

Ordinance No. 23-08-025b
Work in Town R-O-W
BOC Meeting August 2, 2023



AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF NAGS HEAD, NORTH CAROLINA AS IT PERTAINS TO CHAPTER 44 UTILITIES

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, Town Code shall be amended as follows:

PART I. That **Chapter 44 Utilities**, be amended as follows:

Chapter 44 UTILITIES¹

ARTICLE I. IN GENERAL

Secs. 44-1—44-30. Reserved.

ARTICLE II. WATER

DIVISION 1. GENERALLY

Sec. 44-31. Damaging or tampering with water system.

It shall be unlawful for any person to tamper with, break or damage any portion of the water system.

Sec. 44-32. Requirements for connection to town system.

Prior to the connection of any water mains to the town system, the following prerequisites shall be met:

- (1) All mains and water lines to be connected shall have been sterilized in accordance with procedures approved by the county health department which procedures shall be administered under the direct supervision of a representative of the county health department or the town water department.
- (2) The mains to be served by the town water system are conveyed to the town prior to connection.

¹Cross reference(s)—Administration, ch. 2; buildings and building regulations, ch. 10; businesses and licensing, ch. 12; environment, ch. 16; solid waste management, ch. 30; streets, sidewalks and other public places, ch. 36; telecommunications, ch. 40; utility easements in subdivisions, UDO § 10-64; electric, telephone, cable television and natural gas lines in subdivisions, UDO § 10-70; subdivisions, UDO art. 10, pt. V; soil erosion and sedimentation control, UDO, art. 11, pt. II; floods, UDO, art. 11, pt. III.

State law reference(s)—Authority of town to construct, establish, operate, etc., water and sewer systems, G.S. 160A-312.

Sec. 44-33. Rates and charges generally.

Water and sewer rates and charges shall be as established from time to time by the board of commissioners and shall be kept on file in the office of the town clerk.

State law reference(s)—Authority of town to fix, enforce, revise, etc., rates and charges for use of public enterprises, G.S. 160A-314.

Sec. 44-34. Cut-on fee.

A cut-on fee, according to the then current rate and fee schedule, will be charged each time water service is turned on.

Sec. 44-35. Payment of bills.

Water bills shall be mailed on the 10th and 25th of each month depending on the cycle to which your address corresponds. When Town Hall is closed, they will be mailed on the previous business day. Each cycle will receive a bill every other month. A calendar is established at the beginning of each fiscal year outlining dates for billing, due date, penalty date, late notices and cut-off dates for each cycle. Water services charges are immediately due and become past due on the 5th and the 20th, respectively, of the following month. After the expiration of the appropriate water billing past due date, there shall be levied a late payment fee in an amount equal to ten percent of the principle amount of the bill. Water services may be cut off for nonpayment on the 20th and the 5th, respectively, following the billing past due date, without further notice and a tag fee per the consolidated fee schedule will be added to the account. If Town Hall is closed, bill due dates and nonpayment water services cut offs will be the following business day. Even when service is cut off, water customers retain the liability for the minimum charge for each billing period the service is discontinued. Payment of water bills may be enforced as provided in G.S. 160A-314.

Sec. 44-36. Resale or supplying to persons not connected with town system.

The resale or supplying of water, from the town's system to other persons or families, by persons other than the town shall not be permitted.

Sec. 44-37. Use of cutoff in meter box.

No person, other than authorized personnel of the town, shall use the cut-off in the meter box.

Sec. 44-38. Authority of town to cut off water in emergencies; notification of customers.

The town reserves the right to cut off water without notice in case of accidents or emergency repairs. If time permits, affected customers are to be notified one hour prior to cutoff.

Sec. 44-39. Town not liable for failure of supply.

The town shall not be liable for failure or interruption of the water supply.
(Code 1990, § 21-34)

Secs. 44-40—44-60. Reserved.

DIVISION 2. CONNECTIONS²

Sec. 44-61. Tapping fees to be paid in advance.

Water tapping fees shall be paid in advance, before work is undertaken. The water tap fee shall be in an amount set by the board of commissioners of the town in the schedule of fees. Payment of the tapping fee shall entitle the owner of the property for which the tapping fee is paid to have a water tap installed during a period of six months from the date of deposit. After such six-month period, no connection or tap shall be made until such time as the owner or depositor shall pay any additional amount due to any increase in the water tap fee schedule which additional deposit shall be valid for another period of six months. Any water tap fee, for which a connection has not been made, may be refunded on demand by the depositor at any time prior to the time any action is taken by the town to make such connection. After the expiration of six months from the date of any deposit or increased deposit which is not renewed, the town may refund the amounts deposited if no connection has been made.

²Cross reference(s)—Buildings and building regulations, ch. 10; sewage disposal system prerequisite to connection of electricity, § 10-3.

State law reference(s)—Power of town to require water connections, G.S. 160A-317.

Sec. 44-62. Connections to be made only by town.

Connections of water taps and any other connections to the town's water system or to any line which is to be dedicated to the town shall be done by the town, under the supervision of the ~~water superintendent~~, Public Services Director, or their designee.

Sec. 44-63. Connection to town system required; exception.

All new development shall be connected to the town water system, in accordance with standards and specifications then in effect, for water supply. Single-family residences may be exempted from this requirement if they meet all of the following requirements:

- (1) The structure is proposed for a lot of at least 40,000 square feet in size, or is an existing lot of record that does not front on a dedicated right-of-way, or a lot that has been previously developed without benefit of a water tap;
- (2) The lot is located in excess of 500 feet from an existing installed water main that has been accepted and maintained by the town in accordance with article 10, part V, Subdivision Regulations, of the Unified Development Ordinance;
- (3) The lot is recorded at the county registry and met all subdivision and zoning requirements at the time of its creation;
- (4) The developer obtains all necessary approvals from the appropriate regulatory agencies; and
- (5) A fire protection method that offers equivalent or better fire flow for the residential units as would be provided with connection to the town water system as reviewed and approved by the fire chief. Equivalent protection strategies include use of, or combination of use of dry hydrants, onsite water storage and a multi-purpose residential sprinkler system to provide fire protection.

Sec. 44-63. Connection to town system required; exception.

All new development shall be connected to the town water system, in accordance with standards and specifications then in effect, for water supply. Single-family residences may be exempted from this requirement if they meet all of the following requirements:

- (1) The structure is proposed for a lot of at least 40,000 square feet in size, or is an existing lot of record that does not front on a dedicated right-of-way, or a lot that has been previously developed without benefit of a water tap;
- (2) The lot is located in excess of 500 feet from an existing installed water main that has been accepted and maintained by the town in accordance with article 10, part V, Subdivision Regulations, of the Unified Development Ordinance;
- (3) The lot is recorded at the county registry and met all subdivision and zoning requirements at the time of its creation;
- (4) The developer obtains all necessary approvals from the appropriate regulatory agencies; and
- (5) A fire protection method that offers equivalent or better fire flow for the residential units as would be provided with connection to the town water system as reviewed and approved by the fire chief. Equivalent protection strategies include use of, or combination of use of dry hydrants, onsite water storage and a multi-purpose residential sprinkler system to provide fire protection.

Sec. 44-64. Plumbing inspection prerequisite.

In order to protect the town water supply, the town will not make any water taps until the plumbing of the premises involved has been inspected and approved by the town building inspector or water superintendent, which inspection will be made only after deposit of the stipulated fee for such inspection by the affected property owner. The plumbing shall be in accordance with the plumbing code of the town.

Sec. 44-65. Connections to unapproved water supplies.

No person shall make a physical connection (cross connection) between the municipal water system and any nonmunicipal water system or service. All existing physical connections between the municipal water system and any nonmunicipal water system or service shall be immediately disconnected.

Sec. 44-66. Laterals to be laid to edge of property line by town.

At each water tap the town will extend the water lateral to the edge of the property line where the meter will be located.

Sec. 44-67. Pipes, meters, other fittings to remain property of town.

All water meters, meter boxes, pipes and other fittings necessary to make the water taps shall remain the property of the town.

Sec. 44-68. Separate connections and meters required; exceptions.

- (a) Each building, dwelling unit, structure or separate business operation shall have a separate water meter, except as follows:
- (1) *Multifamily buildings.* One meter may be provided for each multifamily building, regardless of the number of units contained therein. When one meter is provided, the owner of the multifamily building shall be billed in accordance with the town's current rate schedule. When there are multiple owners, or a single owner who desires the town to bill individual units, then each unit owner or lessee shall deposit with the town the amount of a meter deposit and shall be charged a separate minimum as well as an equal share of the water charges for water delivered in excess of that associated with the aggregate of the minimum billings.
 - (2) *Cottage courts.* A cottage court under single ownership shall be treated as a single building, regardless of the number of units, and one meter shall be provided for the entire cottage court in single ownership.
 - (3) *Separate commercial buildings located on single commercial site.* Separate commercial buildings or a single building with multiple individual business units located on a single commercial site in single ownership may be treated as a single building in single ownership, in which case one meter may be provided, and the owner shall be billed in accordance with the town's current rate schedule. When there are multiple owners, or a single owner who desires the town to bill individual businesses or other units, then the owner or lessee of each business or other unit shall deposit with the town the amount of a meter deposit and shall be charged a separate minimum as well as an equal share of the water charges for water delivered in excess of that associated with the aggregate of the minimum billings.
- (b) The term "single ownership" is defined as ownership of real property by an individual, partnership, corporation or combination thereof when each entity owns an undivided interest in such real property. Whenever property, formerly in single ownership, with more than one building located thereon, is subdivided or ownership becomes divided, then a separate meter shall be required for each building or structure no longer remaining in single ownership. One minimum rate shall be charged for each separate meter installed, or as provided for in subsections (a)(1) and (a)(3) of this section.
- (c) Water services presently in existence with a single meter serving more than one dwelling unit, structure, separate building or other water user will be allowed to continue the practice, but no additional structure or other user may be added to any such multiple user's service unless in accordance with subsections (a)(1), (a)(2) or (a)(3) of this section.
- (d) For all such existing multiple-user, single-meter service with multiple billing, the total consumption shall be divided by the number of dwellings, apartments, stores or businesses served and billed as individual accounts to the owners or lessees. The minimum bill for each account will be no less than the minimum rate according to the current rate schedule as well as an equal share of the water charges for water delivered in excess of that associated with the aggregate of the minimum billings.
- (e) When a change in billing is requested for an existing subscriber to such multiple-user, single-meter service with multiple billing, the new owner or lessee shall deposit with the town the amount of a meter deposit in accordance with the current rate schedule.

Sec. 44-69. Right-of-way required to cross private property other than that being served.

Water and sewer taps will not be made to service pipes that cross private property other than the particular residence, industrial or commercial lot being served, unless a right-of-way is given and recorded.

Sec. 44-70. Town to maintain taps.

After installation the town will maintain water taps, from the main to and including the meter.

Sec. 44-71. Relocation of meters.

At the request of the property owner, the town will relocate existing water meters, provided that the property owner deposits with the town, in advance, the cost of a new tap according to the town's schedule. The town will refund to the property owner any monies over and above the total cost of labor and materials.

Sec. 44-72. Tap to be made only to line immediately abutting property to be served.

No water tap will be made except to a water line situated in that part of the street or right-of-way immediately abutting the lot to be served, except as otherwise provided in section 44-69.

Sec. 44-73. Temporary taps.

When a temporary water tap is desired, the party desiring such a tap shall deposit with the town the fee for a tap, regardless of the location of the tap. The town will then install a meter at the nearest water main. After the tap has served its purpose and has been removed, the town will refund to the depositor any monies over and above the cost of labor and the cost of any material involved in the project.

Sec. 44-74. Exceptional water taps.

For any tap requested to be made under this article, if it is determined by the appropriate town official that the cost of installation exceeds the published water tapping fee, the applicant for the water tap shall be notified of the additional cost. Upon receipt of the additional tap fee as provided herein, the water tap connection shall be made.

Sec. 44-75. Sprinkler systems.

- (a) *Generally.* No sprinkler or other fire system will be connected to the town water system unless and until adequate plans for the system have been submitted to and approved by the ~~deputy director of public works~~ **Public Services Director, or their designee**, and the final tap on connection will not be made until the entire installation has been inspected and approved by the ~~deputy director of public works~~ **Public Services Director, or their designee or his designated assistant**. Such installations shall be in accordance with the specifications and requirements of the ~~deputy director of public works~~ and Public Services Director, or their designee and shall be in accordance with state and/or local cross connection policies and procedures shall include not less than one fire underwriters' approved check valve at a location to be designated by the deputy director of public works.
- (b) *Right of entry for purposes of inspection.* The ~~water superintendent~~, **Public Services Director, or their designee**, fire chief or any of their assistants, during daylight hours of any day other than Sundays or legal holidays, shall have the full right and authority to enter upon the premises of the person equipped with a sprinkler or other fire system for the purpose of inspecting the connections of such system.
- (c) *Water to be used for fire protection only.* No water supplied for sprinkler systems, passing through the connections required in this section, shall be used for any purpose other than fire protection. No such connections, other than those required for firefighting purposes, will be permitted on any water system.
- (d) *Disconnection of service for violation; conditions for restoration of service after disconnection.*
 - (1) In the event of the failure of any person to comply with any of the provisions of this division, the town may, after ten days' written notice, disconnect the premises of such person from the town water system.
 - (2) If the premises of any water customer are disconnected for violation of any of the provisions of this section, the town will not reconnect such premises until an approved detector-type check valve and meter has been installed on the fire service portion of the customer's water system at the property owner's sole expense. In such cases the restoration of services may be made as soon as the customer involved has deposited with the town sufficient funds to cover the estimated cost of the installation of an approved detector-type check valve and meter.

