

ORDINANCE NO. 49-585 183004

AN ORDINANCE AMENDING CHAPTER 17.14 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO DROUGHT RESPONSE ACTIONS AND REPEALING THE PRIOR VERSION OF SAID CHAPTER.

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

SECTION 1. Chapter 17.14, of the Code of the City of Wichita is hereby amended to read as follows:

Sec. 17.14.010. Purpose.

The purpose of this chapter is to provide for the actions in response to drought conditions and include the declaration of four stages of drought response. It also provides for the implementation of the drought response plan and voluntary and mandatory water conservation measures throughout the city in the event such a drought stage is declared.

Sec. 17.14.020. Definitions.

- (a) "Customer," as the term is used in this chapter means the customer of record using water for any purpose from the city's water distribution system and for which a regular charge is made.
- (b) "Drought response plan" shall be the city's drought action plan, as may be supplemented or amended from time to time, on file with the city clerk.
- (c) "Outdoor water," as the term is used in this chapter includes, but is not limited to: any water used through an irrigation system, an outdoor hose, or hand watering container outside of a physical structure.
- (d) "Water," as the term is used in this chapter, means 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.
- (e) The following stages of drought response are established:

Stage 1: Triggered when the 12-month moving average of Cheney Reservoir’s conservation pool level is between 70% and 89%.

Stage 2: Triggered when the 12-month moving average of Cheney Reservoir’s conservation pool level is between 50% and 69%.

Stage 3: Triggered when the 12-month moving average of Cheney Reservoir’s conservation pool level is between 35% and 50%.

Stage 4: Triggered when the 12-month moving average of Cheney Reservoir’s conservation pool level is between 0% and 34%.

(f) For purposes of determining drought response stages, the term “conservation pool level” means the percentage of the conservation pool that is filled

Sec. 17.14.030. Declaration of drought stages.

The 12-month average of the conservation pool level in Cheney Reservoir is the basis for establishing drought stages, according to the levels provided in Section 17.14.020. The public works & utilities director shall monitor the lake level in Cheney Reservoir. When the 12-month moving average of Cheney’s conservation pool level indicates the existence of a drought response stage in accordance with Section 17.14.020, the city manager will issue a public declaration of such drought response stage. Should the lake level at Cheney Reservoir subsequently exceed the maximum threshold of Stage 1 as provided in Section 17.14.020, the city manager shall issue a public declaration that previously declared drought response measures are terminated.

Sec. 17.14.040. Stage 1 measures.

Upon the declaration of a Stage 1 drought response stage as provided in Section 17.14.030, the city manager will call on all water consumers to employ voluntary water conservation measures to limit or eliminate water use. The city shall offer incentives or rebates to encourage indoor and outdoor water conservation. The city shall implement conservation measures in its own operations, in accordance with the drought response plan.

Sec. 17.14.050. Stage 2 measures.

Upon the declaration of a Stage 2 drought response stage as provided in Section 17.14.030, the city manager will implement the mandatory water conservation measures set forth below. Food producing gardens utilizing drip irrigation or hand watering shall be Stage 2 exempt. Businesses that generate their core economic activity from usage of outdoor water shall be Stage 2 exempt. Such businesses include, but are not limited to, golf courses, car washes, nurseries, sod suppliers, and others identified by the city manager. The city shall implement water conservation measures in its own operations, including measures in the drought response plan and shifting the some of the water allocation from Cheney Reservoir to other sources. Mandatory water conservation measures include the following and noncompliance by customers who are not Stage 2 exempt shall be subject to the penalties provided in Section 17.040.100:

- (a) Restricting outdoor water usage to one day per week, in accordance with (b), below;
- (b) Customers at real properties northwest of the Central & Broadway intersection may use outdoor water on Mondays; customers at real properties northeast of Central & Broadway may use outdoor water on Tuesdays; customers at real properties southwest of Central & Broadway may use outdoor water on Wednesdays; customers at real properties southeast of Central & Broadway may use outdoor water on Thursdays; no outdoor water can be used on Fridays, Saturdays, or Sundays by customers who are not Stage 2 exempt;

- (c) Prohibiting all customers who are not Stage 2 exempt from using outdoor water from 10:00am until 8:00pm.

