on forms provided by the Town that contain the following information: the reasons for requesting the permit; the period of time for which the permit is requested; the area or address of the premises to which such permit applies; for requests for additional watering times, a plan describing the area for which the permit is requested and a description of the method to be used to deliver an adequate amount of water to the area; and such other applicable information as the manager may reasonably request in order to review the application.

(3) The application shall be submitted to the Public Works Director, who shall review all requests for special permits and approve, deny, or conditionally approve each request. If the Director of Public Works denies the application or approves it with conditions, the applicant may, within five days of receiving the decision, request a hearing before the Town Administrator. The Town Administrator shall hear the applicant's appeal within seven days of receiving the request and render a decision thereon as soon as practical thereafter. The Town Administrator's decision shall constitute the final decision of the Town.

(4) The holder of each special permit shall post the permit in a conspicuous place on the premises to which the permit applies so that it is readily visible from the street in front of or abutting the premises.

(5) No person who holds a special permit shall transfer that permit from the premises for which the permit is issued to any other premises or location. Any attempt to do so voids the permit.

(6) If any person holding a permit under this section violates any condition of the permit, the Director of Public Works may revoke the permit, after affording the permittee an opportunity for a hearing before the Town Administrator. Before such hearing, the Director may suspend the permit for up to twenty days, if the Director finds that the public health, safety, and welfare requires such suspension.

(7) The Town Administrator may establish such additional procedures as deemed necessary for the review and processing of special permit applications.

(8) The Town Administrator may establish a moratorium on the issuance of some or all of the special permits authorized by this section.

Sec. 13-74. Enforcement of Water Conservation Measures.

No owner and no occupant of a premises receiving municipal water shall fail to comply with the provisions of Section 13-55 of this Code, concerning the repair and maintenance of water service lines and fixtures, and Sections 13-71 through 13-73. Violations of the provisions of these sections during any time when water conservation measures have been imposed by the Town Administrator pursuant to section 13-72 are subject to imposition of the following penalties:

(1) Administrative Charges:

(a) For a first violation within a twelve-month period, the Director of Public Works shall notify the owner in writing of the violation and that a \$50.00 water waste charge is due, payable, and collectable pursuant to the provisions of this chapter within ten days of the date of the notice.

(b) For a second violation within a twelve-month period at the same premises, the Director of Public Works shall notify the owner in writing of the violation and that a \$100.00 water waste charge is due, payable, and collectable pursuant to the provisions of this chapter within ten days of the date of the notice.

(c) For a third or any subsequent violation within a twelve-month period at the same premises, the Director of Public Works shall notify the owner in writing of the violation and that a \$300.00 water waste charge is due,

payable, and collectable pursuant to the provisions of this chapter within ten days of the date of the notice.

(d) The notice of the water waste charge shall be served no later than thirty days after the Director of Public Works learns of the violation and the identity of the owner of the property. Service shall be upon the owner of the property in person or by first class or certified mail addressed to the last known owner of the property on the records of the Boulder County Assessor. The Director may send copies of the notice to such occupants of the property or agents of the owner as the Director deems useful. The notice shall advise the owner of the right to a hearing under paragraph (1)(e) of this section, and that if payment of the water waste charge is not received by the Town or a hearing requested within the ten days, the water waste charge, together with a \$15.00 administrative processing fee, will appear on the next regular water bill.

(e) The owner of the property notified of a water waste charge, or any agent of the owner authorized in writing by the owner, may file a written request for a hearing regarding the factual basis for imposing the charge with the Town Administrator within ten days of the date of the notice. The request must identify the notice being appealed by attaching a copy or otherwise identifying it, and shall contain the name, address, and telephone number of the person to whom notice of the date, time, and place of the hearing should be given. Filing occurs when the Town Administrator receives the request. The Town bears the burden of establishing the factual basis for imposing the water waste charge by a preponderance of the evidence, and if that basis is established the Administrator shall order the charge paid within ten days, subject to the \$15.00 administrative fee and the collection procedures of this chapter if not paid within that time. Failure to request a hearing within the time provided or attend any such hearing constitutes a waiver of the right to such hearing and a determination of all issues then existing as supporting the factual basis for imposing the water waste charge.

(2) Additional Remedies: After three notices of a water waste charge have been served upon an owner pursuant to this Section within any twelve-month period, in addition to or in lieu of a further notice of a water waste charge the Director of Public Works may, in his or her discretion:

(a) Cut Off Water: Suspend water service to the premises for a period of time not to exceed thirty days after giving notice and an opportunity for a hearing before the Town Administrator. The owner of the premises is responsible for paying the charges required for termination of service and for resumption of service before service, if suspended, is resumed. The Director may reduce the period of suspension or hold a threatened

suspension in abeyance if the owner presents and implements a plan acceptable to the Director to prevent further violations; and

(b) Criminal Penalties: Prosecute violators in municipal court pursuant to the provisions of Article IV of Chapter 1 of this Code and the normal procedures of a municipal court prosecution.

(c) Proof of Evidence: In order for the Director to proceed under this subsection it is sufficient that the Director prove, by a preponderance of the evidence, that the three predicate notices were properly served and that they were for alleged violations which all took place within twelve months of each other.

Section 2. Sections 13-75 through 13-80 of the Nederland Municipal Code shall remain designated as "Reserved."

Section 3. Should any one or more sections or provisions of this Ordinance or of the Code provisions enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or of such Code provision, the intention being that the various sections and provisions are severable.

Section 4. Any and all Ordinances or Codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such Ordinance or Code or part thereof shall not revive any other section or part of any Ordinance or Code provision heretofore repealed or superseded.

INTRODUCED, READ AND PASSED, ADOPTED AND ORDERED PUBLISHED THIS 5th DAY OF JANUARY, 2010.

TOWN OF NEDERLAND, COLORADO

Betty J. Porter, Betty J. Porter
Mayor Pro Tem

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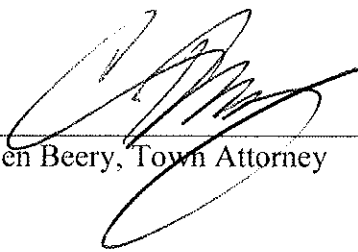
Martin Cheshes, Mayor

ATTEST:

Christi Icenogle
Christi Icenogle, Town Clerk



APPROVED AS TO FORM:



Carmen Beery, Town Attorney