Sec. 44-76. Hydrants.

- (a) *Supervision of installation; size of line.* Fire hydrants and their connections shall be installed and located under supervision of the fire chief and public ~~works services~~ director; provided, that the line on which the hydrant is to be installed must be six inches in diameter or larger for the entire distance from such hydrant to the water plant or elevated tank.
- (b) *Costs of hydrants and connections.* Fire hydrants and their connections shall be furnished by the town for installations under sections 44-102, 44-104, 44-107, and 44-108 and shall be financed as therein provided. Fire hydrants and connections installed under section 44-109 shall be purchased, furnished and installed by the subdivider as therein set out.
- (c) *Use of water by other than authorized personnel.* Water is not to be taken from fire hydrants except by authorized personnel. Violations of this provision of this Code shall subject the offender to either

a civil penalty in the amount of \$250.00 or a criminal penalty which shall be a misdemeanor and punishable as provided by G.S. 14-4.

- (d) *Area around hydrants to be kept clear.* An area not less than six feet in any direction shall be kept clear and unobstructed around each hydrant.

Sec. 44-77. Water cut off when sewerage terminated.

- (a) Whenever the town receives notice of and confirms upon investigation that sewage disposal is not available, has been cut off, terminated, or that the septic system for any house, building or other structure has become inoperable or condemned by appropriate authority, the town shall be authorized to terminate water service to that house, building or structure until sewage disposal service has been restored.
- (b) As provided by section 44-36, no person other than the appropriate town employee shall turn on or reconnect the water service. In the event of a violation of this subsection, the town may remove the water meter and shall not reinstall the meter until sewage disposal is reestablished and upon payment of a new water meter drop in fee in the amount established by the most current schedule of fees.

Secs. 44-78—44-100. Reserved.

DIVISION 3. EXTENSION OF SERVICE

Sec. 44-101. Compliance with division provisions.

No extension to the water system of the town shall be made and no application shall be approved, except in accordance with the requirements of this division.

Sec. 44-102. Applications generally.

- (a) *Required.* Any property owner desiring water service shall apply in writing to the board of commissioners requesting the extension of water service. No request for the extension of service shall be considered unless submitted in writing in accordance with the requirements of this article.
- (b) *Information, plans, or other data to determine compliance with division.* The town may require the applicant to submit, as part of the written application, such information, plans or other data as may be required to adequately determine if the requirements of this division are to be met.
- (c) *Plans showing size and type of facilities required.* When an application is made for water extension to serve an area or development project that is planned as part of a larger project or subdivision, all of which is not to be developed at the time such application is made, the owner shall submit plans in sufficient detail in order to determine the size and type facilities which will be necessary to serve the entire development or subdivision when completed.

Sec. 44-103. Approval generally.

Approval of extensions of water service within subdivisions proposed to be developed or under construction shall be in accordance with the town subdivision regulations, as established by article 10, part V, Subdivision Regulations, of the Unified Development Ordinance. All other extensions of water service, whether or not the total expense is borne by the applicant, must be approved by the board of commissioners in accordance with this article.

Sec. 44-104. Estimation of costs and other required information.

Upon receipt of an application requesting the extension of water service, or upon motion of the board of commissioners, which application or motion is deemed to be acceptable and feasible, the board of commissioners shall direct the public services director, or their designee, water superintendent, or such other person as the commissioners shall designate, to estimate the cost of the project and present the application, the estimated cost and other required information to the board for their consideration.

Sec. 44-105. Resolution assessing costs, terms, manner of payment on approval of application.

If the application or motion is approved by the board of commissioners, a resolution shall be passed in which a provision shall be made providing that the actual cost of the water system extension shall be assessed upon the lots and parcels of land abutting directly on the lateral mains of such extension, according to the extent of the respective frontage thereon, by an equal rate per foot of such frontage. Such resolution may provide that such assessments be paid in equal installments covering a period not exceeding ten years. Such resolution shall designate, by a general description, the improvements to be

made, the street or part thereof whereon the work is to be affected, the cost thereof, to be assessed upon all abutting property, and the terms and manner of payment. Such resolution shall be published in a newspaper of general distribution within the town.

Sec. 44-106. Installation after approval.

After approval of an extension, the town will then install, or have installed by contract under its supervision, such extensions, the cost of which shall be financed by assessment in accordance with state law.

Sec. 44-107. General construction requirements.

All extensions of water service shall be governed by the following requirements:

- (1) *Minimum distance.* The minimum distance for any extension of a water main shall be determined by the board of commissioners. In general, the minimum distance for extensions shall be one platted block.
- (2) *Size and type of facilities.* The size of water mains to be installed and the other required system facilities shall be determined by the board of commissioners in accordance with the recognized standards and accepted engineering practices and design.

Sec. 44-108. Alternative procedures and requirements for extensions to proposed or certain existing subdivisions.

When an application is received requesting the extension of water service to a proposed subdivision, one for which a final plat has not been recorded, or an existing subdivision which is located in excess of 500 feet from an existing water main or for a commercial development or if an extension is required by the board of commissioners of the town as a condition of site plan approval for a commercial development, the following procedure may be followed as an alternative to the provisions of sections 44-105 and 44-106 in the discretion of the board of commissioners:

- (1) The applicant shall be required to install the water system extension at his own expense, such installation to be in accordance with the standards and specifications of the town and under supervision of the water superintendent. Such installation shall be approved by the water superintendent before the same is covered. If the applicant shall request, or, in the case of commercial development, the town shall require the town to install the water system extension, such extension may be undertaken by the town upon payment to the town of the costs of the extension including labor and materials.
- (2) The costs of all fire hydrants and hydrant connections, and the cost of installation over and above the cost of installation of an eight-inch water main where the town deems such a larger water main desirable, shall be borne by the town.
- (3) For ten years subsequent to the date of completion of construction the town shall collect from all persons from whom a tap is made to such extensions, a water line reimbursement fee in accordance with the fee schedule of the town. On or before June 30 annually, commencing on June 30 next following the date on which construction is completed, the town shall pay over to the applicant an amount equal to the proportionate part of the applicant's cost to the total cost of the fees collected. After such ten-year period, all fees shall be retained by the town.

Sec. 44-109. Subdivider of subdivision proposed or under development to bear cost.

The cost of any water system extension, including fire hydrants and connections, within a subdivision under development or proposed shall be borne entirely by the subdivider in accordance with the subdivision regulations of the town, as established in article 10, part V, Subdivision Regulations, of the Unified Development Ordinance, and under supervision of the water superintendent.

Sec. 44-110. Compliance with approved plans and specifications; ownership and control of installed facilities; utility easements.

- (a) Any water mains extended under the provisions of this division shall be installed and constructed in accordance with the approved plans, specifications and other requirements of the town.
- (b) All facilities installed under the provisions of this division shall become the sole property of the town and shall fall under its jurisdiction and control for all purposes whatsoever at the time such facilities are connected to the town system. When required, the property owner shall grant to the town such utility easements as the town may require. In addition, a conveyance to the town for water facilities installed, the cost of which is borne by individuals, shall be executed prior to the time any extensions provided for in this division are connected to the town system.

Secs. 44-111—44-130. Reserved.

DIVISION 4. DEEP WELLS

Sec. 44-131. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Deep water well means any well drilled for the purpose of extracting fresh water which well head or point extends to a depth exceeding 100 feet below the ground surface level.

Deep well means any well drilled for any purpose, the well head or point for which extends to a depth exceeding 100 feet below the ground surface level.

Significantly affected means, but is not limited to, such contamination of the fresh water aquifer by salt or nonpotable mineralized water to the extent that the chemical limits for raw water as adopted and published by the state department of health, are exceeded; or, that the effects of the proposed well in conjunction with the existing wells will cause such standards to be exceeded; or, the planned pumping capacity of the proposed wells, individually or severally, with all existing wells will reduce the internal pressure within the aquifer to such extent as to allow intrusion of salt or nonpotable mineralized water into the aquifer.

All other terms used in this article shall have the same meanings as found in G.S. 113A-9 and 87-85.

Cross reference(s)—Definitions generally, § 1-2.

Sec. 44-132. Compliance with division provisions.

Any well drilled within the county for other purposes than the extraction of fresh water and which exceed a drilled depth of 100 feet shall not be used for the extraction of fresh water until such times as the requirements of this division for the construction of deep water wells have been met and a permit issued therefor.

Sec. 44-133. Exemptions from division provisions.

- (a) Any developer holding a permit issued by the petroleum division of the department of conservation and development under G.S. 113-378 et seq., shall be exempt from the provisions of this division.
- (b) Any person or any developer constructing a well for which the aggregate pumping capacity shall not exceed 100,000 gallons per day shall be exempt from the provisions of this division.

Sec. 44-134. Permits.

- (a) *Application; conditions on issuance.* Prior to the commencement of construction or drilling of any deep well, application for a permit shall be made to the county building inspector who may issue a permit or a conditional permit upon the following conditions:
 - (1) Submission of the environmental impact study required by section 44-135.
 - (2) A determination being made in writing by the board of county commissioners that after consideration of the environmental impact statement required by section 44-135 by the board of county commissioners, its engineer and affected state and federal agencies that the proposed well, if constructed, will not adversely affect the aquifer and specifically will not cause the intrusion of salt water and nonpotable mineralized water to such an extent that the aquifer will be significantly affected.
 - (3) A complete set of engineering plans of the proposed project in five copies be submitted to the county building inspector for consideration by the county, its engineer and affected state and federal agencies.
 - (4) The developer shall obtain the necessary approval and permits as required by the state board of health and the state department of water and air resources, as applicable, for the proposed project, and as may be required by G.S. 87-83 et seq. and G.S. 143-211 et seq., and other applicable laws.
 - (5) All permits issued in accordance with this division shall contain the provision and condition that the developer shall do no act and shall allow no act to be done which results in contamination of the aquifer and cause the intrusion of salt water or nonpotable mineralized water to such an extent that the aquifer will be significantly affected and that such act, if done, shall result in the suspension of the permit and all operations conducted in accordance with such permit shall cease until such act and the contamination resulting thereby shall have been eliminated.

-
- (6) As a further condition in all permits issued under this division, the county, its officials and employees shall have the right to inspect and investigate the well site and its operations at any time, in the course of their employment and in the operation and enforcement of this division.

(b) *Issuance or denial; appeal of denial.*

- (1) Upon completion of the conditions of subsection (a) of this section, the building inspector of the county shall, within 60 days, either issue a permit authorizing the construction of a well in accordance with the approval engineering plans or deny such permit.
- (2) Upon denial of such permit the person aggrieved shall have ten days in which to request a hearing before the board of county commissioners by service of written notice of appeal from the decision of the building inspector upon the board of county commissioners. Within 30 days after such service, the board of county commissioners shall hold a hearing at a time and place designated by such commissioners at which time the board of county commissioners may either uphold the decision of the building inspector, direct the issuance of a permit by the building inspector or direct the issuance of a conditional permit by the building inspector which may require compliance with such reasonable conditions as may not be contrary to the intent and purposes of this division.

- (c) *Conditional permits.* As provided in subsection (a) of this section, the building inspector may issue a conditional permit or upon appeal from the decision of the building inspector denying a permit, the board of county commissioners may direct the issuance of a conditional permit. The conditions so required may be any conditions that are reasonable and which require the employment of good engineering practices and safety precautions, the modification and revision of engineering plans so as to reduce the likelihood of contamination of the aquifer, the substitution of materials and equipment and the requirement of additional materials and equipment in order to reduce the likelihood of such contamination and the employment of additional personnel, engineers and operators as good engineering practices may dictate in order to carry out the purposes of this division.

Sec. 44-135. Environmental impact statements.

- (a) Pursuant to G.S. 113A-8, any special purpose unit of government or private developer proposing to construct a deep water well or well project shall submit a detail statement setting forth the following:
- (1) The environmental impact of the proposed action, including the impact of any proposed well or series of wells on the aquifer and the effect thereby created on the aquifer by such well when pumped at maximum capacity;
 - (2) Any significant adverse environmental effects which cannot be avoided should the proposal be implemented;
 - (3) Mitigation measures proposed to minimize the impact;
 - (4) Alternatives to the proposed action;
 - (5) The relationship between the shortterm uses of the environment involved in the proposed action and the maintenance and enhancement of longterm productivity; and
 - (6) Any irreversible and irretrievable environmental changes which would be involved in the proposed action should it be implemented, including the possibility of salt water and nonpotable mineralized water intrusion into the aquifer.
- (b) The special purpose unit of government or developer shall submit at least ten copies of the environmental impact statement to the secretary of the board of county commissioners for review by the county commissioners, its engineer and affected state and federal agencies. Those guidelines relating to the preparation of such environmental impact statements included in G.S. 113A-1 et seq. shall be used in the preparation of the statement required by this division.

