

ORDINANCE NO. 1867

AN ORDINANCE AUTHORIZING THE DECLARATION OF VARIOUS STAGES OF WATER CONSERVATION; ESTABLISHING PROCEDURES AND VOLUNTARY AND MANDATORY CONSERVATION MEASURES; AUTHORIZING THE ISSUANCE OF ADMINISTRATIVE REGULATIONS; PRESCRIBING CERTAIN PENALTIES; AND REPEALING THOSE PARTS OF THE CITY CODE ESTABLISHED BY ORDINANCE NO. 1776.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF RUSSELL, KANSAS:

Section 1. Purpose. The purpose of this ordinance is to provide for a progressive water supply conservation program, including the declaration of a water watch, water warning, and water emergency and the implementation of voluntary and mandatory water measures throughout the City in the event such a stage is declared.

Section 2. Definitions:

- (a) "Water," as the term is used in this ordinance shall mean water available to the City of Russell for treatment by virtue of the City's water rights, water supply, water supply contracts, or any treated water introduced by the City into its water distribution system, including water offered for sale at any coin-operated site.
- (b) "Customer," as the term is used in this ordinance, shall mean the customer of record using water for any purpose from the City's water distribution system and for which either a regular charge is made or, in the case of coin sales, a cash charge is made at the site of delivery.
- (c) "Waste of Water," as the term is used in this ordinance, includes, but is not limited to (1) permitting water to escape down a street, roadway or other surface intended for vehicle driving purposes and/or any gutter, ditch, or other surface drain, or (2) failure to repair a controllable leak of water due to defective plumbing.
- (d) The following classes of uses of water are established:

CLASS 1:

Water used for outdoor watering, either public or private, for gardens, lawns, trees, shrubs, plants, parks, golf courses, playing fields, swimming pools or other recreational areas; or the washing of motor vehicles, boats, trailers, or the exterior of any building or structure.

CLASS 2:

Water used for any commercial, agricultural or industrial purposes, except water actually necessary to maintain the health and personal hygiene of bona fide employees of such business or interests while such employees are engaged in the performance of their duties at their place of employment.

CLASS 3:

Domestic usage, other than which would be included in either classes 1 or 2.

CLASS 4:

Water necessary only to sustain human life and the lives of domestic livestock pets and maintain standards of hygiene and sanitation.

Section 3. In the event that the Governing Body of the City or the City's designated official, as stated below, determines that the City's water supply may be subject to a shortage in supply or the Governing Body of the City determines there is need for conservation of City's water resources for any reason, the City may begin the progressive three (3) stage water conservation program by declaring a water watch as described in section 3(a) or, in times of need and/or duress, the Governing Body of the City may choose to declare any section of the program described in Section 3 in effect at any time:

- (a) Declaration of Water Watch - Stage I. Whenever the City Manager of the City, in consultation with the Public Works Director, finds that conditions indicate that the probability of a drought or some other condition causing a water supply shortage is rising, the City Manager shall be empowered to declare by public announcement that a water watch exists and that the public shall be informed and asked to make voluntary reductions in water use in accordance with the City's water conservation plan. Such a watch shall be deemed to continue until it is canceled by the City Manager.
- (b) Declaration of Water Warning - Stage II. Whenever the Governing Body of the City finds that a water shortage exists such that water supplies are critically impacted, it shall be empowered to declare by resolution a Water Warning - Stage II exists and that it will impose mandatory restrictions on water use during the period of this stage. Such restrictions shall be deemed to continue until it is declared by resolution of the Governing Body to have ended. The resolutions declaring the existence and end of a Water Warning - Stage II shall be effective on the date set forth in the resolution, and upon its posting on the City's official website.
- (c) Declaration of Water Emergency - Stage III. Whenever the Governing Body of the City finds that an emergency exists by reason of a shortage of water supply needed for essential uses, it shall be empowered to declare by resolution that a Water Emergency – Stage III exists and that it will impose mandatory restrictions on water use during the period of the emergency. Such an emergency shall be deemed to continue until it is declared by resolution of the Governing Body to have ended. The resolutions declaring the existence and end of Water Emergency – Stage III shall be effective on the date set

forth in the resolution and upon its posting on the City's official website.

Section 4. Voluntary Conservation Measures. Upon the declaration of a Water Watch – Stage I in Sections 3(a), the city manager is authorized to call on all water consumers to employ voluntary water conservation measures to limit or eliminate non-essential water uses including, but not limited to, limitations on the following uses:

(a) Class I and Class II uses of water.

(b) Waste of water.

