

ORDINANCE NO. 427

AN ORDINANCE OF THE CITY OF KYLE, TEXAS AUTHORIZING AND CREATING MANDATORY WATER USE MANAGEMENT POLICIES AND PROCEDURES; PROVIDING STAGE 1-WATER USE MANAGEMENT; PROVIDING STAGE 2-MANDATORY USE MANAGEMENT; PROVIDING FOR STAGE 3-EMERGENCY WATER USE MANAGEMENT; PROVIDING FOR VARIANCES; PROVIDING PENALTIES AND DEFINITIONS; MAKING FINDINGS OF FACT; AND PROVIDING FOR RELATED MATTERS.

Whereas, the City of Kyle (the "City") has experienced rapid growth and development in recent year that has greatly increased demand for water services from the city's residents and water customers;

Whereas, as part of the overall goal to expand, protect, and develop both existing and future water resources for the City, it is desirous to implement a more aggressive approach to water conservation efforts;

Whereas, the Mayor and City Council, upon recommendation by the Kyle Water Development Citizens Advisory Committee, have developed the following instrument to empower and authorize the City Manager to implement certain water use management policies and procedures for the appropriate protection and development of Kyle's water resources.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS, THAT:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Definitions. The following words, terms and phrases, when used in this Ordinance, and when used in any other ordinance of the City and not defined in such ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense include the future tense. Words used in the plural number include the singular, and words in the singular include the plural. The word "shall" is always mandatory. The word "herein" means in this Ordinance. The word "regulations" means the provisions of any applicable ordinance, rule, regulation or policy. The word "person" means any human being or legal entity and includes a corporation, a partnership, and an incorporated or unincorporated association.

(a) *New Landscape* means vegetation:

- (1) installed at the time of the construction of a new house, new multi-family building, or new commercial building,
- (2) installed as part of a governmental entity's capital improvement project, or
- (3) which alters more than one half of the area of an existing landscape.

Section 3. Compliance; Water Conservation Guidelines. Except when the City Manager institutes a mandatory or emergency water use restrictions under Section 6 of this Ordinance (Stage 2 – Mandatory Water Use Restrictions) or under Section 7 of this Ordinance (Stage 3 –

Mandatory Water Use Restrictions), the Stage 1–Mandatory Water Use Regulations are in effect from May 1 through September 30 of each year, and other time periods as determined by the City Manager or his designee. The City Manager shall promulgate water conservation guidelines including policies for compliance by city departments and criteria for determining when other conservation stages are to be implemented and terminated. The City Manager shall update the guidelines when, in the City Manager’s discretion, changed conditions of the water system require the update. The guidelines shall be available for inspection at the City Administrative Offices during normal business hours.

Section 4. Continuing Water Use Management.

- (a) Any person who receives water service directly or indirectly from the City shall comply with this Section and this Ordinance at all times, unless otherwise provided by law or authorized permit.
- (b) The following constitute a waste of water and are prohibited:
 - (1) failing to repair a controllable leak, including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;
 - (2) operating a permanently installed irrigation system with:
 - (A) a broken head;
 - (B) a head that is out of adjustment where the arc of the spray head is over a street or parking lot; or
 - (C) a head that is misting due to high water pressure;
 - (3) during irrigations:
 - (A) allowing water to run off property such that there is a trail of water running in the street for a distance of 50 feet or greater; or
 - (B) allowing water to pond in the street or parking lot to a depth greater than ¼ inch.

Section 5. Stage 1 – Peak Demand Water Use Management.

- (a) Any person who receives water service directly or indirectly from the City of Kyle shall comply with this Section when Stage 1 Use Management Regulations are in effect.
- (b) Outdoor irrigation by permanently installed automatic irrigation system or sprinkler system is prohibited between the hours of 10:00am and 7:00pm. This prohibition does not apply to irrigation:
 - (1) of a new landscape, if the owner provides notice to the City Manager or his designee at least one day before the installation;
 - (2) during a repair or testing of a new or existing irrigation system only if the person doing the testing is present; or
 - (3) for watering nursery stock including potted plants, shrubs, and trees at a commercial plant nursery.
- (c) Any customer subject to this Section is also encouraged to comply with the requirements of Section 6 of this Ordinance (Stage 2 Mandatory Water Use Management).