Sec. 44-136. County to enforce division provisions.

The board of commissioners of the town do hereby appoint and authorize the officials and employees of the county to enforce the provisions of this division.

Secs. 44-137—44-160. Reserved.

PART II - CODE OF ORDINANCES
Chapter 44 - UTILITIES
ARTICLE II. - WATER
DIVISION 5. SYSTEM DEVELOPMENT FEES

DIVISION 5. SYSTEM DEVELOPMENT FEES³

Sec. 44-161. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Active water consumption unit means one where associated water impact fees have been paid or where an active water meter account is currently serving an existing principal structure.

Customer service area means an area within a restaurant or restaurant drive-in, open to the general public and designated for the purchase and/or consumption of food, drink, or other similar items. Customer service area shall include indoor and/or outdoor seating areas, indoor and/or outdoor lounge and bar areas, decks, porches, and patios, but shall not include stairs, stair landings, handicapped ramps, restrooms, kitchen and food preparation areas, private offices, loading areas, hallways, exit access and exit discharge areas, and any other areas not open to the general public.

System development fee means a charge or assessment for service imposed with respect to new development to fund costs of capital improvements necessitated by and attributable to such new development, to recoup costs of existing facilities which serve such new development, or a combination of those costs. All projects for which a building permit or site plan is issued or otherwise when a building or other structure or use shall be erected, moved, added to or structurally altered after July 1, 2018 will be assessed a system development fee in accordance with section 44-164.

Water consumption unit (WCU) means a fee charged by the town for water service prior to July 1, 2018 based upon a fixed quantity of water used as a standard to establish the daily water consumption of various land uses. After July 1, 2018, new water consumption units will no longer be assessed.

Water tap permit means a permit issued by the town to a property owner or developer that specifies the system development fee required for the proposed development, the size of water tap for the proposed development, amount of system development fee due, and amount of water tap fee due.

Cross reference(s)—Definitions generally, § 1-2.

Sec. 44-162. General provisions.

- (a) No building permit may be issued and no site plan may be approved by the town unless all associated water fees have been paid and a water tap permit needed for the proposed project has been issued to the applicant for the building permit or site plan. Water fees shall include the payment of a system development fee which is calculated in accordance with the requirements of section 44-164. Any proposed change of use or increase in occupancy of a structure requiring at least an additional 200 gallons per day of water usage, as determined by section 44-164, shall be regulated by provisions of this division.
- (b) If building permit and/or site plan approval is not required, no building or other structure or use shall be erected, moved, added to or structurally altered until all applicable water fees and water tap permit for the amount of the system development fee needed for the proposed project have been issued to and paid for by the applicant.
- (c) Authorization of installation of a water tap is issued upon completion of the framing inspection.
- (d) The system development fee schedule and tap fees are contained in the town's consolidated fee schedule.
- (e) Exemptions. Requests for refunds or exemptions from the system development fee associated with a single-family development site may be considered by the board of commissioners upon petition by the property owner where all of the following criteria are met:
 - (1) The property in question meets the requirements of section 44-63;
 - (2) The board of commissioners determines that due to unique environmental conditions particular to the applicant's property and surrounding property that the benefits of

³Editor's note(s)—Ord. No. 18-07-010, Pt. I, adopted July 5, 2018, amended div. 5 in its entirety to read as herein set out. Former div. 5, §§ 44-161—44-165 was entitled "Water Consumption Units," and derived from: Code 1990, § 21-131—21-135; ; Ord. No. 04-05-017, § I, adopted May 5, 2004; and Ord. No. 11-09-034, Pt. I, adopted Sept. 7, 2011.

Cross reference(s)—Development facility fees, § 10-331 et seq.

preserving the environment outweigh the advantages of installing a water distribution system to serve the property; and

- (3) Based on the most recent update of the town's water distribution needs, there are no plans to extend and no reasonable expectation to service the property in question.

Sec. 44-163. Redevelopment.

- (a) In cases of redevelopment or where water service has been discontinued, credit for active water consumption units shall be equal to one water consumption unit or the number of water consumption units that have been verified by the town. The credit for each active water consumption unit shall equal up to 1,700 gallons per day.
- (b) Active water consumption units may not be transferred off-site except as specifically provided herein.
- (c) Active water consumption units may be used as credit against proposed redevelopment on the site up to 100 percent of the redevelopment requirement. Credit must be affirmatively obtained in writing before any redevelopment activity including but not limited to demolition or removal of existing structures.
- (d) Existing water consumption units above the requirement for on-site redevelopment are not transferable, neither can they be used beyond the originally approved redevelopment project for future credit.
- (e) Active water consumption units for one-family and two-family structures may be transferred off-site within one year after the structure has been determined to be in imminent threat of collapse as defined by CAMA, where such involves the physical relocation of a threatened structure (ocean or estuarine).
- (f) Active water consumption units may be transferred off-site where such is a condition of acquisition of property by the town.
- (g) The use of existing water consumption units after having qualified for credit must be applied for and a building permit issued within five years of issuance of the certificate of completion for the demolition or relocation of the existing structure.
- (h) Modification to or change of use to existing structures. Credit will be allowed for present or existing use in accordance with the current fee schedule as if the structure were being built at the time of application for a building permit. The credit will be deducted from the total impact fee schedule that would apply to the new structure or use. If the credit equals or exceeds the impact fee for the new structure or use, no fee will be charged. However, in no case will a refund be made for a modification to an existing structure or a change of use.
- (i) The renovation, remodeling or expansion of a dwelling, or the construction of an accessory structure that does not require an additional water tap or system development fees shall be exempt from the procedures set out in this division.
- (j) Principal structures proposed for sites on which a water tap already exists shall require a water tap permit. System development fees needed for the structures shall be determined in accordance with section 44-164.
- (k) For additions to existing structures, section 44-164 shall be used to determine the needed additional system development fees.

Sec. 44-164. Application for water tap permit; calculation of the system development fee.

- (a) An application for a water tap permit shall be filed at the time of application for a single-family or duplex building permit or at the time of site plan submission for projects for which site plan approval is required.
- (b) System development fees are calculated based on the daily wastewater design flow rates for each proposed land use in accordance with the schedule established by North Carolina Administrative Code Section 15A, NCAC 02T.0114. The system development fee shall equal the amount as listed in the Consolidated Fee Schedule. For single-family dwellings, the flow rate shall equal 120 gallons per bedroom per day. The minimum flow rate for a single-family dwelling shall be 240 gallons per day. Each additional bedroom above two bedrooms shall increase the volume by 120 gallons per day. For other land uses, refer to the schedule for each type of establishment as outlined in 15A, NCAC 02T.0114.

Sec. 44-165. Prepayment.

- (a) After July 1, 2018, the town shall no longer accept prepayment of impact fees or system development fees for a proposed development prior to the issuance of a building permit or site plan approval.
- (b) Existing prepaid water consumption units prior to July 1, 2018 will not be transferable from one piece of property to another. Water consumption units are tied to a particular site rather than to the party making prepayment.
- (c) The town may refund prepayment of unused water impact fees if surplus funds become available for such a purpose. The town will not commit to any time frame for these refunds nor will it agree to pay any interest on such reimbursements.
- (d) Scheduling of the draw-down of prepaid water consumption units shall be subject to town approval prior to the acceptance of any prepayment of impact fees.
- (e) A refund will nullify the town's commitment to furnish the water represented by the number of water consumption units corresponding to the refund.

Secs. 44-166—44-180. Reserved.

DIVISION 6. WATER LINE STANDARDS

This section has been superseded by the Town of Nags Head Water Distribution System- Standard Technical Specifications and Construction Details-, NCDEQ Serial # 21-00672, dated September 17, 2021. This information can be accessed on the Town of Nags Heads website, water distribution page.

Commented [DR1]: This section has been superseded by the Town of Nags Head Water Distribution System- Standard Technical Specifications and Construction Details-, NCDEQ Serial # 21-00672, dated September 17, 2021

Sec. 44-181. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abbreviations. Wherever the following abbreviations are used in these specifications or on the plans, they are to be construed the same as the respective expressions represented:

A.A.S.H.O.	American Association of State Highway Officials
A.C.I.	American Concrete Institute
A.S.T.M.	American Society of Testing and Materials
N.C.D.O.T.	North Carolina Department of Transportation
A.W.W.A.	American Waterworks Association
A.N.S.I.	American National Standards Institute
N.P.T.	National Pipe Thread

Approved drawings means plans prepared by a registered engineer and approved by the town which show the location, character, and dimension of the prescribed work.

Approved equal means comparable equipment or materials to specified equipment or materials as determined by the town or its agent.

Contractor means the duly authorized representative of the developer, responsible for installation of the water system.

Defective work means work that does not conform to the requirements of this division and the approved drawings.

Developer means the property owner, developer or subdivider of the land to which, or across which, a water main is being planned.

Drawings means the plans approved by a registered engineer and submitted to the town for approval which show the location, character, and dimension of the prescribed work.

Engineer means a professional engineer registered in the state to act as duly authorized representative of the developer or the town.

Inspector means the town or the engineer's authorized representative assigned to make detailed inspections of the work.

NCDOT standards means policies and procedures for accommodating utilities on highway rights-of-way, state department of transportation, July 1, 1978.

Shop drawings means all drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by contractor, subcontractor, manufacturer, supplier or distributor and which illustrate the equipment, material or some portion of the work.

Subcontractor means an individual, partnership, firm, corporation, or joint venture, to which the contractor sublets part of the work.

Work means the furnishing of all labor, materials, equipment, and incidentals necessary or convenient to the successful completion of the project and carrying out the duties and obligations imposed by the town specifications.

Working day means a calendar day during which normal construction operations could proceed for a major part of a shift, excluding Saturdays, Sundays and town holidays.

Cross reference(s)—Definitions generally, § 1-2.

Sec. 44-182. Requirements of layout and design.

- (a) All mains shall be a minimum of six inches in diameter and shall meet the size requirement of the town engineering report "Improvements of the Water Distribution System," dated August, 1978.
- (b) Dead end lines shall exist only with approval from the town.
- (c) Butterfly valves are not to be used in distribution system piping.
- (d) Butterfly valves may be used, with approval from the town, in process piping at water treatment or pumping facilities.
- (e) Fire prevention sprinkler systems shall be designed to allow the entire piping system to be flushed once a year. Flushing capabilities shall be provided by means of a blowoff valve at the farthest point on the piping system. If the system is looped, isolation valves shall be installed to allow blowoff of one half of the loop at a time.
- (f) At least one sample tap and valve shall be installed to allow the public works department, water division, to sample the water standing in the sprinkler of the system. The sample tap shall be located near the farthest point on the system, and shall be easily accessible.

Sec. 44-183. Submittals.

- (a) Prior to actual construction of water lines, the developer must submit the following for approval by the town:
 - (1) Certificates of conformance for each lot of pipe supplied verifying that the pipe meets the specifications.
 - (2) Engineering data covering all equipment and fabricated materials which will become a permanent part of the work. This data should include drawings and descriptive information in sufficient detail to show the kind, size, arrangement, and operation of component materials and devices; the external connections, anchorages, and supports required; and dimensions needed for installation and correlation with other materials and equipment.
 - (3) Written approval of shop drawings by the town is required prior to installation.
 - (4) Three sets of drawings and specifications which include, as a minimum:
 - a. Plan view drawn to one inch equals 50 feet scale, submitted on 22 inch by 36 inch paper.
 - b. All existing topography within rights of way, plus all permanent building structures outside of rights of way, within 200 feet of centerline.
 - c. All proposed work including streets and underground utilities:
 - 1. Water line, valves, hydrants, and miscellaneous fittings dimensioned to existing topography or centerline of rights of way.
 - 2. All water line crossings of culverts shall indicate size and invert of existing pipe line and ground elevation.
 - 3. Location of all proposed water services.

4. ~~Location and method of connection to existing water system.~~

- (5) ~~All other information required by this division and the specifications dealing with actual construction of water lines.~~
- (b) ~~Thirty days shall be allowed for approval by the town.~~
- (c) ~~Following approval of the drawings and specifications by the town, the developer is required to submit a letter of approval for the water system from the state department of human resources (NCDHS), engineering and planning branch.~~
- (d) ~~Following actual construction of the water lines, the contractor shall furnish a copy of the bacteriological test for total coliform analysis. The test must be done by a state-certified laboratory and the certification number must be on the copy of the bacteriological test.~~

Sec. 44-184. Job conditions.

