

ORDINANCE NO. 5 (Series 2018)

AN EMERGENCY ORDINANCE OF THE CITY OF OURAY, COLORADO, REPEALING AND REENACTING SECTION 9-11 OF THE CITY OF OURAY MUNICIPAL CODE CONCERNING IMPLEMENTATION OF WATER RESTRICTIONS AND SETTING FORTH PENALTIES FOR NON-COMPLIANCE THEREWITH.

WHEREAS, the water supply for the City of Ouray is a precious, valuable and critical resource for the Ouray community; and

WHEREAS, the City of Ouray, State of Colorado and the United States have seen periods of drought that significantly impact the local water supply, threatening the health, safety and welfare of the City and its inhabitants; and

WHEREAS, the interests of the City of Ouray and its inhabitants are best served by a plan ensuring continued availability and delivery of water at all times, including times of drought, or other environmental conditions; and

WHEREAS, the City of Ouray recognizes the need to ensure the efficacy of such restrictions by penalizing noncompliance therewith to better protect its water resources.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OURAY, COLORADO, as follows:

SECTION 1: EMERGENCY

The City Council of the City of Ouray has determined that this ordinance is necessary to the immediate preservation of the public peace, health and safety.

SECTION 2:

Chapter 9, Section 9-11 of the Ouray Municipal Code is hereby repealed and reenacted as follows:

9-11 Restriction of Water Use

- A. No watering hose larger than 3/4" diameter and no watering nozzle larger than 1/4" diameter may be used.
- B. All watering and continuous water flows shall be terminated during fire alarms.
- C. City Council, by resolution passed by a majority vote, may limit the use of City water to specific times, days, and uses as follows:

Stage	Trigger Condition	Restrictions
Stage I	Voluntary Restrictions: Statewide Drought Status	<ul style="list-style-type: none"> • Does not apply to drip systems and use of hand- watering containers. • No irrigating between the hours of 9:00 am and 6:00 pm, or when windy, in order to minimize evaporation, and anytime on Mondays. • Properties located on the SOUTH side of 7th Avenue – irrigate only on Tuesdays, Thursdays and Saturdays. • Properties located on the NORTH side of 7th Avenue – irrigate only on Wednesdays, Fridays and Sundays. • Outreach on water use and fixing leaks, limited gardening, etc.

Stage II	Mandatory Restrictions: Demand exceeds system capacity	<ul style="list-style-type: none"> • Properties located on the SOUTH side of 7th Avenue – irrigate only on Tuesdays and Saturdays. • Properties located on the NORTH side of 7th Avenue – irrigate only on Wednesdays and Sundays. • City Parks irrigation limited to the same as properties north and south of 7th Avenue.
Stage III	Demand remains above system capacity and tank levels are not sustained after Stage I and Stage II actions	<ul style="list-style-type: none"> • Maintain all Stage II curtailments plus: • Largest outdoor water users significantly curtailed. • Restaurants only serve water upon customer request.
Stage IV	Demand remains above system capacity and tank levels are not sustained after Stage III actions	<ul style="list-style-type: none"> • Maintain all Stage III curtailments plus: • Properties located on the SOUTH side of 7th Avenue – irrigate only on Tuesdays and Saturdays on the 2nd and 4th weeks of the month. • Properties located on the NORTH side of 7th Avenue – irrigate only on Wednesdays and Sundays on the 1st and 3rd weeks of the month • City Parks irrigation limited to the same as all properties north and south of 7th Avenue.

Stage V	Demand remains above system capacity and tank levels are not sustained after Stage IV actions	<ul style="list-style-type: none"> • Maintain all Stage IV curtailments plus: <ul style="list-style-type: none"> ○ No outdoor irrigation. ○ No car washing, pond, or pool filling. ○ No sidewalk washing. ○ No use of potable water in water features (e.g., fountains).
Stage VI	Demand remains above system capacity and tank levels are not sustained after Stage V actions	<ul style="list-style-type: none"> • Maintain all Stage V curtailments plus: <ul style="list-style-type: none"> ○ Allow no new connections to system until fall or relief from drought. ○ Contact largest commercial and, or, industrial customers and meet to develop a plan to reduce indoor consumption by 30%.

D. Other Unlawful Acts

The following shall be considered violations of this Section 9-11 and are hereby declared a nuisance:

1. For any person to sell or give away water to be used on premises other than those for which service is authorized. The City may authorize temporary use at construction sites or in emergencies.
2. To open or close any fire hydrant, stop, or curb valve, or to turn on, or turn off, the water service to any property without lawful authority to do so.
3. To cause or allow any pollutant to be introduced in the City water system or to cross connect it with any irrigation water system or other system.
4. To waste water.

5. To violate any of the restrictions set forth in section 9-11-C above, when implemented.
- E. Penalties for violations to provisions of this section shall be as follows:
1. A first violation shall be subject to a written warning as described in section 9-11-F;
 2. A second violation by the same individual, regardless of the location of the violation, shall be subject to a fine of Three Hundred Dollars (\$300.00) plus court costs;
 3. A third or subsequent violation by the same individual, regardless of the location of the violation, shall be subject to a fine of One Thousand Dollars (\$1,000.00) or by imprisonment of not more than ninety (90) days, or by both, plus court costs, provided however, that no person under the age of eighteen (18) years may be sentenced to any term of imprisonment.
- F. An individual shall be deemed to have been issued a written warning and sufficient notice of a violation of this section if it is personally served upon the owner or occupant or placed in the U.S. mail, postage prepaid and addressed to the owner or occupant, according to the last known address given by the resident to the City. Service of a warning shall be made by providing a copy of this section 9-11 of the Code, with the subsection violated indicated, to the occupant or owner. The law enforcement official serving the occupant or owner shall complete an affidavit of service that contains a description of the documents served, the individual the information was served on, the date, time and location, if available, the information was served, and in what manner the information was served.
- G. An owner or occupant of a residence or commercial establishment may be held responsible for a violation of this section 9-11, regardless of any agreement between the property owner and a third party. If the identity of the owner or occupant is not known, the entity

responsible for payment of the water and sewer services for the subject property shall be held responsible for any penalties assessed pursuant to this section. Violations of this section 9-11 occurring at different locations but involving the same individual, regardless of whether that individual is an owner or occupant, shall not alter or waive the graduated penalties of section 9-11-E.

- H. The City of Ouray Police and, or, Code Enforcement Officers shall have the power to issue warning notices or a summons and complaint to any person in violation of this Section.

SECTION 4: EFFECTIVE DATE

The provisions of this Ordinance shall become effective immediately.

SECTION 5: SEVERABILITY

If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

INTRODUCED, READ, APPROVED AS INTRODUCED, AND ORDERED PUBLISHED on first reading by 4-0 vote of the Ouray City Council this 7th day of May, 2018.

CITY OF OURAY, COLORADO

By Pamela J. Larson
Pamela J. Larson, Mayor

ATTEST:

Melissa M. Drake
Melissa M. Drake, City Clerk