

ORDINANCE NO. 1721a

AN ORDINANCE PERTAINING TO UTILITIES AMENDING PART 17 OF THE DUNCAN CODE OF ORDINANCES, RELATING TO TEMPORARY OR PERIODIC RESTRICTIONS ON WATER USAGE, DEFINING THE PENALTIES, DEFINING CRITERIA FOR SEPARATE LEVELS FOR RATIONING, PROVIDING FOR SEVERABILITY, AND DECLARING AN EMERGENCY.

ORDINANCE

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Duncan, Oklahoma, that:

Section 1. Code of Ordinances Part 17, Chapter 2, Sections 218 through 222 are hereby amended and declared to read as follows:

17-218 - Temporary or periodic restrictions on water usage.

- A. Whenever an emergency exists by reason of a shortage of water due to inadequate supply, limited treatment or distribution capacity or failure of equipment or material, the General Manager/City Manager is hereby authorized to restrict or prohibit the use of water from the water system in whole or in part.
- B. When the rate of water consumption, by all users of the City's water supply and water distribution system, attains such volume that a loss of water pressure is experienced in all or part of the City's water distribution system, or the City's raw water supply becomes excessively low as described herein, the City Engineer shall certify this condition to the General Manager/City Manager, in writing, together with recommendations for the alleviation of such conditions. Upon the certification of the City Engineer, the General Manager/City Manager shall issue a proclamation declaring an emergency, to be executed by the Mayor/Chairman of Trustees under the provisions of this article, establishing restrictions on the use of water. Any provisions of the proclamation restricting water usage shall apply to all consumers of the City's water system, both within and outside the City limits. The City Engineer shall review conditions of the city's water system at an appropriate frequency during the affective dates of the proclamation and shall provide the General Manager/City Manager the finding of said review. Any restrictions on water usage established pursuant to this Section shall remain in effect until such time as the General Manager/City Manager files an order with the City Clerk terminating the restrictions, pursuant to a determination by the City Engineer that

sufficient water pressure has been restored, or that restricted usage is no longer necessary.

- C. The type, nature and extent of the water usage restriction shall be based on prevailing conditions of the City's water distribution system and the rates of consumption, or the City's raw water supply, as certified by the City Engineer. Restrictions on water usage shall include the authority to prescribe certain times for use of water, to establish purposes for which water may be used, and to prohibit certain usages of water as provided hereafter. Usage restrictions imposed may apply to the entire City or to only a part or portion of the City in order to protect the public health, safety and welfare.

17-219 Notice

- A. Upon the issuance of a proclamation, the same shall become immediately effective upon publication. A certified copy of the proclamation shall be published at least once, within 72 hours of its issuance, in a newspaper having general circulation within the City. If there is no such newspaper, or if it is not otherwise possible to publish the proclamation within 72 hours, publication shall be by posting a copy of the proclamation in ten (10) prominent places within in the City to include City Hall, City Police headquarters, City Library, Simmons Center, and the Stephens County Courthouse. A certified copy of the proclamation shall also be filed with the City Clerk. Violation of such proclamation shall be subject to penalties as set out in any provision of this article.
- B. Whenever a sudden or unexpected event so reduces the availability of water or water pressure as to create an immediate threat to public health or safety the notice of the proclamation may be given by any reasonable means, including electronic means. The emergency shall be in full force and effect upon such notice. However, if any means other than that required in subsection A of this section is used, the proclamation shall be republished in accordance with subsection A of this section within twenty four (24) hours of the first notice.

17-220 Restrictions on Water Use

- A. STAGE 1-VOLUNTARY CONSERVATION OF OUTSIDE WATER USAGE.
1. Conditions. The conditions for Stage 1 shall exist when the average daily water usage reaches ninety percent (90%) of plant capacity for fourteen (14) consecutive days or when the combined municipal

storage of Lake Humphreys and Waurika Lake reaches a level of seventy-five percent (75%) or less. Stage 1 conditions may be declared to exist when the municipal storage of Lake Humphreys or Waurika Lake reaches seventy-five percent (75%) or less.