- (a) ~~Laws to be observed.~~ The developer and/or contractor must keep fully informed of all federal and state laws, all local laws, ordinances, and regulations and all orders and decrees of bodies having any jurisdiction or authority, which in any manner affect those engaged or employed on the work, or which in any way affect conduct of the work. He shall at all times observe and comply with all such laws, ordinances, regulations, orders, and decrees; and shall protect and indemnify the town and its representatives against any claim or liability arising from or based on the violation of any such law, ordinance, order, or decree, whether by himself or his employees.
- (b) ~~Permits, licenses and taxes.~~ The developer and/or contractor must procure all permits and licenses, pay all charges, fees, and taxes, and give notices necessary and incidental to the due and lawful prosecution of the work.
- (c) ~~Protection and restoration of property and landscape.~~ The developer shall be responsible for the preservation of all public and private property and shall protect carefully from disturbance or damage all property markers.
- (d) ~~Developer's responsibility for damage.~~ The developer shall be responsible for all damage or injury to property of any character, during the prosecution of the work, resulting from any act, omission, neglect, or misconduct in his manner or method of executing the responsibility.
- (e) ~~Developer's responsibility for work.~~ Until final written acceptance of the project by the town, the developer shall have the responsibility to protect against injury or damage to any part thereof arising directly or indirectly from any cause, whether from the execution or from the nonexecution of the work. The developer shall, at his expense, rebuild, repair, restore, and make good all injuries or damages to any portion of the work occasioned by any above causes before final acceptance.
- (f) ~~Developer's responsibility during suspension of work.~~ In case of suspension of work for any cause, the developer shall be responsible for the project and shall take such precautions as may be necessary to prevent damage to the project. The developer shall provide for normal drainage and shall erect any necessary temporary structures, signs or other facilities at his expense.
- (g) ~~Shutting off for connections.~~ The existing water supply and fire protection systems shall not be disturbed, except as absolutely necessary, by the developer's operations. Special care shall be exercised where pipes are being removed and replaced with new lines. The developer shall carefully plan his work in order to avoid contamination and lengthy shutdowns of existing water lines.
- (h) ~~Notification of affected parties.~~ The contractor shall notify the affected property owners and the fire department at least 24 hours prior to shutting off water.
- (i) ~~Contractor's responsibility prior to work.~~ Prior to commencing work on any existing water line, the contractor shall assist the town with men and tools to enable the town to shut off the water for making connections. Existing valves shall be operated by the town's employees only.
- (j) ~~Review of procedures prior to work.~~ A preconstruction meeting will be held to review the progress schedules, to establish procedures for handling shop drawings and other submissions and to establish a working understanding between the parties as to the project. Attendance will include the town, developer, contractor, utility companies and other interested parties.
- (k) ~~Access to the work.~~ The town and its representatives shall at all times have access to the work. The contractor shall provide facilities for such access and observation of the work and also for any inspection, or testing thereof by others.
- (l) ~~Contractor's responsibility during work.~~ The contractor shall furnish all labor, materials, and equipment required to construct the water line, appurtenances and other miscellaneous items. The contractor shall excavate the trench, maintain the backfilled trench until final acceptance, replace pavement, sidewalks, curb and gutter and any permanent structures where required.
- (m) ~~Town may stop the work.~~ If the work is defective, or the developer fails to supply sufficient skilled workmen or suitable materials or equipment, the town may order the developer to stop the work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the

town to stop the work shall not give rise to any duty on the part of the town to exercise the right for the benefit of the developer or any other party:

- (n) *Correction or removal of defective work.* If the work has been rejected by the town, the developer must remove it from the site and replace it with nondefective work. If the developer does not correct such defective work or remove and replace such rejected work, all as specified in a written notice from the town, the town may have the deficiency corrected or the rejected work removed and replaced. All direct or indirect costs of such correction or removal and replacement, including compensation for additional professional services, shall be paid by the developer. The developer shall also bear the expenses of making good all work of others destroyed or damaged by his defective work.
- (o) *Cleanup.* Following construction of water lines, all surplus material shall be removed from the site by the contractor. Cleanup work, including complete trench backfill, may be delayed for testing purposes, but shall be limited to single sections of pipe that can be valved off. Cleanup must be done prior to or concurrent with pipe laying operations for the next valved section.
- (p) *Two year warranty period.* If construction meets the requirements of this division and the specifications, final approval will be granted to the developer by the town. If, after the final approval and prior to the expiration of two years after the date of final approval, any work is found to be defective, the developer will correct such defective work, without cost to the town, or, if it has been rejected by the town, remove it from the site and replace it with nondefective work. If developer does not promptly comply with the terms of such instructions, the town may have the defective work corrected or the rejected work removed and replaced, and all direct and indirect costs of such removal and replacement, including compensation for additional professional services, shall be paid by the developer. Repair or replacements made under the guarantee shall bear an additional 12 months' guarantee dated from the acceptance of repair or replacement.

Sec. 44-185. Materials.

All water line materials furnished shall conform in all respects to the town water line specification standards. The standards are prepared by and are located in the public works department, water division, and in the town clerk's office for viewing by affected parties.

(Code 1990, § 21-140)

Sec. 44-186. Execution; preparation.

(a) *Alignment and grade.*

- (1) *Deviations.* Wherever obstructions, not shown on the plans, are encountered during the progress of the work and interfere to such an extent that an alteration in the plan is required, the town shall be notified at once for approval of any changes.
- (2) *Depth of pipe.* The pipe shall be buried to provide 30 inches of cover over the top of the pipe, unless otherwise specified by the town. High points in the line shall be avoided in intersections and when crossing streets. Required cover shall be provided at the lowest grade in the street. High points shall be located at house services or air vents. Ditch crossings shall have a minimum 24 inch cover.
- (3) *Lateral separation of sewers and water mains.* Water mains shall be laid at least ten feet laterally from existing or proposed sewers, unless local conditions or barriers prevent a ten-foot lateral separation, in which case:
 - a. The water main is laid in a separate trench, with the elevation of the bottom of the water main at least 18 inches above the top of the sewer; or
 - b. The water main is laid in the same trench as the sewer with the water main located at one side on a bench of undisturbed earth, and with the elevation of the bottom of the water main at least 18 inches above the top of the sewer.
- (4) *Crossing a water main over a sewer.* Whenever it is necessary for a water main to cross over a sewer, the water main shall be laid at such an elevation that the bottom of the water main is at least 18 inches above the top of the sewer, unless local conditions or barriers prevent an 18 inch vertical separation, in which case both the water main and sewer shall be constructed of ferrous materials and with joints that are equivalent to water main standards for a distance of ten feet on each side of the point of crossing.
- (5) *Crossing a water main under a sewer.* Whenever it is necessary for a water main to cross under a sewer, both the water main and the sewer shall be constructed of ferrous materials and with joints equivalent to water main standards for a distance of ten feet on each side of the point of crossing. A section of water main pipe shall be centered at the point of crossing.

(b) *Trench width and dewatering.*

- (1) *Trench width.*

a. Trenches shall be excavated to a width which will provide adequate working space and sidewall clearances for proper pipe installation, jointing, and embedment. However, the limiting trench width from the bottom of the trench to an elevation one foot above the top of the installed pipe, and the minimum permissible sidewall clearances between the installed pipe and each trench wall shall be as follows:

Nominal Pipe Size (inches)	Minimum Sidewall Clearances (inches)	Maximum Trench Width (inches)
6	5	27
8	5	30
10	6	33
12	6	37
15	7	42
18	8	47

b. Stipulated minimum sidewall clearances are not minimum average clearances but are minimum clear distances which will be required.

c. Cutting trench banks on slopes to reduce earth load to prevent sliding and caving shall be used only in areas where the increased trench width will not interfere with surface features or encroach on right-of-way limits. Slopes shall not extend lower than one foot above the top of the pipe.

~~(2) Dewatering:~~

a. The contractor shall provide and maintain adequate dewatering equipment to remove and dispose of all water entering excavations, trenches, or other parts of the work. Each excavation shall be kept dry during subgrade preparation and continually thereafter until the pipe to be installed is completed to the extent that no damage from hydrostatic pressure, flotation, or other cause will result.

b. Surface water shall be diverted or otherwise prevented from entering excavated areas or trenches to the greatest extent practicable without causing damage to adjacent property.

~~(c) Cleaning pipe and fittings generally.~~ The contractor shall maintain the interior of pipe and fittings free of foreign material and joint surfaces free of lumps and blisters.

Sec. 44-187. Execution, installation.

~~(a) Laying pipe.~~ All pipe, valves and fittings shall be thoroughly cleaned immediately prior to placing in the trench. The line shall be plugged watertight when left unattended.

~~(1) All pipe shall be laid in strict conformance with the specifications of the pipe manufacturer. All joints shall be made according to specifications and as recommended by the pipe manufacturer. Pipe ends must be clean and free of all sand and dirt before making joint.~~

~~(2) Joint deflection shall be within manufacturer's recommendations.~~

~~(3) All exposed utilities shall be supported as detailed in Schedule II.~~

~~(4) After water mains are laid, underground detectable warning tape with minimum width of two inches must be installed over the mains as per the manufacturer's recommendations.~~

~~(b) Jointing:~~

~~(1) Mechanical joints shall be lubricated with vegetable soap, or approved equal, and bolts tightened evenly to 75 foot to 90 foot pounds.~~

~~(2) Push on joints shall be lubricated in accordance with manufacturer's recommendations.~~

~~(c) Setting valves, fittings and hydrants:~~

~~(1) Generally.~~ Valves, fittings, fire hydrants, plugs and caps shall be set and joined to the pipe in a manner as specified for cleaning, laying and joining pipe.

~~(2) Valves.~~

- a. Valves shall be placed as shown on the drawings or as directed by the town.
- b. Valves shall be located at all tees or crosses and not farther apart than 1,000 feet. See Schedule III for typical valve locations.
- c. The valve shall be set plumb.
- d. A valve box shall be provided for each valve. The box shall not transmit shock or stress to the valve when the box cover is flush with the surface of the pavement or such level as may be directed. The base section of the valve box shall be set two inches above the flanged bonnet joint of the valve and accurately centered on the valve operating unit.
- e. A precast concrete ring shall be provided around the top of each valve box, flush with the surface. The ring shall be a minimum of 24 inches in diameter.
- f. A four-foot concrete post or salt-treated wood post shall be provided at each valve for a location marker. The post shall be a minimum of four inches wide and painted federal safety yellow or approved equal color. Posts shall be buried a minimum of 24 inches. Wooden posts shall be crowned at the top by four 45-degree cuts.
- g. Yellow reflective pavement markers to locate valves may be installed in lieu of a four-inch by four-inch post, provided that the markers are used consistently throughout the entire development. Yellow reflective markers shall be of the same type as presently in use by the town for hydrant markers.

(3) ~~Hydrants.~~

- a. Hydrants shall be installed where shown on drawings or as directed by the town and in accordance with section 10.69 of the Unified Development Ordinance. Locations shall be within the right-of-way as shown on Schedule III.
- b. The hydrant shall be set on a compacted crushed stone base 30 inches square and ten inches thick. Reaction backing shall be installed behind the base of the hydrant as shown in Schedule IV.
- c. The hydrant shall be plumb with the pumper nozzle facing the street and nozzle centerline 20 inches above finished grade.
- d. Each hydrant must be connected to the mainline with a six-inch cast iron branch and controlled by a six-inch gate valve. See Schedule V.
- e. Fire hydrant valves and tee must be rodded together by means of eye bolts and three-quarter-inch all thread rod. On fire hydrants, where hydrant shoe has rod slots, eye bolts will not be required.
- f. All connections shall be coated with a coal tar epoxy, or bitumastic compound.
- g. Drainage shall be provided at the base of the hydrant by placing coarse gravel from the bottom of the trench to at least five inches above the weep hole.

(4) ~~Plugs, tees and bends.~~ Plugs, tees and bends deflecting 11¼ degrees or more shall be provided with reaction backing.

(5) ~~Reaction backing.~~ Reaction backing shall be placed in accordance with Schedule IV and Table 1 below. Reaction backing shall be concrete having a compressive strength of not less than 2,500 psi at 28 days. Backing shall be placed between solid ground and the fitting to be anchored; the area of bearing on the pipe and on the ground shall be as shown in Table 1. The backing shall be so placed that the pipe and fitting joints will be accessible for repair.

TABLE 1

Minimum-bearing area against undisturbed trench wall in square feet. The numbers in this table are based on an internal pressure of 100 psi and a 4-foot depth of bury in a soft clay of unit weight 110 pcf. Should these conditions change, the minimum-bearing area should be adjusted accordingly.