Section 6. Stage 2 – Mandatory Water Use Management.

- (a) Any individual, group, business, or corporation who receives water service directly or indirectly from the City shall comply with this Section when the City Manager institutes Stage 2 Mandatory Water Use Management.
- (b) The allowed days for outdoor water use within the Water Conservation Guidelines do not apply to a customer that uses treated wastewater effluent or raw water. The prohibitions in Section 4 of this Ordinance apply when Stage 2 Water Use Management Regulations are in effect.
- (c) This subsection prescribes the requirement for outdoor irrigation, excluding watering nursery stock including potted plants, shrubs, and trees at a commercial plant nursery. Outdoor irrigation is permitted:
 - (1) by a hand-held hose, or hand-held bucket at any time during the day or night;
 - (2) by a hose and sprinkler, a soaker hose, or drip irrigation, from 12:00 midnight to 10:00am and 7:00pm to 12:00 midnight on an outdoor water use day as designated in the water conservation guidelines;
 - (3) by a permanently installed automatic irrigation system from 12:00 midnight to 10:00am on an outdoor water use day as designated in the water conservation guidelines; or
 - (4) for property which a person obtains a variance from the City Manager or his designee to divide the property into sections, to be watered on different outdoor water use days.
- (d) This subsection prescribes requirements for washing an automobile, truck, trailer, boat, airplane, or other type of mobile equipment.
 - (1) Washing is prohibited except on a designated outdoor water use day from 12:00 midnight to 10:00am and from 7:00pm to 12:00 midnight.
 - (2) Washing must be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle.
 - (3) Charity carwashes are prohibited.
 - (4) Each washing of a vehicle or piece of equipment in violation of the terms and conditions of this Section constitutes a separate violation under this Ordinance.
 - (5) This subsection does not apply to a commercial carwash that meets the following standards at the time this Ordinance is adopted:
 - (A) in-bay, hand-held spray wash equipment including spray wands and foaming brushes may use no more than 3.0 gallons of water power minute and must be equipped with trigger shut-offs;
 - (B) portable pressure wash equipment with spray nozzles may use no more than 3.5 gallons of water per minute with trigger shutoffs;
 - (C) conveyor frictions systems may use no more than 20 gallons per vehicle;
 - (D) conveyor touchless systems may use no more than 40 gallons per vehicle;
 - (E) rollover automatic systems may use no more than 45 gallons per vehicle;
 - (F) all chamois ringers must have positive shutoff valves.
- (e) Using an automatic fill valve to add water to an outdoor swimming or wading pool or to a pond is prohibited.

- (f) Washing a sidewalk, driveway, parking area, street, tennis court, patio, or other paved area, is prohibited except to alleviate an immediate health or safety hazard.
- (g) Athletic fields for organized sports such as football, softball, baseball, or soccer must comply with Stage 2 restrictions.
- (h) Stage 2 restrictions do not apply to the following:
 - (1) necessary use of water, other than for landscape irrigation, by a governmental entity in pursuit of a governmental function for the benefit of the public;
 - (2) necessary use of water, other than for landscape irrigation, for land development including roadway base preparation, flushing utility lines, dust control, concrete or asphalt work and building construction.
 - (3) necessary use of water for repair of water distribution facility, residential and commercial plumbing, or permanently installed irrigation system; and
 - (4) use of water under a variance to the requirements of this Ordinance granted by the City Manager.

Section 7. Stage 3 – Emergency Water Use Management. The City Manager may implement the following restrictions to all persons who receive water service directly or indirectly from the City of Kyle in the area(s) designated by the City Manager. The restrictions do not apply to any customer that using treated wastewater effluent or raw water for the uses described below. All elements of Stage 2 remain in effect in Stage 3 except that:

- (a) Outdoor irrigation of vegetation by hand-held hoses, or hand-held watering cans may occur only between the hours of 6:00am to 10:00am and 7:00pm to 10:00pm on designated outdoor water use days. Irrigation using sprinkler systems, permanently installed irrigation systems, hose end irrigation, and/or drip irrigation is prohibited.
- (b) Washing automobiles, trucks, trailers, boats, airplanes, and other type of mobile equipment is prohibited unless washing is in the immediate interest of public health, safety and, welfare.
- (c) Washing automobiles, trucks, trailers, boats, airplanes, and other type of mobile equipment on the immediate premises of a commercial carwash or a commercial service station may occur between 12:00 noon and 5:00pm only when washing is in the immediate interest of public health, safety and, welfare.
- (d) Commercial plant nurseries may use only hand-held hoses, hand-held watering cans, or drip irrigation.
- (e) The filling, refilling, or adding of potable water to swimming or wading pools, fountains and ponds is prohibited.
- (f) Installation of new landscapes may not be started.