Sec. 17.14.060. Stage 3 measures.

Upon the declaration of a Stage 3 drought response stage as provided in Section 17.14.030, the city manager will prohibit all usage of outdoor water by customers who are not Stage 3 exempt. Food producing gardens utilizing drip irrigation or hand watering shall be Stage 3 exempt. Businesses that generate their core economic activity from usage of outdoor water shall be Stage 3 exempt. Such business include, but are not limited to, golf courses, car washes, nurseries, sod suppliers, and others identified by the city manager. The city shall implement water conservation measures in its own operations, in accordance with the drought response plan. Any use of outdoor water outdoors by customers who are not Stage 3 exempt shall be subject to the penalties provided in Section 17.040.100.

Sec. 17.14.070. Stage 4 measures.

Upon the declaration of a Stage 4 drought response stage as provided in Section 17.14.030, the city manager will implement mandatory water conservation measures for all customers, including prohibition of usage of outdoor water. No exemptions shall be provided from the prohibition on usage of outdoor water. The city shall implement all possible water conservation measures in its own operations. All customers, except those specifically exempted below, are required to reduce their water usage by 15% from their Average Winter Consumption, as defined in Section 17.12.090, as it was most recently calculated as of the declaration of the Stage 4 drought response stage. Any noncompliance with the provisions of this section shall be subject to the penalties provided in Section 17.040.100. The following customers are exempt from the requirement to reduce water usage by 15% from their Average Winter Consumption.

- (a) Wesley Medical Center
- (b) Galichia Heart Hospital
- (c) Wesley West Hospital
- (d) Via Christi Hospital – St. Francis
- (e) Via Christi Hospital – St. Joseph
- (f) Via Christi Hospital – St. Teresa
- (g) Via Christi Rehabilitation Hospital
- (h) Kansas Medical Center
- (i) Robert J. Dole VA Medical Center
- (j) Kansas Spine Hospital
- (k) Select Specialty Hospital

Sec. 17.14.080. Regulations.

During the effective period of any drought response stage as provided for in Section 17.14.030, the city manager is empowered to promulgate such regulations consistent with the provisions of this chapter as may be necessary to carry out and enforce the restrictions and penalties in effect for that drought response stage.

Sec. 17.14.090. Enforcement.

Whenever a drought response stage is declared to exist as set forth in this chapter, in addition to all law enforcement officers, the following personnel employed by the city shall have the power to enforce the provisions of this chapter:

- (a) Commissioned officers of the Wichita fire department;
- (b) Parking control checkers;
- (c) Traffic service officers;
- (d) All deputies under the supervision of the director of the metropolitan area building and construction department;
- (e) Any employee of the Public Works & Utilities department as designated by the director.

Such personnel shall have the power of a law enforcement officer for the purpose of signing a complaint and serving such complaint and a notice to appear upon any person where there is probable cause to believe such person has or is violating a section of this chapter.

Sec. 17.14.100. Violations, disconnections and penalties.

- (a) Upon violation of any water use restrictions imposed pursuant to Sections 17.14.050, Section 17.14.060, or 17.14.070 of this chapter, 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 city enforcement personnel 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 manager or the city manager's designee determines is reasonable under the circumstances. If the order is not complied with, the city manager or the city manager's designee may assess an administrative fee or restrict water service to the customer in accordance with the standards in subsection (b), below, subject to the following procedures:
 - (1) The city shall give the customer notice by mail or actual notice that an administrative fee will be assessed or water service will be restricted within a specified time due to the violation and that the customer will have the opportunity to appeal the administrative fee or restriction by requesting a hearing scheduled before the city manager or a person designated as a hearing officer by the city manager;
 - (2) If such a hearing is requested by the customer charged with the violation by the specified date, he or she shall be given a full opportunity to be heard before the fee is assessed or the restriction or termination is ordered;
 - (3) The city manager or hearing officer shall make findings of fact and order whether a fee should be assessed or service should continue or be restricted;
 - (4) In the event no hearing is requested by the specified date, full water service shall be reinstated when the city is no longer in a Stage 4 drought response stage, as provided in Section 17.14.100(e) and all administrative fees have been paid.
- (b) Upon the first violation of any water use restrictions imposed pursuant to Section 17.14.050 of this chapter, a written warning shall be issued. A second violation will result in an administrative fee of \$50. Subsequent violations will be punishable with an administrative fee of \$100 per violation.
- (c) Upon the first violation of any water use restrictions imposed pursuant to Section 17.14.060 of this chapter, a written warning shall be issued. A second violation will result in an administrative fee of \$250. Subsequent violations will be punishable with an administrative fee of \$500 per violation.
- (d) Upon the first violation of the outdoor water prohibition imposed pursuant to Section 17.14.070 of this chapter, a written warning shall be issued. A second violation will result in an administrative fee