Section 5. Mandatory Conservation Measures. Upon the declaration of a Water Warning – Stage II or Water Emergency – Stage III as provided in Section 3(b) or (c) the Governing Body is authorized to implement certain mandatory water conservation measures, including, but not limited to, the following:

(a) Suspension of new connections to the City's water distribution systems, except connections of fire hydrants and those made pursuant to agreements entered into by the City prior to the effective date of the declaration of the emergency;

(b) Restrictions on the uses of water in one or more classes of water use, wholly or in part;

(c) Restrictions on the sales of water at coin-operated facilities or sites;

(d) The imposition of water rationing based on any reasonable formula including, but not limited to, the percentage of normal use and per capita or per consumer restrictions;

(e) Complete or partial bans on the waste of water; and

(f) Any combination of the foregoing measures.

Section 6. Emergency Water Rates. Upon the declaration of a Water Emergency – Stage III as provided in Section 3(c) the Governing Body of the City shall have the power to adopt emergency water rates by ordinance designed to conserve water supplies. Such emergency rates may provide for, but are not limited to: (a) higher charges for increasing usage per unit of use (increasing block rates); (b) uniform charges for water usage per unit of use (uniform unit rate); or (c) extra charges in excess of a specified level of water use (excess demand surcharge).

Section 7. Regulations. During the effective period of any Water Warning (Stage II) or Water Emergency (Stage III) the city manager or public works director is empowered to promulgate such regulations as may be necessary to carry out the provisions of this ordinance, any water supply emergency resolution, or emergency water rate ordinance. Such regulations shall be subject to the approval of the Governing Body at its next regular or special meeting.

Section 8. Violations, Disconnections and Penalties.

- (a) If the mayor, city manager, public works director, or other city official or officials charged with implementation and enforcement of this ordinance or a water supply emergency resolution (Stage II or Stage III) learn of any violation of any water use restrictions imposed pursuant to Sections 5 or 6 of this ordinance, a written notice of the violation shall be affixed to the property where the violation occurred and the customer of record and any other person known to the city who is responsible for the violation or its correction shall be provided with either actual or mailed notice. Said notice shall describe the violation and order that it be corrected, cured or abated immediately or within such specified time as the City determines is reasonable under the circumstances. If the order is not cured within the time period given in the notice, the City may terminate water service to the customer subject to the following procedures:
- (1) The City shall give the consumer notice by mail or actual notice that water service will be discontinued within a specified time due to the violations and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before the City Governing Body or a city official designated as a hearing officer by the Governing Body;
 - (2) If such a hearing is requested by the customer charged with the violation, the customer shall be given a full opportunity to be heard before termination is ordered; and
 - (3) The Governing Body or hearing officer shall make findings of fact and order whether service should continue or be terminated.
- (b) A fee of \$100 shall be paid for the reconnection of any water service terminated pursuant to subsection (a). In the event of subsequent violations, the reconnection fee shall be \$200 for the second violation and \$300 for any subsequent additional reconNECTIONS within a one year period.
- (c) A violation of this ordinance and/or regulations adopted under Stage II or Stage III shall be a municipal offense and may be prosecuted in Municipal Court. Any person so charged and found guilty in Municipal Court of violating the provisions of this ordinance and/or regulations adopted under Stage II or Stage III shall be guilty of a municipal offense. Each calendar day in which a violation is observed shall constitute a separate offense. The penalty for an initial violation shall be a fine not exceeding \$200. In addition, such customer may be required by the Court to serve a definite term of confinement in the city or county jail which shall be fixed by the Court and which shall not exceed 30 days. The penalty for a second or subsequent conviction, within a period of one year, shall be a mandatory fine of \$300. In addition, such customer may be required to serve a definite term of confinement in the city or county jail which shall be fixed by the Court and which shall not exceed 30 days.

Section 9. Emergency Termination. Nothing in this ordinance shall limit the ability of any properly authorized city official from terminating the supply of water to any or all customers upon the determination of such city official that emergency termination of water service is required to protect the health and safety of the public, the integrity of the

water distribution system, or for any other emergency as required or authorized by ordinance or as deemed a necessity of the City by such city official or the Governing Body of the City.

Section 10. Severability. If any provision of this ordinance is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and its applicability to other persons and circumstances shall not be affected thereby.

Section 11. Ordinance No. 1776 is hereby repealed.

Section 12. This ordinance shall become effective upon publication of a summary of the Ordinance in the official city newspaper.

PASSED BY THE GOVERNING BODY OF THE CITY OF RUSSELL,
KANSAS this 18th day of August, 2015.


Raymond C. Mader, Mayor

ATTEST:



Katrina Woelk, City Clerk