Pipe Size (inches)	Tees/ Plugs	Hydrants 90°	Wyes 45°	22½ Degree Els	11¼ Degree Els
4	4	4	2	2	2
6	6	5	4	2	2
8	11	8	5	3	2
10	17	12	7	4	3

12	24	18	10	-6	-3
14	32	23	13	-7	-4
16	42	31	18	-9	-5
18	53	38	21	11	-6
20	66	47	25	13	-7
24	95	66	37	19	10

~~(6) *Unsuitable soil conditions.* Unsuitable soil conditions for trench wall shall either require securing fittings with tie rod clamps and concrete or doubling square footage requirements.~~

~~(d) *Encasement.* Polyethylene encasement on cast iron pipe will be required in corrosive soils. If the town suspects the presence of corrosive soils, the developer shall provide the town with a corrosive soils report.~~

~~(e) *Connections.*~~

~~(1) *Existing water lines.* Connections shall be made with system pressure on or off as specified by the town. Existing water lines shall be adequately supported during the tie in operations and prior to placement of backfill. Reaction backing and rodding shall be placed behind or tied to all tie in or existing fittings.~~

~~a. Prior to cutting existing pipe lines, the surface of the existing pipe shall be thoroughly cleaned by wire brushing and scraping. When a cut in is made under pressure, the existing pipe surface shall be washed down with a four percent solution of chlorine prior to installing the tapping valve and a sleeve. All fittings, pipe, valves, etc., used in the connection that cannot be disinfected during normal water line chlorination shall be swabbed out with a four percent solution or stronger solution of chlorine (Roman Cleanser, Clorox, etc.) during assembly. Care shall be exercised in order to prevent contamination of the existing water lines, and failure to comply with this requirement will necessitate chlorination of existing water lines at the developer's expense.~~

~~b. After connection is made, sufficient water shall be drained from the connection to effect removal of the chlorine solution.~~

~~c. The dimensions of existing water lines may not allow use of standard mechanical joint fittings, since these water mains may be pit cast pipe, asbestos cement pipe and/or classes other than standard.~~

~~1. When connections are made with system pressure on, a tapping valve and sleeve shall be installed.~~

~~2. When connections are made with system pressure off, a solid or cutting in sleeve shall be installed.~~

~~(2) *Service lines.*~~

~~a. *Generally.* Three quarter inch minimum service shall be provided to all lots. Larger services may be required for commercial or multiple housing.~~

~~b. *Line and grade.* The service line shall be located on the side property line of each lot and shall be at right angles to the street centerline. The minimum depth to the top of pipe shall be 30 inches.~~

~~c. *Tapping water line.* A corporation stop shall be installed 45 degrees above center and shall provide a horizontal loop with the service line at the tap.~~

Maximum Tap Sizes Pipe Size					
Type of Pipe	4-inch	6-inch	8-inch	10-inch	12 to 24-inch
Cast iron Cl 22 direct	1/2	3/4	1	1 1/4	2

All pipe (with double strap saddle)	1	1½	2	2	2
-------------------------------------	---	----	---	---	---

d. ~~Meter and box.~~ A meter and box shall be provided for each lot and located on the right of way line.

~~(3) Sprinkler system.~~

a. ~~Sprinkler systems shall have their own connection to the town distribution system, and shall in no way be connected to a domestic metered water service.~~

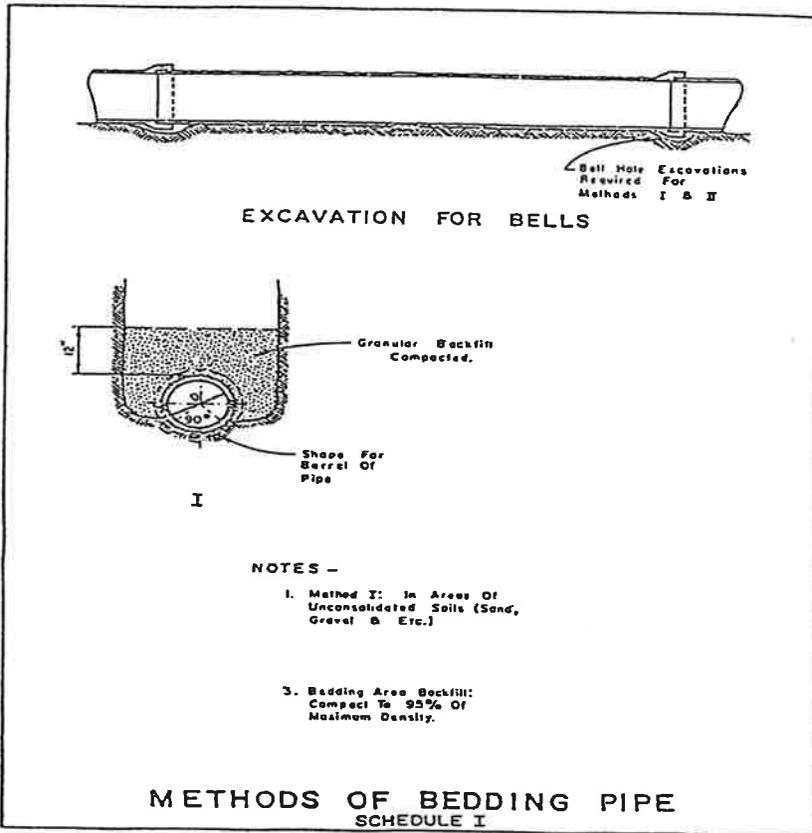
b. ~~A double detector check valve assembly is required for all sprinkler system installations. The double detector check valve shall be located on private property adjacent to the public right of way of the building served by the sprinkler system. The double detector check valve and vault shall be set at a height determined by the public works director above the seasonal water table. The developer shall grant a maintenance easement by recordable instrument to allow the town to maintain the device and to check it periodically to ensure that it functions properly.~~

~~(f) Backfilling.~~

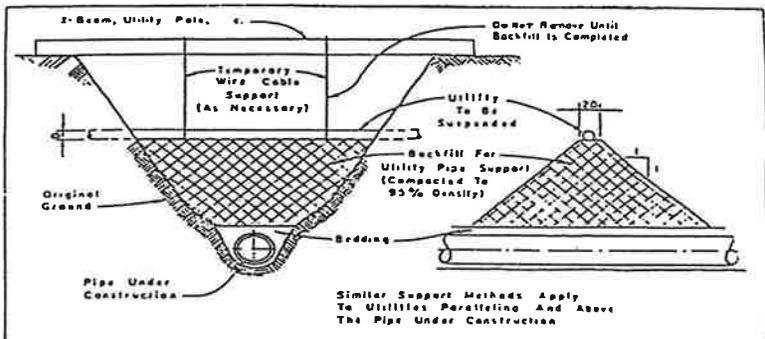
~~(1) After the pipe lines have been laid and valves, blowoffs, and fittings installed, the trenches shall be backfilled by the depositing granular material, as specified in the Water Line Specification Standards (Bedding Materials), under and around the pipe and thoroughly tamping up to an elevation 12 inches above the top of the pipe.~~

~~(2) The remaining backfill shall be job excavated material, as specified in the Water Line Specification Standards (Compacted Backfill), and shall be placed in layers not exceeding eight inches in uncompacted thickness and thoroughly tamped with mechanical tampers. The contractor shall be responsible for settlement over all trenches.~~

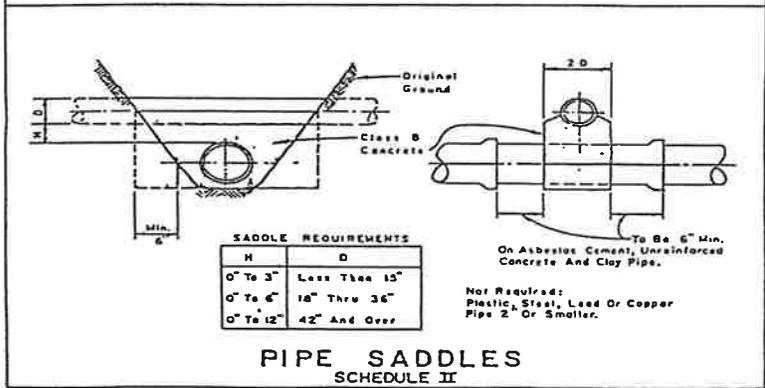
~~(3) It shall be the contractor's responsibility to keep all backfill even with the surrounding road surface until the work has been accepted by the town. Extreme care shall be exercised in placing warning signs, lights, and substantial barricades on the work.~~



Methods of Bedding Pipe

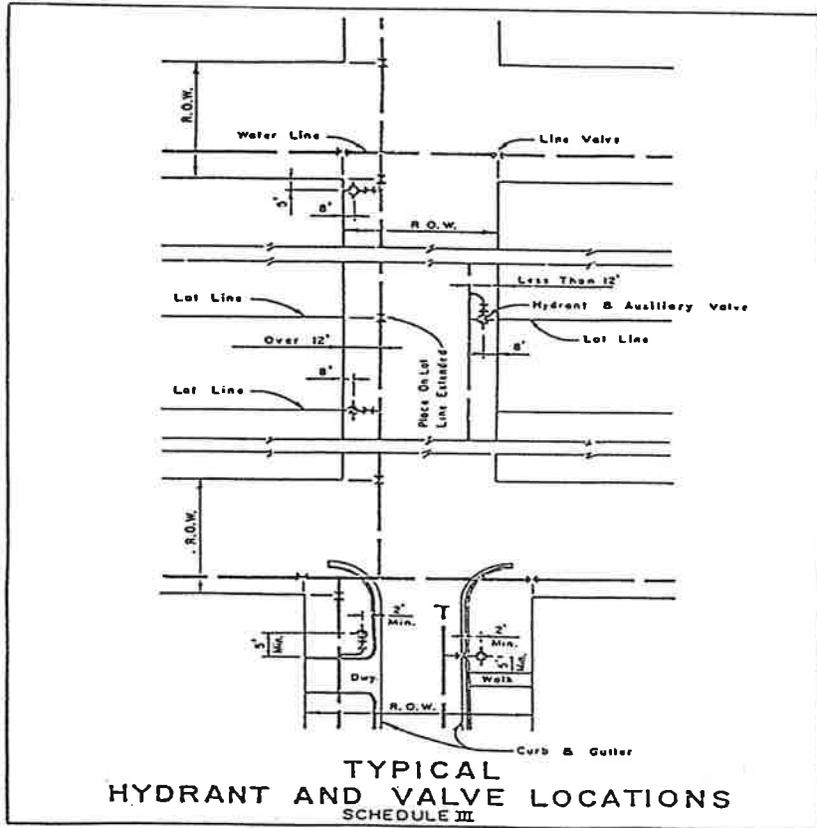


SPECIAL SUPPORTS FOR UNDERGROUND UTILITIES

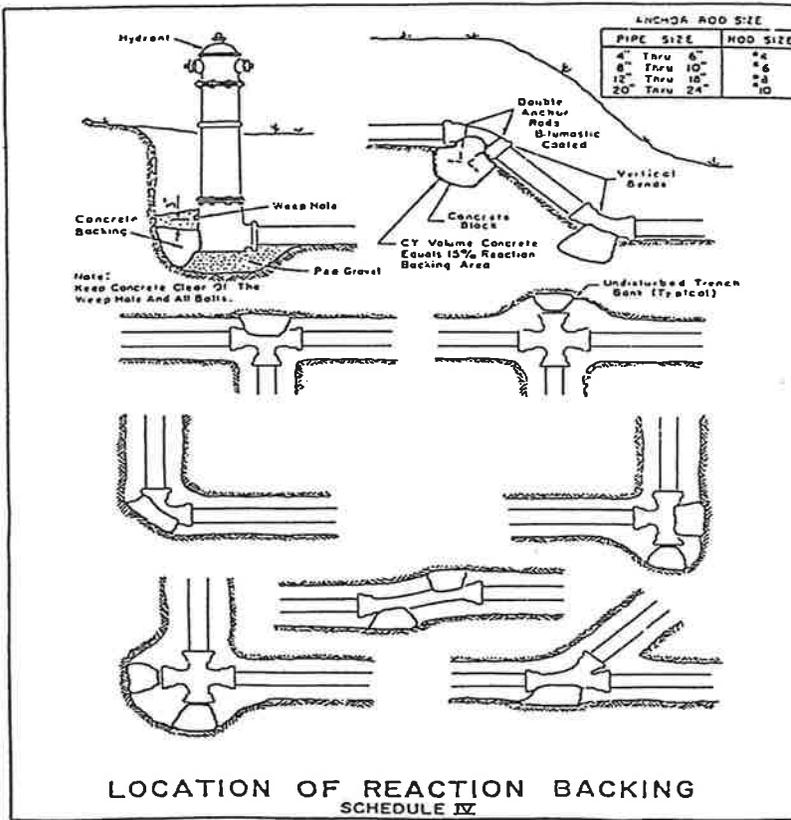


PIPE SADDLES SCHEDULE II

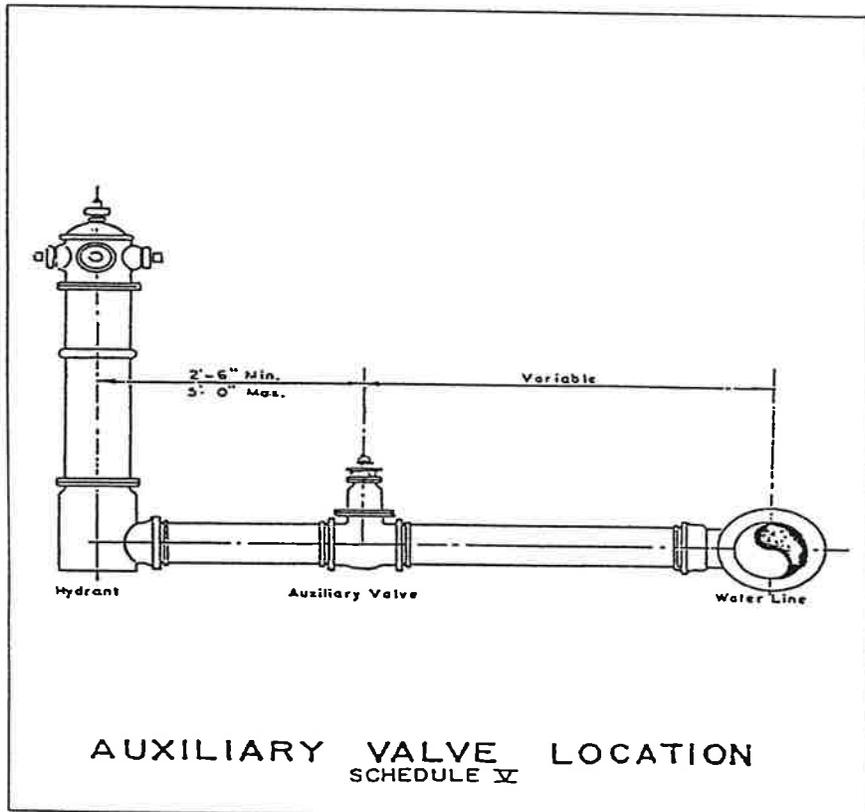
Underground Utilities and Pipe Saddles



Typical Hydrant and Valve Locations



Location of Reaction Backing



Auxiliary Valve Location

Sec. 44-188. Execution; restoration and maintenance.