of \$250. Subsequent violations will be punishable with an administrative fee of \$500 per violation and installation of a water flow restrictor. The flow restrictor will decrease the amount of water flowing through the meter to a customer and will not be removed until the city is no longer in a Stage 4 drought response stage.

- (e) Upon the first violation of the required 15% reduction imposed pursuant to Section 17.14.070 of this chapter, a written warning shall be issued. A second violation will result in an administrative fee of \$250. Subsequent violations will be punishable with an administrative fee of \$500 per violation and installation of a water flow restrictor. The flow restrictor will decrease the amount of water flowing through the meter to a customer and will not be removed until the city is no longer in a Stage 4 drought response stage.
- (f) All administrative fees shall be subject to the same terms of payment that are set forth in Section 17.12.100 for regularly scheduled water meter charges, following the completion of the procedures in subsection (a), above.
- (g) In addition to disconnection/reconnection fees provided by Section 17.12.090, a fee of two hundred dollars shall be paid for the reconnection of any water service restricted pursuant to this chapter.

Sec. 17.14.110. Emergency restriction and termination.

- (a) Nothing in this chapter shall limit the ability of any properly authorized city official from restricting or terminating the supply of water to any or all customers upon the determination of such city official that emergency restriction or termination of water service is required to protect the health and safety of the public.

Sec. 17.14.120. Notification required with sprinkler systems.

Installers of lawn watering irrigation or sprinkling water systems, upon installing a lawn watering irrigation or sprinkling system, shall provide a copy of this chapter to the owner of the lawn watering irrigation or sprinkling system.

Sec. 17.14.130. Exemptions—Watering from wells—Sign required.

- (a) Persons using water from a well for any class of use as defined in this chapter shall be exempt from the penalties of this chapter, pursuant to Section 17.14.130(b).
- (b) To qualify for the exemption, persons using water from a well as set forth in subsection (a) shall, while engaged in such use(s), display a sign with the words "well water" upon it in a location that is readily visible to the general public.

Sec. 17.14.140. Severability.

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

Sec. 17.14.140A. Mandatory lawn watering rotation schedule.

- (a) In addition to the other procedures of this chapter, and whether or not any drought response stage has been declared, the city council may establish mandatory restrictions on lawn watering for water conservation, water conservation education, or peak water use demand purposes. Such restrictions may include, but not be limited to, the establishment of a mandatory lawn watering rotation schedule.

Whenever the city council directs that mandatory restrictions on lawn watering be imposed, the city manager shall cause a notice of such restrictions to be given through the general news media and by publication in the official city newspaper. The restrictions shall be effective upon publication for the duration and in the manner set forth in the notice.

- (b) Upon the imposition of mandatory restrictions under this section, any violation of the provisions of this section and the notice given under the authority of this section shall be deemed a misdemeanor. All enforcement and procedural provisions of Sections 17.14.090 and 17.14.100(a) apply to the provisions of this section, but the penalties for violation of the provisions of this section shall be an administrative fee of \$250 per violation.

SECTION 2. The original of Chapter 17.14 is hereby repealed.

SECTION 3. This ordinance shall take effect and be in force on and after October 25th, 2013, and upon publication once in the official City paper.

ADOPTED at Wichita, Kansas, this 22th day of October, 2013

Carl Brewer, Mayor
City of Wichita

ATTEST:

Karen Sublett,
City Clerk

Approved as to Form:

Gary E. Rebenstorf,
Director of Law