

ORDINANCE NO. 1437

AN ORDINANCE OF THE CITY OF OTHELLO, ADOPTING CHAPTER 12.40 OF THE OTHELLO MUNICIPAL CODE PROVIDING FOR WATER USAGE RESTRICTIONS, IMPOSING MONETARY AND OTHER PENALTIES, AND FIXING A TIME WHEN THE SAME SHALL BE EFFECTIVE.

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WHEREAS, the City's water supply is subject to weather conditions and other emergencies and, therefore, usage reductions may be required to assure an adequate supply for essential needs; and

WHEREAS, the City is supplied water by a City owned and operated water supply system; and

WHEREAS, the City has full power under RCW 35.92.010 to regulate and control the use and distribution of water from the City's water supply system; and

WHEREAS, unrestricted water use for non-essential purposes during water emergencies will endanger the adequacy of the water supply for essential needs; and

WHEREAS, compliance with said restrictions will be encouraged by imposition of monetary penalties for water usage in excess of authorized usage during an emergency; and

WHEREAS, the City will incur additional costs to maintain water supply during periods of emergency and monetary penalties imposed upon customers who exceed restrictions will offset such costs; and

WHEREAS, the City Council recognizes the critical importance of an immediate response by the City in the event of any water supply emergency; and to provide this response, the City Administrator and Public Works Director or his/her designee, shall be granted limited authority to declare a water shortage emergency and implement water usage restrictions, NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF OTHELLO, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. The City hereby adopts chapter 12.40 of the Othello Municipal Code, entitled Emergency Water Shortage Restrictions, as follows:

**12.40.001 Purpose and Scope.** It is the purpose of this Code to:

- (1) Provide for the regulation of water facilities maintained by the City of Othello in order to preserve the City's water supply and protect the public health, safety, and welfare.
- (2) Establish the authority of the City Administrator to declare a water shortage emergency and to impose restrictions on water usage.

**12.40.005 Definitions.** For purposes of Chapter 12.40, the following definitions apply:

- (1) "Large Water User" shall mean any user of the City water supply whose average use during the thirty (30) days immediately preceding the declaration of a Water Shortage Emergency is equal to or greater than five hundred (500) gallons of City water per minute.
- (2) "Water Shortage Emergency" shall mean an emergency as declared by the City Administrator in accordance with OMC 12.40.020.

**12.40.010 Supply Shortage.** In case of shortage of supply, the Public Works Department reserves the right to give preference in the matter of furnishing service to customers, as in the judgment of its representatives shall be for the best interest of the City, from the standpoint of public convenience, safety, or necessity.

**12.40.020 Water Conservation and Rationing.** When determined necessary by the City Administrator to conserve water within the City of Othello water service area during water shortage periods, the City Administrator or his/her designee has the authority to declare a Water Shortage Emergency and direct the Public Works Director to implement any or all of the actions as outlined in this chapter for the defined emergency. The City Administrator declaration shall define the emergency stage as a temperate, intermediate, or grievous emergency. The Public Works Department shall monitor the supply of and demand for potable water on a daily basis and report the status to the City Administrator. The emergency shall remain in effect until such time as the emergency has expired and a notice of cessation by the City Administrator has been given, as provided in this chapter.

**12.40.030 Conservation and Rationing Program.** Upon declaration of a Water Shortage Emergency, the Public Works Director shall implement a water use reduction program corresponding to the emergency level declared by the City Administrator. The water use reduction program shall consist of the following measures and any other measures deemed necessary to maintain the quality and availability of the City's domestic water supply:

- (1) Temperate Stage – The Public Works Department shall:
  - (a) Provide a Water Shortage Emergency public notification in the City's water service area. The notification must direct Othello domestic water system users utilizing City water for irrigation/sprinkling to conform to the following landscape-watering monthly calendar schedule:
    - (i) Even numbered addresses water on Mondays, Wednesdays and Fridays.
    - (ii) Odd numbered addresses water on Tuesdays, Thursdays, and Saturdays.
    - (iii) There will be no watering scheduled for Sundays.