2. Voluntary Conservations. Upon certification of the conditions for Stage 1, the General Manager/City Manager may, through appropriate means, call upon consumers to conserve water voluntarily by limiting outside watering to the hours between 12:00 midnight and 9:00 a.m. every other day. Watering within said authorized time frames being limited to even numbered days for street addresses ending in an even number and odd numbered days for street addresses ending in an odd number.
3. Termination. Stage 1 shall terminate when the General Manager/City Manager shall file an order with the City Clerk, finding that the conditions for Stage 1 no longer exist.

B. STAGE 2-MANDATORY RESTRICTION OF OUTSIDE WATER USAGE TO EVERY OTHER DAY.

1. Conditions. The conditions for Stage 2 shall exist when the average daily water usage reaches ninety-five percent (95%) of the plant capacity for seven (7) consecutive days or when the municipal combined storage of Lake Humphreys and Waurika Lake reaches a level of sixty percent (60%) or less. Stage 2 conditions may be declared to exist when the municipal storage of Lake Humphreys or Waurika Lake reaches sixty percent (60%) or less.
2. Mandatory Restrictions. Upon certification of the conditions for Stage 2, the General Manager/City Manager may order the mandatory restriction of outside water usage including but not limited to watering of lawns, trees, shrubs, gardens and bedding plants, vehicle washing, washing or hosing down of sidewalks, driveways and streets, filling of pools or other recreational uses to the hours between 12:00 midnight and 9:00 a.m. every other day. Watering within said authorized time frames shall be limited to the days of Monday, Wednesday, and Friday for street addressees ending in an even number and for Tuesday, Thursday, and Saturday for street addressees ending in an odd number. Outside Water Usage will be restricted for all street addressees on Sunday with said usage being limited to the watering of gardens and flower beds only. All other outside watering on Sunday will be prohibited.
3. Termination. Stage 2 shall terminate when the General Manager/City Manager shall file an order with the City Clerk and cause the same to be published in a newspaper of general

circulation with the City, finding that the conditions for Stage 2 no longer exist; provided however, that the General Manager/City Manager may in such order call upon consumers to voluntarily conserve water as provided in Stage 1 herein.

C. STAGE 3- MANDATORY RESTRICTION OF OUTSIDE WATER USAGE TO WEDNESDAYS AND SATURDAYS.

1. Conditions. The conditions for Stage 3 shall exist when the average daily water usage reaches ninety-eight percent (98%) of the plant capacity for three (3) consecutive days or when the combined municipal storage of Lake Humphreys and Waurika Lake reaches a percentage of fifty percent (50%) or less. Stage 3 conditions may be declared to exist when the municipal storage of Lake Humphreys or Waurika Lake reaches fifty percent (50%) or less.
2. Mandatory Restrictions. Upon certification of the conditions for Stage 3, the General Manager/City Manager may order the mandatory restriction of outside water usage including but not limited to watering of lawns, trees, shrubs, gardens and bedding plants, vehicle washing, washing or hosing down of sidewalks, driveways and streets, filling of pools or other recreational uses to the hours between 12:00 midnight and 9:00 a.m. on Wednesdays and Saturdays only.
3. Termination. Stage 3 shall terminate when the General Manager/City Manager shall file an order with the City Clerk and cause the same to be published in a newspaper of general circulation with the City, finding that the conditions for Stage 3 no longer exist; provided however, that the General Manager/City Manager may in such order impose the restrictions of Stage 2 or may call upon consumers to voluntarily conserve water as provided in Stage 1 herein.

D. STAGE 4 - MANDATORY RESTRICTION OF OUTSIDE WATER USAGE TO ONE DAY PER WEEK

1. Conditions. The conditions for Stage 4 shall exist when the average daily water usage reaches one hundred percent (100%) of the plant capacity for two (2) consecutive days or when the municipal storage of Lake Humphreys or Waurika Lake reaches a percentage of forty percent (40%) or less.
2. Mandatory Restrictions. Upon certification of the conditions for Stage 4, the General Manager/City Manager may order the mandatory restriction of outside water usage including but not limited to watering of lawns, trees, shrubs, gardens and bedding

plants, vehicle washing, washing or hosing down of sidewalks, driveways and streets, filling of pools or other recreational uses to the hours between 12:00 midnight and 9:00 a.m. on Saturdays for locations south of Elk Avenue and on Wednesdays for locations north of Elk Avenue.

