

ORDINANCE NO. 462

AN ORDINANCE RELATING TO DECLARATION OF WATER SUPPLY EMERGENCY AND THE IMPLEMENTATION OF VOLUNTARY AND MANDATORY WATER CONSERVATION MEASURES IN THE EVENT OF EMERGENCY; AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES OF THE CITY OF WATHENA IN CONFLICT HEREWITH.

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

SECTION 1. PURPOSE. The purpose of this Ordinance is to provide for the declaration of a water supply emergency and the implementation of voluntary and mandatory water conservation measures throughout the City of Wathena, Kansas (herein City) in the event such an emergency is declared.

SECTION 2. DEFINITIONS. (a) Water shall mean water available to the City for treatment by virtue of its water rights 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 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 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.

(d) The following classes of uses of water are established:

Class I: 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 area; or the washing of motor vehicles, boats, trailers, or the exterior of any building or structure.

Class II: Water used for any commercial or industrial, including agricultural, purposes; except water actually necessary to maintain the health and personal hygiene of bona fide employees while such employees are engaged in

the performance of their duties at their place of employment.

Class III: Domestic usage, other than that which would be included in either classes I or II.

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

(e) Governing Body shall mean the Governing Body of the City of Wathena, Kansas.

(f) Mayor shall mean the Mayor of the City of Wathena, Kansas.

SECTION 3. DECLARATION OF A WATER EMERGENCY. Whenever the Governing Body 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 supply emergency exists and that it will encourage voluntary water conservation or 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 a water supply emergency shall be effective upon their publication in the official city newspaper.

SECTION 4. VOLUNTARY CONSERVATION MEASURES. Upon the declaration of a water supply emergency as provided in Section 3 above, the Mayor 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) Sprinkling of water on lawns, shrubs or trees (including golf courses).
- (b) Washing of automobiles.
- (c) Use of water in swimming pools, fountains and evaporate air conditioning systems.
- (d) Waste of water.

SECTION 5. MANDATORY CONSERVATION MEASURES. Upon the declaration of a water supply emergency as provided in Section 3

above, the Mayor is also 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 system, 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 supply emergency as provided in Section 3 above, the Governing Body 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 the use (increasing block rates);
- (b) Uniform charges of 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 supply emergency as provided for in Section 3 above, the Mayor 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 Superintendent, or other city official or

officials charged with implementation and enforcement of this Ordinance or a water supply emergency resolution or ordinance learn of any violation of any water use restrictions imposed pursuant to Sections 5 or 7 above, 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. The 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 or actual notice that water service will be discontinued within a specified time due to the violation and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before the Governing Body or a City official designated as a hearing office by the Governing Body.
- (2) If such a 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 official shall make findings of fact and order whether service should continue or be terminated.

(b) A fee of \$50.00 shall be paid for the reconnection of any water service terminated pursuant to subsection (a) above. In the event of subsequent violations, the reconnection fee shall be \$200.00 for the second violation and \$300.00 for any additional violations. The reconnection fees provided for herein shall be in addition to any other reconnection fees otherwise provided for by ordinance of the City.

(c) Violation of this Ordinance 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 shall be guilty of a municipal

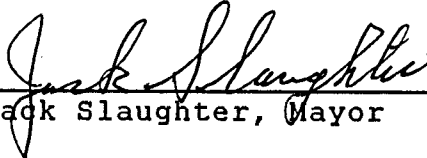
offense. Each day's violation shall constitute a separate offense. The penalty for an initial violation shall be a mandatory fine of \$100.00. In addition, such customer may be required by the Court to serve a definite term of confinement in the City or county jail which shall be fixed by the Court and which shall not exceed thirty (30) days. The penalty for a second or subsequent conviction shall be a mandatory fine of \$200.00. In addition, such customer shall serve a definite term of confinement in the City or county jail which shall be fixed by the Court and which shall not exceed thirty (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 service connections as required to protect the health and safety of the public.

SECTION 10. REPEALER. All ordinances and parts of ordinances of the City in conflict herewith are hereby repealed.

SECTION 11. EFFECTIVE DATE. This Ordinance shall take effect from and after its publication in the official City newspaper.

PASSED by the Council and APPROVED by the Mayor on the 3rd day of August, 1993.



Jack Slaughter, Mayor

ATTEST:

(City Seal)



City Clerk