- (iv) Irrigation/sprinkler watering shall only be allowed between the hours of 3:00 a.m. to 7:00 a.m. and 7:00 p.m. to 11:00 p.m.
- (v) The quantity of water shall be kept at a minimum. Potable water used for irrigation/sprinkling which is found running upon the streets or walkways, shall be prima facie evidence of excessive use.
- (b) Disseminate water conservation guidelines to all customers within the City's water service area (except for the large water uses to be dealt with separately) asking for a voluntary water use reduction of fifteen percent (15%) to twenty-five percent (25%) below current usage.
- (c) Prepare a Water Shortage Emergency status report that includes a request for a voluntary water use reduction of fifteen percent (15%) to twenty-five percent (25%) below current usage and distribute to all large water users identified in the City's water utility billing system. The intent of this process is to approach large water users separately from the general/lower volume water users with a written status report providing technical information on their specific water usage supporting the request for voluntary reduction.
- (d) Utilize media sources to communicate the Water Shortage Emergency as deemed necessary.
- (e) Establish an information source point entitled "Water Shortage Emergency" on the City's official website which provides updated information on water shortage emergency stages, conditions, and requirements.
- (f) Ready emergency water supply interties with adjacent water systems to supplement available water supply if necessary.
- (2) Intermediate Stage – The Public Works Department shall:
  - (a) Provide a Water Shortage Emergency public notification in the City's water service area. The notification must direct Othello domestic water system users utilizing City water for irrigation/sprinkling to conform to a mandatory landscape-watering schedule as determined by the Public Works Director as necessary to preserve the City's water supply, which may include prohibition of all landscape watering if necessary.
  - (b) Comply with (1)(b), and (1)(d)-(f) above.
  - (c) (i) Appoint a Water Conservation Representative(s) to meet with large water users identified in the City's water utility billing system to inform them of the current water shortage condition, (ii) implement a mandatory twenty-five percent (25%) water use reduction below the most recent non-emergency water shortage year on a month-by-month basis, and (iii) communicate the mandatory reduction in writing delivered to large water users.
  - (d) Prohibit the operation and introduction of water into an ornamental fountain.
  - (e) Prohibit the washing of streets, sidewalks, driveways, or decks except as necessary for public health and safety.
  - (f) Prohibit the filling of swimming pools, spas, ponds, and artificial lakes.

- (g) Prohibit washing of any vehicles or boats unless at a commercial car washing facility.
  - (h) Instruct all construction operations receiving water from a City fire hydrant not to use water for any purpose other than those required by regulatory agencies. A water rate surcharge of three hundred percent (300%) shall be established for this type of water use.
  - (i) Require all restaurants to conspicuously post a "Water Shortage Emergency" notice as approved by the Public Works Director and refrain from serving water to customers except upon request.
  - (j) Require operators of hotels, motels, and other commercial lodging establishments to conspicuously post a "Water Shortage Emergency" notice as approved by the Public Works Director.
- (3) Grievous Stage – In addition to the following measures, all measures identified in the intermediate stage shall apply. The Public Works Department shall:
- (a) Prohibit all watering of any lawn, yard, City-owned park, landscaping, recreational area, or any other area containing vegetation.
  - (b) Rescind all fire hydrant meter use permits and issue no new permits.
  - (c) Close all City-owned swimming pools, wading pools, splash facilities, and the like.
- (4) Should the above measures fall short of maintaining enough water supply for the basic functions of health and sanitation, the Public Works Director is authorized to:
- (a) Implement further mandatory water use reductions up to fifty percent (50%) including a corresponding inclining rate structure.
  - (b) Implement a rolling system of outages as necessary to preserve basic health and sanitation.
- (5) Notice to Water Customers. Notice shall be given advising water customers that the potable city water conservation and rationing program is to be implemented. For Temperate Stage conditions such notice shall be published at least two days in the official newspaper of the City, and shall contain a description of the programs, the effective date, and the time of implementation, and penalty for violation. For Intermediate Stage conditions such notice shall be published for at least one day. For Grievous Stage conditions notification shall be by the most expedient means possible with a follow-up published notification if the Grievous Stage condition is expected to last more than three consecutive days. Assistance of other local media will be sought throughout the duration of the water shortage in an attempt to further advise water customers; however, such additional media assistance shall not be deemed a condition precedent to effectuating the program on the date and time specified in the notice of cessation published as required in this section.
- (6) Notice of cessation of the water shortage shall be given by publication in the official newspaper of the City; provided, however, that notice of cessation need only be published one time.