3. Termination. Stage 4 shall terminate when the General Manager/City Manager shall file an order with the City Clerk and cause the same to be published in a newspaper of general circulation with the City, finding that the conditions for Stage 4 no longer exist; provided, however that the General Manager/City Manager may in such order impose the restrictions of Stage 3 or Stage 2 or may call upon consumers to voluntarily conserve water as provided in Stage 1 herein.

E. STAGE 5 - MANDATORY PROHIBITION OF OUTSIDE WATER USAGE

1. Conditions. The conditions for Stage 5 shall exist when the average daily water usage reaches one hundred percent (100%) of the plant capacity for two (2) consecutive days or when the municipal storage of Lake Humphreys or Waurika Lake reaches a percentage of thirty percent (30%) or less.
2. Restrictions and Prohibitions. Upon certification of the conditions for Stage 5, the General Manager/City Manager shall prohibit all outside water usage including but not limited to watering of lawns, trees, shrubs, gardens and bedding plants, vehicle washing, washing or hosing down sidewalks, driveways and streets, filling of pools or other recreational uses.
3. Termination. Stage 5 shall terminate when the General Manager/City Manager shall file an order with the City Clerk and cause the same to be published in a newspaper of general circulation with the City, finding that the conditions for Stage 5 no longer exist; provided, however that the General Manager/City Manager may in such order impose the restrictions of Stage 4, Stage 3 or Stage 2 or may call upon consumers to voluntarily conserve water as provided in Stage 1 herein.

F. EMERGENCY CONDITIONS AND MEASURES.

1. In addition to the conditions set forth above authorizing the City Engineer to certify that Stage 1, 2, 3, 4 or Stage 5 water restrictions or prohibitions should be implemented, the City Engineer may also certify to the General Manager/City Manager the need for implementation of Stage 1, 2, 3, 4 or Stage 5 should any of the following emergency conditions occur:

- a. If one or more pumps fail at the Lake Fuqua or Lake Humphreys pump station causing the transfer of water to fall below the needed operating volume;
 - b. If one or more pumps fail at the Lake Waurika pump station or re-lift station causing the transfer of water to fall below the needed operating volume;
 - c. If a failure in the Lake Fuqua or Lake Humphreys raw water pipeline or the Waurika pipeline should occur causing the transfer of water to fall below the needed operating volume; or
 - d. If in the professional judgment of the City Engineer that any portion of the City's water supply and water distribution system is otherwise threatened by any emergency conditions resulting from a loss of water pressure or the City's raw water supply becomes extremely low.
2. Mandatory Restrictions or Prohibition. Upon certification of Stage 1, 2, 3, 4 or Stage 5 water restrictions or prohibitions based on the above conditions, the General Manager/City Manager may prohibit water usage consistent with the applicable Stage 1, 2, 3, 4 or Stage 5 restrictions or prohibitions set forth for the applicable stage as set forth in this section for that stage.
 3. Termination. The General Manager/City Manager shall terminate the applicable Stage 1, 2, 3, 4 or Stage 5 restrictions or prohibitions consistent with the applicable termination requirements for the stage so certified as set forth in this section for that stage.

G. SALE OR DISCHARGE OF RAW WATER FROM LAKE FUQUA.

1. STAGE 1 - RESTRICTIONS ON SALE OR DISCHARGE OF WATER
 - a. Conditions. The condition for Stage 1 shall exist when the municipal storage of Lake Fuqua reaches a level of seventy-five percent (75%) or less.
 - b. Restrictions. Upon certification of the conditions for Stage 1, the General Manager shall, through appropriate means, restrict the sale or discharge of water from Lake Fuqua for non-municipal supply uses to an aggregate maximum of 235,000 gallons per day.
 - c. Termination. Stage 1 shall terminate when the General Manager shall file an order with the City Clerk, finding that the conditions for Stage 1 no longer exist.