Section 8. Rain Sensing Devices and Freeze Gauges Mandatory.

- (a) Any permanent irrigation system installed within the City on or after August 1, 2003 must be equipped with rain sensing devices and freeze gauges approved as to number and type by the City Manager or his designee.
- (b) Any irrigation system installed before August 1, 2003 may not be operated after January 1, 2005 without being equipped with rain sensing devices and freeze gauges approved as to number and type by the City Manager or his designee.

- (c) A person commits an offense if, on premises owned, leased, or managed by him, he:
 - (1) installs, or causes or permits the installation of, a new irrigation system in violation of Section 8 herein;
 - (2) operates, or causes or permits the operation of, an irrigation system that does not comply with Section 8(a); or
 - (3) operates, or causes or permits the operation of, an irrigation system that does not comply with Section 8(b).
- (d) Variances. The City Manager may, in special cases, grant variances from the provisions of this Section to persons demonstrating extreme hardship and need.

Section 9. Additional Emergency Water Use Management. Nothing in this Ordinance shall be construed to restrict or hinder the ability of the City Manager to completely restrict any and all use of water in an emergency in the immediate interest of the public health, safety and, welfare.

Section 10. Public Notification of Water Use Restrictions. It shall be the responsibility of the City Manager or his designated agent to make all reasonable efforts to properly inform the general public and city water customers of any and all water use restrictions as defined by this Ordinance. Said notifications as to the various stages of water use restrictions that may exist at any given time may not be limited to but shall at least include (a) posting along with other public notices at the Kyle City Hall and (b) posting on the official City of Kyle internet website.

Section 11. Variance.

- (a) Any person who receives water service directly or indirectly from the City of Kyle and his subject to the regulations of this Ordinance may file an application for a variance from this Ordinance for any property that receives city water. The City Manager may require the applicant to provide information deemed necessary to evaluate the variance request.
- (b) The City Manager may grant a variance from the requirements of this Ordinance after determining that special circumstances exist and that compliance with this Ordinance:
 - (1) will adversely affect the health, sanitation, or fire protection for the public or the applicant; or
 - (2) will substantially threaten the applicant's primary source of income.
- (c) If the variance is granted, the applicant will maintain a copy of the variance in a location on the affected property, accessible and visible to the public.

Section 12. Violation and Penalties. It shall be unlawful for any person to violate any provisions of this Ordinance, which shall remain in effect at the designated times. Any person who violates this Ordinance or part thereof shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than \$50.00 nor more than \$2,000.00 and each day the violation continues shall constitute a separate offense.

- (a) If a customer is irrigating during a time period or on a day when such irrigation is prohibited and a city worker cannot locate any person at that street address to turn off the irrigation system, the city worker may turn off the irrigation system if it is accessible.
- (b) The City of Kyle is hereby authorized to discontinue water service to any person(s) who knowingly violate any provision of Stage 3 – Emergency Water Use Management rules on three (3) occasions.

Section 13. Repeal of Conflicting Ordinances. All parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict only. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the City, the terms and provisions of the most restrictive ordinance shall govern.

Section 14. Open Meetings. That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, Loc. Gov't. Code.

Section 15. Effective Date. This ordinance shall be in full force and effect from and after the date of its final passage and adoption in accordance with the provisions of the Kyle City Charter.

PASSED AND APPROVED on First Reading this 24th day of June, 2003.

FINALLY PASSED AND APPROVED on this the 1st day of July, 2003.

ATTEST:

THE CITY OF KYLE, TEXAS

Minerva Falcon, City Secretary

James L. Adkins, Mayor