**12.40.040 Accountability of Owner, Occupant.** For the purposes of this section, the legal owner of any premises upon which a violation of this section occurs, or in the case of rented or leased premises, the legal occupant thereof shall be deemed accountable for the conduct of all other persons being present thereon, or having access to the premises.

#### **12.40.050 Violation-Penalties.**

(1) It is unlawful for any person or entity to violate any provision of this chapter. Any violation of any provision of this chapter shall be a civil infraction. This chapter shall be enforced in accordance with the provisions of OMC 1.30 et seq.

(2) Domestic water users.

(a) The first violation of this chapter by a person shall be a civil infraction for which no penalty shall be imposed. Rather, for first time violations, the Public Works Director or designee shall issue a written warning to the responsible party.

(b) A second violation of this chapter by the same person shall be a C-8 civil infraction for which a fine of \$250 may be imposed. After a written warning has been issued, each day's violation of any provision of this chapter shall constitute a separate offense and shall subject the offender to the above penalties for each offense.

(3) Commercial and Large Water Users.

(a) The first violation by a commercial or large water user shall be a C-1 infraction for which a fine of \$5,000 shall be imposed. Each day's violation of any provision of this chapter shall constitute a separate offense and shall subject the offender to the above penalty for each offense.

(4) Authority to Disconnect Customers During a Water Shortage Emergency.

(a) The Public Works Director is authorized to prevent the depletion of city potable water by cutting off service to any water customer violating this chapter after having served a notice of infraction on said customer.

(b) The Public Works Director is further authorized to enter upon the property of a customer (who has violated this chapter), after first making reasonable efforts to contact the owner or person responsible for such premises, and disconnect their property from the City water supply during the declared Water Shortage Emergency.

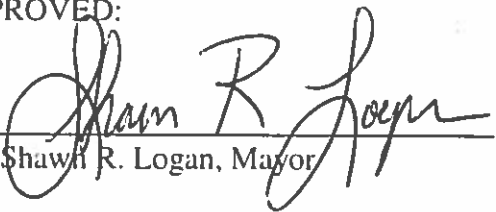
(c) Once the Water Shortage Emergency ends, the Public Works Director must reconnect the property to the City water supply. The customer responsible for the property shall be responsible for all expenses incurred by the City to reconnect the property to the City water supply. The City is authorized to pursue legal action to collect for these costs if not paid by the customer within thirty (30) days of being delivered with a bill detailing the expenses incurred to reconnect their property to the City water supply.

Section 2. If any section subsection, sentence, clause, phrase, part of portion of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after publication of the ordinance or a summary thereof consisting of the title.

APPROVED:

By:

  
Shawn R. Logan, Mayor

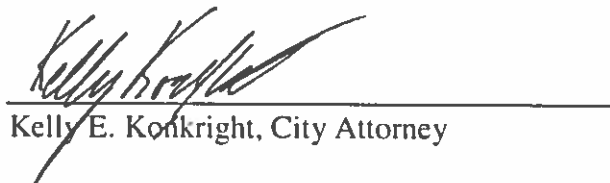
ATTEST/AUTHENTICATED:

By:

  
Debbie L. Kudrna, City Clerk

APPROVED AS TO FORM:

By:

  
Kelly E. Konkright, City Attorney

PASSED the 22<sup>nd</sup> day of June, 2015  
APPROVED the 22<sup>nd</sup> day of June, 2015  
PUBLISHED the 2<sup>nd</sup> day of July, 2015