2. STAGE 2 - RESTRICTIONS ON SALE OR DISCHARGE OF WATER

- a. Conditions. The conditions for Stage 2 shall exist when the municipal storage of Lake Fuqua reaches a level of sixty percent (60%) or less.
- b. Restrictions. Upon certification of the conditions for Stage 2, the General Manager shall, through appropriate means, restrict the sale or discharge of water from Lake Fuqua for non-municipal supply uses to an aggregate maximum of 150,000 gallons per day, every other day.
- c. Termination. Stage 2 shall terminate when the General Manager shall file an order with the City Clerk, finding that the conditions for Stage 2 no longer exist; provided, however that the General Manager may in such order restrict the sale or discharge of water as provided in Stage 1 herein.

3. STAGE 3 - RESTRICTIONS ON SALE OR DISCHARGE OF WATER

- a. Conditions. The conditions for Stage 3 shall exist when the municipal storage of Lake Fuqua reaches a percentage of fifty percent (50%) or less.
- b. Restrictions. Upon certification of the conditions for Stage 2, the General Manager shall, through appropriate means, restrict the sale or discharge of water from Lake Fuqua for non-municipal supply uses to an aggregate maximum of 150,000 gallons per day, on Wednesdays or Saturdays only.
- c. Termination. Stage 3 shall terminate when the General Manager shall file an order with the City Clerk, finding that the conditions for Stage 3 no longer exist; provided, however that the General Manager may in such order impose the restrictions of Stage 2 or Stage 1 herein.

4. STAGE 4 - PROHIBITION ON SALE OR DISCHARGE OF WATER

- a. Conditions. The conditions for Stage 4 shall exist when the municipal storage of Lake Fuqua reaches a percentage of forty percent (40%) or less.
- b. Prohibitions. Upon certification of the conditions for Stage 4, General Manager shall prohibit all sales or discharges of water from Lake Fuqua for non-municipal supply uses.
- c. Termination. Stage 4 shall terminate when the General Manager shall file an order with the City clerk, finding that the conditions for Stage 4 no longer exist; provided, however that the General Manager may in such order impose the restrictions of Stage 3 or State 2 or Stage 1 herein.

17-221 EXEMPTIONS.

A. Stage 2 and Stage 3 Exemptions. The following activities, users, or usages of water shall be exempt from the Stage 2 and Stage 3 water restrictions.

1. Watering upon the immediate premises of any commercial nursery raising plants, shrubs, or trees for sale;
2. Commercial car washes and service stations.
3. Washing of motor vehicles used in food transportation, food products, perishable goods or motor vehicles used for garbage collections;
4. Food producing crop for personal use or consumption only;
5. Lawns which have been treated by commercial nurseries, landscape gardeners, or similar type businesses,
 - (a) The watering is completed within twenty-four (24) hours from the treatment of the lawns; and
 - (b) A sign is conspicuously posted on the premises stating the date and time of the lawn treatment; and
6. Newly planted lawns for a period of two weeks with the posting of a sign which sets out the date of the start of such two week period.
7. Watering around the foundations of property structures by use of a hose.

B. Stage 4 Exemptions. The following activities, users, usages of water shall be exempt from the Stage 4 water restrictions:

1. Washing of motor vehicles used in food transportation, food products, perishable goods or motor vehicles used for garbage collections; and
2. Watering around the foundations of property structures by use of a hose.
3. Watering upon the immediate premises of any commercial nursery raising plants, shrubs, or trees for sale.
4. Food producing crop for personal use or consumption only.
5. Commercial car washes and service stations.
6. Washing a vehicle at a car dealership or car rental establishment on the day the customer picks up the vehicle.

C. Stage 5 Exemptions. The following activities, users, usages of water shall be exempt from the Stage 5 water restrictions:

1. Washing of motor vehicles used in food transportation, food products, perishable goods or motor vehicles used for garbage collections; and

2. Watering around the foundations of property structures by use of a hose.
3. Watering upon the immediate premises of any commercial nursery raising plants, shrubs, or trees for sale.

D. The use of fire hydrant meters during Stage 2, 3 or 4 is prohibited except for approved subdivision construction contracts and where building permits have been issued by the City. The use of fire hydrant meters during Stage 5 is prohibited.