- (a) *Maintenance of streets and private drives.* Where the water line is to be laid in streets or on the shoulder of paved streets, the contractor shall be responsible for maintaining the streets and adjacent private drives and entrances in usable condition at all times. After pipe laying operations are completed in each area or designated section, the contractor shall clean up all debris and surplus earth and restore the street or area immediately adjacent to the street to the same condition as existed before construction.
- (b) *Replacing pavement.* All pavement in town streets and on state highways shall be replaced in kind or as required by the state department of transportation and the town. In street areas the trench backfill shall be maintained for traffic until complete settlement and compaction has been obtained. The town has sole authority to determine when complete settlement and compaction has been obtained. The cut area shall then be excavated to proper depth, base coarse placed and compacted and the pavement surface replaced. Base coarse and pavement shall conform to the requirements of the state department of transportation and the town.
- (c) *Cleaning up.* During the progress of the work the contractor shall keep the premises and vicinity of the work free from unsightly and disorderly piles of debris and materials resulting from or used in his operations. Suitable locations shall be allotted for the various materials, and for debris. The materials shall be kept in their storage locations except as needed in the work, and debris shall be promptly and regularly collected and deposited in the allotted location, the intent being to avoid unnecessary unsightly and disorderly appearance and confusion, and to promote an orderly and efficient conduct of the work. Upon completion of each structure, or element of the work, the contractor shall shape up the ground adjacent thereto, removing all surplus excavated material and leaving the area free from humps and hollows.

Sec. 44-189. Execution; field quality control.

Testing and inspection shall be as follows:

- (1) *Generally.* The town will be observing the testing and inspecting the lines as construction progresses.

- a. All testing shall be completed before connecting to existing water lines.
- b. The contractor must notify the town 24 hours in advance when he will be ready for inspection and testing. All appropriate tests should be completed before notifying the town.
- c. The contractor shall provide all equipment and assistance for performing the test.
- (2) *Electrical continuity test.* Cast iron pipe shall be tested for continuity and any breaks shall be repaired.
- (3) *Pressure test.* After the pipe has been laid and backfilled as specified, all newly laid pipe, or any valved section thereof, shall be subjected to a hydrostatic pressure of not less than 140 psi nor more than 150 psi at the lowest elevation. Air or air-water methods of applying pressure are prohibited.
 - a. The duration of the pressure test shall be at least one hour, but in any case long enough to allow inspection of all joints.
 - b. The contractor shall fill the line slowly, expelling air at the high points, and bring it up to the required pressure.
 - c. The town will inspect the entire line and appurtenances for leaks and movement.
 - d. Any leaks or defects will be repaired and the test repeated until acceptable.
- (4) *Leakage test.* A leakage test will be conducted after the pressure test has been satisfactorily completed.
 - a. The average pressure shall range from 140 to 150 psi and be held for two hours.
 - b. The line shall be filled as for the pressure test or continue to apply the pressure from that test. A supply of makeup water shall be provided that can be measured.
 - c. The test will be made to determine the leakage, or the amount of water required to maintain test pressure.
 - d. The allowable leakage is less than:

L	=	$\frac{ND \cdot \sqrt{P}}{100}$
		—3,700

Where:

L	=	Leakage (gallons per hour)
N	=	Number of joints
D	=	Nominal pipe diameter (inches)
P	=	Average test pressure (psi gauge)

- e. Should any test of pipe disclose leakage greater than that specified above the contractor shall locate and repair the defective joints until the leakage is within the specified allowance.
- (5) *Testing valves only.* The contractor shall maintain pressure on the line and close each valve starting progressively from the far end of the system. Vent extreme ends of line. Allowable pressure drop shall be less than ten psi in five minutes with test pump off.

Sec. 44-190. Execution, adjust and clean.

- (a) *Flushing.* The water shall be flushed by providing taps in sufficient size or number to provide a velocity of 2.5 feet per second in the line being flushed. Hydrants may be used, provided that the requirements listed as follows are met:
 - (1) *Procedure.* A procedure schedule shall be submitted to the town outlining the method proposed to be used for flushing water lines. Lines shall be flushed at a maximum of one-quarter mile intervals.

- ~~(2) *Time for flushing.* Flushing may be done prior to pressure testing or following pressure testing, but in any case, prior to chlorination of the water line.~~
- ~~(b) *Chlorination.* All newly laid lines shall be chlorinated. The contractor shall furnish all necessary equipment and materials and shall furnish all necessary assistance for effective disinfection of the water lines:~~
- ~~(1) *Procedure.* After the water line has been pressure tested and flushed, the contractor shall pump a chlorine solution into the water line in such a manner and at such strength that the residual free chlorine shall be 50 ppm.~~
- ~~a. *High test calcium hypochlorite ("HTH," "Perchloren," "Pittchlor").* The contractor shall prepare a 10,000 parts per million solution in water and pump at a constant rate into the water line while bleeding off the water at the extreme end. The bleed rate will determine the feed rate of the chlorine in order to arrive at 50 ppm solution in the water line.~~
- ~~b. *Liquid chlorine.* The contractor shall prepare a 10,000 parts per million solution in water and pump at the constant rate into the water line while bleeding off the water at the extreme end. The rate of application will be adjusted for the degree of concentration of the liquid chlorine.~~
- ~~c. *Chlorine gas.* Chlorine gas shall not be used to chlorinate the water line.~~
- ~~(2) *Point of application.* The chlorinating agent shall be applied at the supply end of the line through a corporation cock. The water for injecting the chlorine into the new line may be taken from the pressure side of the isolation valve or by utilizing a pressure pump. The strong chlorine solution shall not enter the existing water line.~~
- ~~(3) *Retention period.* The chlorinated water shall be retained in the new water line for a period of 24 hours. While the chlorine solution is in the line, the contractor shall operate valves in the chlorinated section to ensure the complete disinfection thereof.~~
- ~~(4) *Flushing and testing.* Chlorinated water shall be flushed from the line at the end of the retention time so that the entire line is clear of any residual chlorine. A sample will be taken from the line after the line is flushed. The bacteriological test must result in a negative bacterial reading before approval can be granted by the town.~~
- ~~(e) *Pressure tests and chlorinating reports.* All information relative to pressure tests and chlorinating procedures and the results shall be reported to the public works department, water division. These reports shall be submitted immediately upon the completion of such tests and disinfecting.~~

Secs. 44-191—44-210. Reserved.

DIVISION 7. CONSERVATION⁴

The Town of Nags Head will implement the Dare County Regional Water Shortage Response Ordinance should water conservation measures be deemed necessary by the Town of Nags Head and/or Dare County or made mandatory by the State of North Carolina.

Sec. 44-211. Declaration of water shortage.

- (a) Whenever the water supply of the county regional public water system is low and declining due to conditions that, as determined by the town manager, are likely to adversely affect the continued availability of water for human consumption, sanitation, health and fire protection, it shall become necessary to declare a water shortage and implementation of conservation requirements under the standards set forth in this division.
- (b) A water shortage shall be declared to exist when the reserve supply available to the town will have reached the point where the citizens cannot be supplied with water to protect their health and safety without substantially curtailing the water demand. A water shortage shall also be declared to exist when production, transmission, or storage facilities are incapable of meeting all daily water demands without endangering the ability to protect public safety and health without substantially curtailing water demand.

Cross reference(s)—Emergency management, ch. 14; environment, ch. 16.

⁴Editor's note(s)—Ord. No. 09-06-022, Pt. I, adopted June 3, 2009, deleted the former Div. 7, §§ 44-211—44-221, and enacted a new Div. 7 as set out herein. The former Div. 7 pertained to conservation and derived from Code 1990, §§ 21-245—21-255, § 21-257.

Sec. 44-212. Notice to general public of water shortage.

If the county declares a water shortage of any of the four degrees of severity set forth in this division, the board of commissioners is authorized and empowered to give notice to the general public of the existence of such state and the severity thereof. In order to protect the health and safety of the citizens of the town supplied water by the county regional public water system, the board of commissioners shall place in effect restrictive provisions authorized in this division. Notice shall be given by public press announcements and by signing of an order by the mayor. The order shall become effective 24 hours following the press announcement and the signing of the order.

Sec. 44-213. Compliance required in the event of a water shortage.

- (a) If the board of commissioners issues the notice described in section 44-112, then it shall be unlawful for any person to use or permit the use of water from the water system of the town for any purposes set forth in this division until such time as this division is amended or repealed, or until the town's board of commissioners has declared such provisions no longer in effect. In exercising this authority, considerations shall be given as to the following criteria: Water levels in the wells, capabilities of the water production and distribution systems, drawdown rates, outlook for precipitation, daily water use patterns, seasonal and long-term weather patterns, and the availability of water from other sources.
- (b) Hospitals, nursing homes, and healthcare facilities shall comply with all restrictions imposed on residential and nonresidential water customers as shall be applicable to each individual institution to the extent compliance will not endanger the health of the patients or residents of the institution.
- (c) Each hospital, nursing home, or healthcare facility shall survey its water usage patterns and requirements and implement such additional conservation measures as shall be possible, without endangering the health of its patients or residents, to achieve a further reduction in the institution's water usage.

Sec. 44-214. Restrictions.

The town will implement the county regional water shortage response ordinance should water conservation measures be deemed necessary by the town and/or the county or made mandatory by the state. The restrictive measures in effect at each stage are as follows:

- (1) *Stage I water conservation alert.* If the well water static levels do not conform to seasonal expectations as determined by the county water director and advised to the town public works services director, or daily water demand is approaching 95 percent of system capacity as determined by the county water director and advised to the town public works services director, a stage I water conservation alert shall be declared in effect, and the following voluntary water restrictions are requested: Voluntary commercial, manufacturing, institutional and residential conservation measures will be strongly encouraged and recommended including the following:
 - a. Inspect and repair all faulty and defective parts of faucets and toilet.
 - b. Use shower for bathing rather than bathtub and limit shower to no more than five minutes.
 - c. Do not leave faucets running while shaving, rinsing dishes, or brushing teeth.
 - d. Limit use of clothes washers and dishwashers and when used, operate fully loaded.
 - e. Limit lawn watering to that necessary for plant survival.
 - f. Water shrubbery the minimum required, reusing household water when possible.
 - g. Limit vehicle washing.
 - h. Do not wash down outside areas such as sidewalks, patios, driveways, etc.
 - i. Install water flow restrictions in showerheads and other water saving devices.
 - j. Use disposable and biodegradable dishes where possible.
 - k. Install water saving devices in toilets, such as early closing flapper valves.
 - l. Limit hours of water-cooled air conditioners.
 - m. Do not fill swimming or wading pools.
 - n. Do not serve drinking water in restaurants, cafeterias, or other food establishments, except as requested.

An extensive publicity campaign will be initiated using public media and specialized methods to inform the public of an impending water shortage. As a wholesale customer of the county regional public water system, the town hereby states its intention and willingness to cooperate. Water supply

line pressure should be reduced where feasible to reduce water consumption if it will not affect operations of fixtures, equipment, or public safety devices. Conservation in public buildings, institutions, dormitories, and similar facilities is encouraged by restricting pressure at plumbing fixtures, and by installation of restricting devices. All residences, businesses, and institutions are requested to delay new landscape work until the water shortage has ended. Water conservation should be followed during all phases of construction related activities. Where appropriate, water should be obtained from supplemental sources and construction related activities that require water should be delayed until such time as the water emergency has ended. New service connections to the system shall be halted as per discretion of the town's board of commissioners.

- (2) *Stage II water shortage warning.* If well water static levels continue to drop below seasonal expected levels as determined by the county water director and advised to the town ~~public works~~ services director or daily water production approaches 100 percent of daily capacity of the water production and distribution systems, a stage II water shortage warning shall be declared in effect and the following mandatory water restrictions shall be imposed. It shall be unlawful to use water from the county regional public water system for the following purposes:
- a. To water lawns, grass, shrubbery, trees, flower and vegetable gardens, except by hand held hose, container, or drip irrigation system; provided, however, that a person regularly engaged in the sale of plants shall be permitted to use water for irrigation of their commercial stock in trade.
 - b. To fill newly constructed swimming pools and/or wading pools or refill or top off, swimming and/or wading pools.
 - c. To operate water-cooled air conditioners or other equipment that does not recycle cooling water, except when health and safety are adversely affected.
 - d. To wash automobiles, trucks, trailers, boats, airplanes, or any other type of mobile equipment; provided, however, that any person regularly engaged in the business of washing motor vehicles and commercial car wash facilities shall be permitted to use water for such purposes.
 - e. To wash down outside areas such as streets, driveways, parking lots, office buildings, exteriors of existing or newly constructed homes or apartments, sidewalks, or patios, or to use water for similar purposes; provided, however, that hand washing of exterior surfaces of a building for the purpose of preparing them for painting shall be permitted.
 - f. To operate or introduce water into any ornamental fountain, pool, or pond or other structure making similar use of water.
 - g. To use water from any public or private fire hydrants for any purpose other than fire suppression or other public emergency or public services need.
 - h. To use water for dust control or compaction.
 - i. To use water for any unnecessary purpose or to intentionally waste water.

