

CITY OF WEST LIBERTY WATER SHORTAGE RESPONSE ORDINANCE

ORDINANCE NO. 11-25-02-02

An ordinance authorizing the declaration of a water shortage; establishing procedures and measures and measures for the essential conservation of water resources: authorizing the issuance of administrative regulations: and prescribing certain penalties.

Be it so ordained by the Governing Body of the City of West Liberty.

SECTION 1: PURPOSE:

The purpose of this ordinance is to provide for the declaration of official phases of water supply shortage situations and the implementation of voluntary and mandatory water conservation measures throughout the city in the event a shortage is declared. Nothing in this ordinance shall be construed to interfere with common law riparian or statutory water rights.

SECTION 2: DEFINITIONS:

- a. "Customer", as the term is used in this ordinance, shall mean any person 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 bulk sales, a cash charge is made at the site of the delivery.
- b. "Other Source of Water" as the term is used in this ordinance, shall mean water that has not been introduced by the City into its water distribution system.
- c. "Raw Water Supplies", as the term is this ordinance, shall mean all water potentially available to persons in the City Of West Liberty.
- d. "Treated Water", as the term is used in this ordinance, shall mean water that has been introduced by the City into it water distribution system, including water offered for sale. Uses of treated water are classified as follows:

ESSENTIAL WATER USES (CLASS 1)

The following uses of water, listed by site or user type, are essential.

Domestic:

- Water necessary to sustain human like and the lives of domestic pets, and to maintain minimum standards of hygiene and sanitation.

Health Care Facilities:

- Patient care and rehabilitation.

Water Hauling:

- Sales for domestic use where not reasonably available elsewhere.

Public Use

- Firefighting
- Health and public protection purposes, as specifically approved by health officials and municipal governing body.

SOCIALLY OR ECONOMICALLY IMPORTANT USES OF WATER (CLASS 2)

The following uses of water, listed by site or user type, are socially or economically important.

Domestic

- Personal in house water including kitchen, bathroom and laundry.

Water Hauling

- Non domestic, where other sources are not reasonably available elsewhere.

Commercial and Civic Use

- Commercial car and truck washes
- Laundromats
- Restaurants, clubs and eating places
- Schools, churches, motels/hotels and similar commercial establishments

Outdoor Non-Commercial Watering

- Minimal watering of vegetable gardens
- Minimal watering of trees where necessary for their survival

Outdoor Commercial or Public Watering (using conservation methods and when other sources of water are not available or feasible to use):

- Agricultural irrigation for the production of food and fiber or the maintenance of livestock
- Watering by arboretums and public gardens of national, state, regional, or community significance where necessary to preserve specimens
- Watering by commercial nurseries where necessary to maintain stock-watering where necessary to establish or maintain revegetation or landscape plantings required pursuant to law or regulation
- Watering of woody plants where necessary to preserve them
- Minimal watering of golf courses

Recreational:

Operation of municipal swimming pools and residential pools that serve more than 25 dwelling units.

Air Conditioning:

- Refilling for startup at the beginning of the cooling season
- Makeup of water during the cooling season
- Refilling specifically approved by health officials and the municipal governing body, where the system has been drained for health protection or repair services.

Non-Essential (Class 3)

Any waste of water, as defined herein, non-essential. The following uses of water, listed by site or user type are non-essential

Public Use

- Use of fire hydrants (excluding Class 1 and Class 2 uses), including use of sprinkler caps, testing fire apparatus and fire department drills
- Flushing of sewers and hydrants except as needed to ensure public health and safety as approved by health officials and the municipal governing body

Commercial and Civic Use

- Serving water in restaurants, clubs or eating places except by customer request.
- Failure to repair a controllable leak
- Increasing water levels in scenic and recreational ponds and lakes, except as necessary to support fish and wildlife

Ornamental Purposes

- Fountains, reflecting pools and artificial waterfalls

Outdoor Non Commercial Watering

- Use of water for dirt control or compaction
- Watering of annual or non-woody plants other than vegetable gardens
- Watering of lawns, parks, golf course fairways, playing fields and other recreational areas
- Washing sidewalks, walkways, driveways, parking lots, tennis courts or other hard surface areas.
- Washing down buildings or structures for purposes other than immediate fire protection
- Flushing gutters or permitting water to run or accumulate in any gutter or street

Outdoor Commercial or Public Watering

- Expanding nursery facilities, placing new irrigated agricultural land in production or planting of landscaping except when required by a site design review process
- Use of water for dirt control or compaction
- Watering of lawns, parks, golf course fairway, playing fields and other recreational areas
- Washing sidewalks, walkways, driveways, parking lots, tennis courts or fire protection
- Flushing gutters or permitting water to run or accumulate in any gutter or street

Recreational Uses Other Than Those Specified as Class 2

Non Commercial washing of motor and other vehicles

Air conditioning (see also Class 2 purpose)

- Refilling cooling towers after draining

e. "Waste of Water", as the term is used in this ordinance, includes but is not limited to (1) permitting water to escape down a gutter, ditch, or other surface drain, or (2) failure to repair a controllable leak of water due to defective plumbing

f. Water Shortage Response Phases:

"Advisory" as the term is used in the is ordinance, shall mean that conditions exist which judicate the potential for serious water supply shortages

"Alert" as the term is used in this ordinance, shall mean that raw water supplies are consistently below seasonal averages and if they continue to decline may not be adequate to meet normal needs

"Emergency" as the term is used in this ordinance shall mean that water supplies are below the level necessary to meet normal needs and that serious shortages exist in the area.

