

# WATER DROUGHT/EMERGENCY RESOLUTION

Resolution No. 2021-6

A resolution authorizing the declaration of a water watch, warning or emergency; establishing procedures and voluntary and mandatory conservation measures; authorizing the issuance of administrative regulations; and prescribing certain penalties.

Be it Resolved by Rural Water District No. 5 of Cowley County.

Section 1. Purpose. The purpose of this resolution is to provide for the declaration of a water supply watch, warning or emergency and the implementation of voluntary and mandatory water conservation measures throughout the District in the event such a watch, warning or emergency is declared.

Section 2. Definitions.

- (a) "The District," as the term is used in this resolution, shall be Rural Water District 5, Cowley County, Kansas.
- (b) "Water," as the term is used in this resolution, shall mean water available to Rural Water District No. 5 of Cowley County for public distribution by virtue of its water rights or any treated water introduced by the District into its water distribution system, including water offered for sale at any coin-operated site.
- (c) "Customer," as the term is used in this resolution, shall mean the customer of record using water for any purpose from the District'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.
- (d) "Waste of water," as the term is used in this resolution, 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.
- (e) "Notice," as the term is used in this resolution, shall mean such notice as the governing body of the District determines appropriate, including direct mail to the District's customers, publication in one or more newspapers having circulation within the territory of the District, television or radio news releases broadcast by stations serving the territory of the District, or any combination thereof.
- (f) "Governing body," as the term is used in this resolution, shall mean the Board of Directors of the District.
- (g) "Personal notice," as the term is used in this resolution, shall mean written notice; hand delivered to the person to whom notice is directed. Personal notice is accomplished on the date that the notice is delivered.
- (h) "Mailed notice," as the term is used in this resolution, shall mean written notice, placed in the United States mail, First Class postage prepaid, addressed to the person to whom notice is directed, at the last known address for such person according to the records of the District. Mailed notice is accomplished on the date that the notice is placed in the mail as described above.
- (i) The following classes of uses of water are established:

Class 1: 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 areas; or the washing of motor vehicles, boats, trailers, or the exterior of any building or structure.

Class 2: 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 3: Domestic usage, other than that which would be included in either Class 1 or 2.

Class 4: Water necessary only to sustain human life and the lives of domestic pets and maintain standards of hygiene and sanitation.

Section 3. Declaration of Water Watch. Whenever the governing body of the District finds that conditions indicate that the probability of a drought or some other condition causing a major water supply shortage are present, it shall be empowered to declare, by resolution, that a water watch exists and that it shall take steps to inform the public and ask for voluntary reductions in water use. Such a watch 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 watch shall be effective upon their adoption by the governing body of the District and giving of notice thereof.

Section 4. Declaration of Water Warning. Whenever the governing body of the District finds that drought conditions or some other condition causing a major water supply shortage are present and supplies are starting to decline, it shall be empowered to declare by resolution that a water warning exists and that it will recommend restrictions on nonessential uses during the period of warning. Such a warning shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the beginning and ending of the water warning shall be effective upon their adoption by the governing body of the District and giving of notice thereof.

Section 5. Declaration of Water Emergency. Whenever the governing body of the District 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 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 adoption by the governing body of the District and giving of notice thereof.

Section 6. Voluntary Conservation Measures. Upon the declaration of a water watch or water warning as provided in Sections 3 and 4, the District and/or the governing body of the District Manager is authorized to call on all water consumers to employ voluntary water conservation measures to limit or eliminate nonessential water uses including, but not limited to, limitations on the following uses:

- (a) Class 1 uses of water, as provided for in Section 2(i).
- (b) Waste of water.

Section 7. Mandatory Conservation Measures. Upon the declaration of a water supply emergency as provided in Section 5, the governing body of the District is also authorized to implement certain mandatory water conservation measures, including, but not limited to, the following:

- (a) Suspension of new connections to the District's water distribution system, except those approved by the governing body of the District 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 8. Emergency Water Rates. Upon the declaration of a water supply emergency as provided in Section 5, the governing body of the District may adopt emergency water rates 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 use (increasing block rates);
- (b) Uniform charges for 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 9. Regulations. During the effective period of any water supply emergency as provided for in Section 5, the governing body of the District is empowered to promulgate such regulations as may be necessary to carry out the provisions of this resolution, any water supply emergency resolution, or emergency water rate resolution.

Section 10. Violations, Disconnections and Penalties.

- (a) Upon violation of any water use restrictions imposed pursuant to Sections 7 or 9 of this resolution, 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 District to be responsible for the violation or its correction shall be provided with either personal or mailed notice. Such notice shall contain the following information:

- (1) The customer(s) Name(s), Benefit Unit number and address where service is being provided;
  - (2) The nature of the violation, the corrective action required and the deadline for completion of such corrective action;
  - (3) A statement that the customer has the right to request a hearing and be heard at a hearing to be conducted in accordance with subsection b, below.
  - (4) A statement that water service shall be terminated unless corrective action is taken by the stated deadline.
- (b) Any water user receiving a notice of violation as provided above shall have the right to a hearing prior to service termination. The request for hearing must be made by the customer owner within 3 (three) days of the date of service of such notice, or hearing will be deemed irrevocably waived. The water district manager or such other person as appointed by the board of directors of the district shall conduct such hearing. The hearing shall be held within 15 (fifteen) days of the request for hearing. At such hearing, the customer and the district shall each have the right to present such evidence as is pertinent to the issue, may be represented by counsel, and may examine and cross-examine witnesses. The hearing officer shall promptly make his or her findings and shall enter his or her order accordingly. The hearing officer may adopt the finding of violation, contained in the notice, or may modify or reject such finding; may make new or additional findings of violation, and order corrective action in accordance with the resolution. Unless otherwise ordered by the hearing officer, water service shall be terminated the day after the date that the order of termination is issued by the hearing officer unless the required corrective action has been made prior to termination. The hearing officer's order shall be filed in the district's records, and a copy thereof shall be provided to the water user in the same manner as set forth in subsection (10a) above.
- (c) Any party aggrieved by the decision of the hearing officer may appeal the same by filing a written notice of appeal with the district. Notwithstanding the order of termination, service shall not be terminated if the notice of appeal has been received prior to termination. Any such appeal shall be set for hearing before the governing body at its next regularly scheduled meeting or special meeting. The determination of the governing body shall be final. The determination of the governing body shall be recorded in the minutes of its official proceedings, and notice thereof shall be provided to the customer in the same manner described in subsection (a), above. Violations of this resolution shall be an offense of the District's rules and regulations and may result in termination of service.
- (d) Reconnection of service terminated as provided above shall be made only after the District has determined that the necessary corrective action has been completed and the fees provided by subsection (e), below, have been paid.
- (e) A fee of \$100.00 shall be paid for the reconnection of any water service terminated pursuant to subsection (a). In the event of subsequent violations, the reconnection fee shall be \$1,000.00 for the second reconnection and \$3,000.00 for any additional reconnections.

Section 11. Emergency Termination. Nothing in this resolution shall limit the ability of any properly authorized District official from terminating the supply of water to any or all customers upon the determination of such District official that emergency termination of water service is required to protect the health and safety of the public.

Section 12. Severability. If any provision of this resolution is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the resolution and its applicability to other persons and circumstances shall not be affected thereby.

Passed by the governing body this 8th day of April, 2021.

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Roger Bair, Board Chairman

ATTEST:

~original signed~

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Edward White, Board Secretary