The owner or occupant of any land or building that receives water from the town and also uses water from a private well shall post a sign giving notice of the use of the private well or other source of supply. All industrial, manufacturing, and commercial enterprises shall reduce consumption to any degree feasible with a goal of a reduction of at least 25 percent.

- (3) *Stage III water shortage danger.* If well water static levels continue to decrease in spite of restrictions as imposed above, a stage III water shortage danger shall be declared to exist as determined by the county water director and advised to the town ~~public works~~ services director, and in addition to the restrictions heretofore imposed under stage II, the following mandatory water restrictions shall be imposed. It shall be unlawful to:
- a. Water or sprinkle any lawn, grass, shrubbery, trees, or flowers except from a watering can or other container not exceeding three gallons in capacity with used wash water from inside a structure; provided, however, that a person regularly engaged in the sale of plants shall be permitted to use water for irrigation of their commercial stock in trade. State, county, and town licensed landscape contractors shall continue to water plantings, which are under written warranty, by hand held hose, container or drip irrigation.
 - b. Water any vegetable garden except by hand held hose, container, or drip irrigation system.
 - c. Make any nonessential use of water for commercial or public use.

All industrial, manufacturing, and commercial enterprises shall reduce consumption to any degree feasible with a goal of a reduction of at least 50 percent, and customers regularly engaged in the business of washing motor vehicles and commercial car washes shall reduce consumption to any degree feasible with a goal of at least 30 percent, as compared with their usage during the corresponding billing period for the most recent 12-month period ending June 30, in which no stage

of this division was in effect; provided, however, that this goal shall not apply to those customers who wash parts of vehicles where federal, state, or local laws require such washing.

- (4) *Stage IV water shortage emergency.* If previous restrictions are not sufficient to eliminate reductions in water supply reserves and the town manager is advised that water reserves and production capabilities are critically low, he shall notify the town's board of commissioners in writing. Upon such notification, the board of commissioners shall declare a stage IV water shortage emergency to exist. Upon such declaration, the town shall be deemed in a state of emergency with respect to its water supply and residential customers shall reduce their consumption to any degree possible with a goal of a reduction of at least 25 percent of their average usage. In addition to the restrictions heretofore imposed in stages II and III, the following mandatory water restrictions shall be imposed. It shall be unlawful to:
- a. Use water outside a structure for any other than emergency use involving fire or as needed by the town ~~public-works~~ services department to maintain the system, except that flowers, plants, and shrubs shall be watered from a watering can or other container not exceeding three gallons in capacity with used wash water from inside a structure.
 - b. Wash any vehicle for any purpose.
 - c. Exceed the following water usage mandate: All customers shall reduce their water usage by 25 percent as compared with their usage during the corresponding billing period for the most recent 12-month period, ending June 30, in which no stage of this division was in effect.

It is the primary responsibility of each nonresidential customer to meet its mandated water use reduction in whatever manner possible, including limitation of operating hours, or days, if necessary. If the mandated reduction in water usage cannot be obtained without threatening health or safety, or if there has been a significant change in the customer's circumstances, the customer shall apply to the town's mayor, or his designee, for a variance to the mandate. Any customer who exceeds the allotments established to this mandate shall be subject to termination of their water service.

Sec. 44-215. Compliance with division provisions.

Personnel of the town's ~~public-works~~ services department, the town's police division, and other such personnel as designated by the town manager, shall enforce compliance with the provisions of this division. Failure to comply with any of the regulations of this division shall be unlawful.

Sec. 44-216. Civil penalties.

Any person who shall violate any provision of this division shall be subject to a civil penalty. Civil penalties shall be as follows: A warning for the first offense; the amount of \$50.00 for the second offense; and \$100.00 for the third, and successive, offenses. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation by posting a notice on the front door of the property being served, or by hand delivery, or by first class mail, to such person. A notice that is posted, or mailed, shall be conclusively presumed to be delivered to the violating person when posted on the premises or deposited in the United States mail. The notice shall state the date and nature of the violation and the amount of the penalty. The notice shall further order the person to immediately cease the violating activity. If payment of the civil penalty is not received within 15 days from date of notice, the penalty will be added to the customer's regular water billing. If the customer refuses payment, a civil action shall be instituted in the nature of a debt to collect the civil penalties and court costs as shall be assessed.

Sec. 44-217. Criminal fines.

Upon a fourth violation of this division, a criminal warrant shall be issued to the offending person. Any violations of the provisions of this division shall constitute class 3 misdemeanors punishable, upon conviction, by a fine not exceeding a maximum of \$500.00, as provided by G.S. 14-4 and in addition thereto such violation shall be enjoined and restrained as provided in G.S. 160A-175. The issuing of a criminal warrant shall not prohibit the imposition of further civil penalties.

Sec. 44-218. Continuing and separate violations.

Each day's continuing violation of this division shall be a separate and distinct criminal and civil offense. Each violation of the division shall be a separate offense even if occurring on the same day.

Sec. 44-219. Discontinuance of service.

The town mayor shall have the authority to discontinue, or restrict, water service to any person or structure in the event of a violation of the provisions of this division during a water shortage period. Prior to such termination, or restriction of water supply, the ~~public-works~~ services director shall give at least

two working days' written notice of intent to terminate or restrict. Within the two days, the person, upon petition to the town mayor or his designee, shall be heard as to why such termination should not be enforced. When a water service is discontinued or turned off, it shall be unlawful to reactivate such service without the permission of the town's public works director.

Sec. 44-220. Termination of declared emergency.

The town's board of commissioners shall determine termination of any phase of the emergency provisions of this chapter when it is found that the water supply of the county regional public water system is no longer so low as to constitute a water emergency.

Sec. 44-221. Exceptions.

The use of private wells located outside the fresh pond area of environmental concern by residences, businesses, and institutions for nonpotable uses shall be exempt from the provisions of this division.

Sec. 44-222. Authorization information.

Town Manager
P.O. Box 99
Nags Head, NC 27959
Phone: 252-449-2010 2006

Sec. 44-223. Public comment.

A notice will be placed on the water bills announcing the availability of the water shortage response plan at the town public works services department office for review and comment.

Sec. 44-224. Effectiveness.

The effectiveness of the town water shortage plan will be determined by comparing the stated water conservation goals with the observed water use reduction data. Other factors to be considered include frequency of plan activation, any problem periods without activation, total number of violation citations, desired reductions achieved and evaluation of demand reductions compared to previous seasonal data.

Sec. 44-225. Plan revision.

The town public works services director will review the water shortage response plan after each activation and every five years at a minimum.

A work group will review procedures after each emergency reduction stage to recommend necessary improvements to the town board of commissioners.

Secs. 44-226—44-250. Reserved.

ARTICLE III. SEWAGE⁵

Sec. 44-251. Sewage tie-ons.

There shall be no sewer tie-on between any package treatment facility, infiltration wastewater treatment and non discharge facility, or other similar sewage treatment facility to any lot or subdivision that was not included within the town approved parcel, lot, subdivision, or special planned community district (SPD-C) containing such facility.

Sec. 44-252. Waivers.

Where the board of commissioners finds that due to the special circumstances of a particular lot or subdivision, the connection between the lot or subdivision and a package treatment facility, infiltration wastewater treatment and non discharge facility, or other similar sewage treatment facility located outside the lot or subdivision is in the interest of public health, safety and general welfare, the board of commissioners may allow such connection subject to appropriate conditions upon finding that such waiver will not result in an increase in the density or intensity of use of the lot or subdivision beyond what could be provided by an on-site system on the lot or subdivision seeking such connection. The

⁵Cross reference(s)—Sewage treatment and disposal in mobile home subdivisions, § 38-196; domestic innovative sewage treatment systems, § 48-369.

board of commissioners may require conditions as will, in its judgment, secure substantially the adequate treatment and disposal of sewage and wastewater.

Operators of the waste water treatment system in the town and the association served by such system shall be notified of any request for a waiver from section 44-252, Waivers, and section 44-251, Sewage tie-ones, at least 15 days prior to consideration by the board of commissioners.

Secs. 44-253—44-270. Reserved.

ARTICLE IV. NATURAL GAS FRANCHISE

Sec. 44-271. Definitions.

1.01 As used in this Ordinance, the following terms, words and phrases shall have the meanings respectively ascribed to them in this section:

"Company" shall mean Eastern North Carolina Natural Gas Company, a corporation organized under the laws of the State of North Carolina and authorized to do business in the State of North Carolina and any successor in interest to Eastern North Carolina Natural Gas Company under this franchise Ordinance.

"Town" or "Town of Nags Head" shall mean:

The Town of Nags Head, a municipal corporation located in Dare County, North Carolina,

The area now or hereafter within the territorial Town limits of the Town of Nags Head, or

The Town Board of Commissioners or any officer or agent duly authorized and acting on behalf of the Town as a municipal corporation, as indicated by the context by which the term is used.

"Town Board of Commissioners" shall mean the governing body of the Town of Nags Head.

"Gas" when used as an unqualified term shall mean either natural or artificial gas, by whatever process or processes derived or manufactured, or both such gases either separately or a mixture of them.

Sec. 44-272. Franchise granted.

2.01 The Company is hereby granted a nonexclusive right to construct, operate and maintain a gas utilities system within the Town for the production, transmission, distribution and sale for gas to consumers and users within the Town and to the Town and any and all agencies and departments thereof.

2.02 To the extent that the Town may legally do so, the Company is hereby granted the right, authority and privilege, after written notice delivered to the Town, to construct and install, operate, maintain, lay or relay, renew, replace and repair, (except no advance notice shall be required for emergency repairs) gas pipes, mains, pipelines, conduits, regulators, connections and services thereto (hereinafter "Facilities"), in, through, across, along and under streets, avenues, roads, public alleys, lanes, and such other Town properties and facilities as may be approved by the Town Manager (hereinafter "Public Properties") in the Town for the production, pumping, handling, transmission, distribution and sale of gas for any and all purposes, subject to the terms and conditions hereinafter set forth in this Ordinance. Such activities shall be conducted so as to minimize to the greatest extent practicable (within reasonable economic costs) inconvenience to the public, and damage to the area disturbed. All work shall be done with full consideration of the facilities and rights of others. All Company activities shall be accomplished in accordance with the rules, regulations and standards of the North Carolina Utilities Commission and the rules, regulations, and ordinances of the Town of Nags Head.

2.03 Whenever the Company shall cause any opening, excavation or alteration to be made in any Public Properties within the Town in the construction, operation or maintenance of any of its Facilities owned or used by it, the Company shall repair and restore expeditiously such portions of such Public Properties to the same condition in which it found them as nearly as practicable. Additionally, if the Company shall fail following completion of repairs to restore the area to its approximate former condition within a reasonable time, and a written notice is provided by the Town to the Company, the Town may proceed after five (5) calendar days notice by mail or personally delivered to Company to restore such Public Properties as nearly as practicable to their original condition, and the Town shall submit a statement of the costs for this restoration to the Company. The Company agrees to pay the Town for these costs within thirty (30) days. Interest at nine percent (9%) per annum shall accrue on these costs beginning on the 31st day following the date that the Town mails notice of such costs or the date that the Town hand delivers such notice to Company. Conflicts in elevations of Company piping with Town or other utilities that require adjustment of Town or other utilities shall be at Company's expense, and any damage to all such utilities while Company is readjusting Company facilities shall be the responsibility of Company.

In the case of temporary repairs, any opening, excavation or alteration in any Public Properties shall be backfilled immediately after the temporary repairs are finished and the excavated area shall be kept in

a safe condition by the Company until the permanent repair is made. The permanent repair shall be made as expeditiously as possible.

Except in emergency situations, the Company shall not excavate in any Public Properties of the Town until it shall obtain written approval from the Town, which shall state in particular the location of proposed excavation and the approximate time to be required to complete the work at the excavated area. The Town will act upon such requests within a reasonable time and shall not be unreasonable in refusing to grant approval of a Company request. In no event though shall the Town fail to cooperate with the Company to reach agreement as to a commercially feasible method for the Company to comply with its legal obligations in the provision of natural gas service. All excavations, back-filling and paving shall be subject to inspection by the Town and shall be done according to the standard practice of the Town in the installment of its water and sewer installations.

In all cases where any Public Properties shall be excavated, disturbed or altered by the Company, it shall take all precautions necessary or proper for the protection of the public and shall maintain adequate warning signs, barricades, signals and other devices necessary or proper to give adequate notice or warning to the public of the existence of all actual conditions and hazards present. Company shall undertake every reasonable option available to prevent creating a hardship to adjoining properties, including, without limitation, businesses and residences. Company agrees to abide by all present and future laws, regulations and ordinances regulating utility cuts in Public Properties, but Town shall not adopt any ordinance, rule or regulation which shall have the effect of modifying, amending, altering, or voiding all or any part of this Franchise.