SECTION 3: DECLARATION OF A WATER SHORTAGE ADVISORY

Whenever the governing body of the City finds that a potential shortage of raw water supplies is indicated it shall be empowered to declare by resolution that a Water Shortage Advisory exists and that the water superintendent shall on a daily basis monitor the supply and demands upon that supply. In addition the Mayor or his/her agent is authorized to call upon all water customers to employ voluntary water conservation measures to limit non-essential (Class 3) water use and eliminate the waste of water. This resolution shall be published in the official city newspaper and may be publicized through the news media or any other appropriate method for making such resolutions public.

SECTION 4: DECLARATION OF A WATER SHORTAGE ALERT

Whenever the governing body of the City finds raw water supplies to be consistently below seasonal averages, and if they continue to decline and may not

be adequate to meet normal needs, it shall be empowered to declare by resolution that a Water Shortage Alert exists. The City shall continue to encourage voluntary water conservation measures defined under the Advisory declaration, and further impose a ban on all non-essential (Class 3) water uses for the duration of the shortage until it is declared to have ended by resolution of the governing body. Declaration of these resolutions shall follow the guidelines in Section 3 of this ordinance.

SECTION 5: DECLARATION OF A WATER SHORTAGE EMERGENCY

Whenever the governing body of the City finds that raw water supplies are below the level necessary to meet normal needs and that serious shortage exist, it shall be empowered to declare by resolution that a Water Shortage Emergency exists. Essential Uses (Class 1) shall be identified, in specific, as targets for voluntary conservation initiatives. Also, all socially or economically important uses (Class 2) shall be restricted, and non-essentials uses (Class 3) shall be banned. These restrictions shall be banned. These restrictions shall be considered ongoing until the emergency is ended by resolution of the governing body. Declaration of these resolutions shall follow the guidelines in Section 3 of this ordinance.

SECTION 6: SHORTAGE WATER RATES

Upon the declaration of a water shortage as provided in Section 3-5, the governing body of the city shall have the power to adopt shortage water rates, by ordinance, designed to conserve water supplies. Such rates may provide for, but not limited to: (a) higher charges per unit for increasing usage (increasing block rates); (b) uniform charges for water usage per unit of use (uniform unit rate); extra charges for use in excess of a specified level (excess demand surcharge); or (d) discounts for conserving water beyond specified levels.

SECTION 7: REGULATIONS

During the effective period of any water supply shortage as provided for in Section 3-5, the mayor (or city manager or water superintendent) is empowered to promulgate such regulation, or water shortage rate ordinance. Such regulations shall be subject to the approval of the governing body at its next regular emergency meeting.

SECTION 8: PENALTIES

Any person who violates the provisions of this ordinance, who fails to carry out the duties and responsibilities imposed by this ordinance, or who impedes or interferes with any action undertaken or ordered pursuant to this ordinance shall be subject to the following penalties:

(a) If the mayor, city manager, water superintendent, or other city official or officials charged with implementation and enforcement of this ordinance or a water supply shortage resolution learns of any violation of any water use restriction imposed pursuant to this ordinance, a written notice of the violation shall be affixed to the property where the violation occurred and mailed to the customer of record and to any other person known to the City who is responsible for the violation or its correction. 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 complied with, the City may terminate water service to the customer subject to the following procedures.

(1) The City shall give the customer notice by mail that, due to the violation, water services will be disconnected within a specified time 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 hearing is requested by the customer charged with the violation, he or she 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 \$50 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 each additional violation.

(c) Any customer may also be charged with violation of this ordinance and prosecuted in District Court. Any person so charged and found guilty in Court of violating the provisions of this ordinance shall be guilty in Court of violating the provisions of this ordinance shall be guilty of Class B misdemeanor. Each day violation shall constitute a separate offense. The penalty for an initial violation shall be mandatory fees of \$100, which may not be adjusted by the Court. 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 violation shall be a mandatory fine of \$300, which shall be fixed by the Court and which shall not exceed 30 days. Penalties for additional violations shall be the same as the second violation.

SECTION 9: 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 10: EFFECTIVE DATE

This ordinance shall take effect immediately upon adoption or passage.

SECTION 11: EFFECTIVE PERIOD

This ordinance will remain in effect until terminated by action of the city's governing body.

FIRST READING 11-21-2002

SECOND READING 11-25-2002

PASSED BY THE CITY COUNCIL ON 11-25-2002

Signed By: Robert W. Nickell, Mayor (11-26-2002)

Attest: Sally Barker, City Clerk (11-26-2002)