17-222 PENALTIES FOR VIOLATIONS OF STAGE 2, STAGE 3, STAGE 4 OR STAGE 5 PROHIBITIONS.

A. Any violation of the restrictions of Stage 2, Stage 3, Stage 4 or Stage 5 by any party receiving water as a customer located inside the City Limits shall be deemed in violation of this Code and the penalties shall be as set out in Chapter 1, Section 1-108 of the Code for a first offense. Each day that an offense occurs or continues shall be deemed a separate offense. Second and subsequent offenses shall also be prosecuted in Municipal Court and fines shall be enhanced with fines set out herein.

a. Convictions for violations of Stage 2 or Stage 3 shall be punishable by the following: 1st offense shall be punishable by a fine of \$100 plus court costs. Conviction of a 2nd offense shall be punishable by a fine of \$150 plus court costs. Conviction of a 3rd offense shall be punishable by a fine of \$250 plus court costs.

b. Violations of Stage 4 restrictions shall entail the following: Conviction of a 1st offense shall be punishable by a fine of \$250 plus court costs. Conviction of a 2nd offense shall be punishable by a fine of \$500 plus court costs. Conviction of a 3rd offense shall be punishable by a fine of \$750 and/or 30 days in jail.

c. Violations of Stage 5 restrictions shall entail the following: Conviction of 1st offense shall be punishable by a fine of \$500.00 plus court cost. Conviction of a 2nd offense shall be punishable by a fine of \$1,000.00 plus court cost. Conviction of 3rd offense and each subsequent offense shall be punishable by a fine of \$1,000.00 plus court costs, and/or 30 days in jail.

B. Customers receiving water under the terms of a contract shall for a first violation receive a letter of Notice of Violation and the water rate applicable to that customer shall be increased by fifty percent (50%) for the duration of that billing period. For a second violation by the

customer during the declared water emergency, the customer shall receive a Notice of Violation and the water rates applicable to that customer shall be doubled for not only the duration of that billing period but for the remainder of the declared emergency as well. A third violation during the declared emergency by the customer shall cause the customer(s) agreement to be cancelled and immediately terminate water service(s). The customer, whether inside the City limits or outside the City limits, shall be required to reapply for water service and additional application fees and deposits will be required as established by other ordinances of this Code in effect at the time of such violation. Water service agreements with customers outside the City limits are at the discretion of the General Manager/City Manager. For purposes of this section, customer is defined as the individual or entity contracting with the City for water service provided through a master meter. If the customer has additional customers attached beyond the master meter it is the customer's responsibility to ensure compliance with the declared water emergency requirements by all its additional customers.

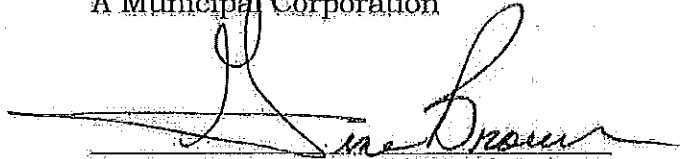
Section 2. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of this ordinance.

EMERGENCY CLAUSE

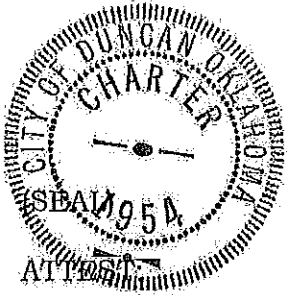
WHEREAS, it being immediately necessary for the preservation of the peace, health, safety and welfare of the City of Duncan, Oklahoma, and the inhabitants thereof that the provisions of this Ordinance be put into full force and effect, an emergency is hereby declared to exist by reason whereof this Ordinance shall take effect and be in full force from and after its passage as provided by law.

PASSED AND APPROVED by the City Council of the City of Duncan, Oklahoma, this 9th day of September, 2014.

THE CITY OF DUNCAN, OKLAHOMA
A Municipal Corporation



Gene Brown, Mayor/Chairman of Trustees




City Clerk

APPROVED AS TO FORM AND LEGALITY:


David Hammond, City Attorney