Whenever the Town shall grade or re-grade any Public Properties in, along, under or across which the Company shall have installed any of its Facilities, and such grading or re-grading necessitates removal or relocation of such Facilities for Company to remain in compliance with federal or state law or regulation applicable to such Facilities, it shall be the duty of the Company, at the request of the Town, at its own cost and expense, to promptly change said Facilities so as to conform to the new grade which is then being or has been established.

If the Town decides to pave or repave a Public Property, it shall give sixty (60) days prior notice to the Company of the intention to pave or repave such street. When such notice is given, the Company shall perform such work as the Company deems necessary for the extension of new Facilities or the repair or relocation of existing Facilities within Public Property prior to the time the Town begins paving or repaving of the Public Property. With prior written approval by the Town, the Company may perform such work as the Company deems necessary for the extension of new Facilities or the relocation of existing Facilities within Public Property after one year from the date that specific portion of the Public Property has been paved or repaved or if required to serve a customer that requests natural gas service and the Company can economically provide such service.

- 2.04 This franchise is granted for a term of thirty (30) years beginning _____ and ending at midnight _____. This franchise supersedes any and all former rights or franchises of the Company to operate a gas utilities system in the Town with respect to all acts and things done or admitted to be done, on or after _____.
- 2.05 The Company agrees to pay an annual franchise tax equal to the amount as required by North Carolina law and which sum shall be payable in accordance with such law. The grant of this franchise shall not cause the Company to be liable for any other taxes, licenses or fees that it would not otherwise be chargeable with under State or Town law or ordinance.
- 2.06 The Company is hereby granted the right during the existence of this franchise to mortgage or hypothecate this franchise, together with all rights and privileges thereunder and any right or interest therein, as security for indebtedness, subject to acceptance by any legal successor in interest of the obligations, duties, liabilities, limitations and prohibitions set out herein and subject to the approval by the North Carolina Utilities Commission or other governmental agency the approval of which is required by law. The Company shall not assign or transfer its rights under this agreement, provided, however, that this provision shall not prohibit the Company from assigning its rights hereunder to the surviving corporation in any corporate reorganization in which the Company is a party.

Sec. 44-273. Town to be furnished indemnity against injuries, damage and nuisances.

The Company agrees that it will at all times indemnify and save harmless the Town, its officers, employees, and servants for each and all such nuisances, damage, injury (including death) loss, cost or expense (including reasonable attorney fees), caused or occasioned or contributed to by any act or failure to act, of the Company, its officers, agents, servants and employees, in the construction, installation, repairing, maintaining, or operation of said Facilities, equipment or devices of the Company for the sale, transportation and distribution of gas in said Town, including making cuts, disturbances and excavations in the Public Properties, except such indemnity shall not apply to any such loss, cost or expense caused by the negligence of the Town; and the Company shall secure and file, if requested, with the Town certificates for liability insurance in an amount of at least one million dollars.

Sec. 44-274. Obligation of company to furnish natural gas.

- 4.01 Subject to the Company's determination of economic feasibility in accordance with its criteria, the Company agrees to deliver to and distribute for the use of the inhabitants, offices, businesses, commercial enterprises, churches, charities and professional establishments within the Town, during the period of this franchise, and providing there is a demand for same, natural gas in sufficient quantity to supply the demand of customers within the Town who may be served under the provisions of this franchise.
- 4.02 Service interruptions or impairment for reasons beyond the control of the Company shall not be a breach of this Franchise, but such interruptions or impairments shall be corrected within a reasonable time with as little interruption as possible.

Sec. 44-275. Town to be furnished access to maps on request.

- 5.01 The Company shall from time to time, at the request of the Town, allow Town officials and/or employees to review or inspect maps of its transmission and distribution system within the Town which the Company shall maintain up to date.

Sec. 44-276. Conditions of revocation.

This Franchise may be revoked only upon failure of the Company to remedy any breach of its terms within thirty (30) days after receiving notice in writing of such breach from the Town or, if the breach cannot reasonably be cured within thirty (30) days, the Company must begin the cure within the thirty (30) day period and thereafter proceed to complete the cure with due diligence.

Sec. 44-277. Notices.

All notices shall be in writing and hand delivered or mailed by registered or certified mail, return receipt requested, postage prepaid to:

Town of Nags Head; Attention Town Manager
5401 South Croatan Highway
PO Box 99
Nags Head, NC 27959

Eastern North Carolina Natural Gas
c/o Piedmont Natural Gas Company, Inc.
Attention: Senior Vice President - Utility Operations
1915 Rexford Road
Charlotte, NC 28211

or to such other addresses as may be provided in writing from time to time. Mailed notices shall be deemed received three (3) days after posting.

Sec. 44-278. Binding effect.

This Franchise shall bind and inure to the benefit of Eastern North Carolina Natural Gas Company and its successors and assigns and the Town of Nags Head to the full extent allowed by applicable law.

Sec. 44-279. Changes or amendments.

No agreement, promise, term or condition not contained herein shall have any efficacy or validity. No change or amendment shall be effective until lawfully adopted by the Town and agreed to by the Company.

Sec. 44-280. Acceptance of franchise.

This Ordinance shall take effect from the day and date of its passage at two (2) regular meetings of the Town, but only after it has been accepted in all its terms and revisions by the Company, in writing, within sixty (60) days after its final passage. Otherwise, the same shall be null and void and of no effect.

Adopted by the Town Board of Commissioners of the Town of Nags Head at two (2) regular meetings held on July 20, 2005, and on August 3, 2005.

Secs. 44-281—44-300. Reserved.

ARTICLE V Utility Installation & Maintenance Requirements:

Sec. 44-301. Town Right-of-way construction.

Prior to commencing any construction in the town, the encroaching party must obtain all necessary permits and licenses required by federal, state and generally applicable town laws, ordinances and rules, and pay all associated nondiscriminatory fees. Further, the encroaching party shall comply with all applicable laws, ordinances, rules, and standards relating to the construction, operation and maintenance of utilities. For new installation applications, the town permitting process shall consist of the submission of a completed right-of-way encroachment agreement with supporting documentation, as applicable. The right-of-way encroachment agreement form will be provided by the Town to the applicant for completion. An executed right-of-way encroachment agreement shall be issued to the encroaching party prior to the commencement of utility installations.

Sec. 44-302. Compliance with laws.

The construction, installation, and maintenance of the utilities shall be effectuated by the encroaching party in a manner that is consistent with the laws, ordinances and construction standards of the state, the Occupational Safety and Health Administration, the National Electrical Safety Code, National Electrical Code and the FCC, to the extent applicable, as well as all other laws, rules, regulations and ordinances that are generally applicable and promulgated pursuant to the town's lawful police power. All connections shall be properly terminated.

Sec. 44-303. Minimum interference.

All of the encroaching party's construction, installation, operation, repair and maintenance, and the arrangement of its lines, cables and other appurtenances, on public or private property, shall be conducted in such a manner as to not unreasonably interfere with the rights and reasonable convenience of property owners that may be affected. If such work is not in accordance with applicable rules and regulations, the town may require the removal, within such period of time after notice as is reasonable under the circumstances, of the encroaching party lines, cables and appurtenances from the public rights-of-way in question, at the sole expense of the encroaching party.

Sec. 44-304. Repair of property.

The encroaching party shall promptly repair and restore any town or private property which may be damaged as a result of the construction, installation, operation, repair, maintenance or removal of utilities. Any such property damaged or destroyed shall be promptly repaired and restored by the applicant, at the encroaching party's sole cost and expense to the reasonable satisfaction of the town, to its condition prior to being damaged, or shall be replaced by the encroaching party with equivalent property. The town may inspect and approve the condition of the public rights-of-way after restoration. In the event of a failure by the encroaching party to complete any restoration work required by the town within the time as may be established by the town and to the reasonable satisfaction of the town, the town may, following reasonable notice to the encroaching party, cause such work to be done and the encroaching party shall reimburse the town the cost thereof within 30 days after receipt of an itemized list of such cost, or the town may at its option recover such costs through the performance bond provided by the applicant, if applicable. The town shall be permitted to seek legal and equitable relief to enforce the provisions of this section.

Sec. 44-305. Erection of poles.

The encroaching party shall not erect any pole on or along any public rights-of-way in an existing aerial utility system without the advance written approval of the town. If additional poles in an existing aerial route are required, the applicant shall negotiate, as needed, with the owners thereof for the installation of the needed poles. The encroaching party shall negotiate the lease of pole space and facilities from the existing pole owners for all aerial construction, under mutually acceptable terms and conditions.

Sec. 44-306. Reservations of street rights.

Nothing in this article shall be construed to prevent the town from constructing storm or sanitary sewers, grading, paving, repairing or altering any public rights-of-way, or laying down, repairing or

removing water mains, traffic signal control systems, or constructing or establishing any public utility, service or other public work that the town may operate or undertake now or in the future. All such work shall be done, insofar as practicable, in such manner as not to obstruct, injure or prevent the free use and operation of poles, wires, conduits, conductors, pipes or appurtenances of the town. If the town in its reasonable judgment shall determine that the encroaching party or utilities facilities interfere with the construction location or repair of any public right-of-way or public improvement, then all such facilities of the encroaching party shall be removed or replaced, or temporarily disconnected, in such manner as shall be directed by the town so that the same shall not interfere with the public services of the town. Such removal or replacement shall be at the expense of the encroaching party; provided, however, that nothing in this article shall preclude the encroaching party or utility service provider from seeking reimbursement for removal or replacement costs from any public funds generally available to rights-of-way users for the reimbursement of such costs.

The town shall not be responsible for any cuts or damage to buried or underground facilities of a utility service provider that are not clearly marked or cannot be located through the state "one-call" service.

Sec. 44-307. Underground installation.

In those areas within the town where cable television, telephone, water, sewer, gas or electrical facilities are currently placed underground, all new system facilities shall remain or be placed underground. In areas where either telephone, cable, fiber or electric utility facilities are above ground at the time of installation, the encroaching party may install its system facilities above ground, provided that at such time as electric, cable, fiber and telephone utility facilities are placed underground, the encroaching party shall likewise place its system facilities underground without cost to the town. Installations shall also be consistent with other Sections of the Town Code and Unified Development Ordinance.

Sec. 44-308. Right-of-Way Encroachment Requirements.

- (a) The encroaching party shall provide the town detailed utility maps in both paper and a mutually agreed upon electronic format of all proposed underground and aerial utility facilities prior to installation of the system.
- (b) The encroaching party shall provide a contact number for the town to call in emergency situations requiring an immediate response on the part of the town. If the encroaching party or utility provider does not properly and effectively identify the precise location of its facilities within 45 minutes of an emergency call from the town, the town shall not be responsible for damage to the encroaching party or utility service providers facilities.
- (c) For proposed utility installations occurring within the state-maintained rights-of-way, encroaching parties shall apply for a right-of-way encroachment agreement through the North Carolina Department of Transportation. Copies of the state approval documentation shall be submitted to the town prior to the commencement of utility installation. A separate town approval is not required for installations occurring within state-maintained rights-of-way.

Sec. 44-309. Clearing poles and cables.

The encroaching party or utility service provider shall have the right to remove, trim, cut and to keep clear of its poles, cables, underground conduits and related equipment the trees in and along the public rights-of-way, but, in the exercise of such right, the encroaching party or utility service provider shall not cut such trees to any greater extent that is reasonably necessary for the construction, erection, installation, maintenance and use of electric, cable, fiber and telephone system equipment. Except in emergency situations, the encroaching party or utility service provider shall not remove, trim or cut such trees from any public rights-of-way without first providing reasonable notice to the town stating its intention to do so, such notice to be delivered not less than

ten days in advance. The encroaching party or utility service provider shall compensate the town or any private owners of such trees for any damage proximately caused by the provider's negligent conduct.

Sec. 44-310. Work performed by others.

To the extent applicable, all provisions of this article shall apply to any subcontractors or others performing any work or services on behalf of a utility service provider.

Sec. 44-311. Duty to the encroaching party or utility service provider.

Nothing contained in this article shall relieve any person from liability arising out of the failure to exercise reasonable care to avoid injuring the town's facilities while performing any work connected with grading, regarding or changing the line of any public rights-of-way or with the construction or reconstruction of any sewer or water system or utility system.

Sec. 44-312. Enforcement.

Upon a determination that this article is being violated, the Public Services Director, or their designee, may issue a notice of violation and civil citation under Town Code Section 1-6. Upon receipt of the notice of violation, the violator shall immediately cease and desist the activity which is in violation of this article. In the event that a violation imminently affects public safety, health or welfare, the Town may take action to abate the violation in a manner which appropriately balances the need for public safety with the need for due process of law.

PART II. Effective Date.

This ordinance shall be in full force and effect upon the date of adoption by the Board of Commissioners.

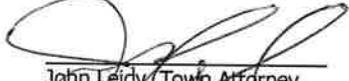

Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

Carolyn F. Morris, Town Clerk



APPROVED AS TO FORM:


John Leidy, Town Attorney
Date adopted: August 2, 2023

Motion to adopt by Commissioner _____
Motion seconded by Commissioner _____

Vote: _____ AYES _____ NAYS