

**ORDINANCE NO. 31914B**

ROLL CALL

<b>VOTING</b>	<b>YES</b>	<b>NO</b>
<b>RANDY A. BRAILSFORD</b> Mayor (votes only in case of tie)		
<b>JANIE CHRISTENSEN</b> City Council member	X	
<b>SOREN CHRISTENSEN</b> City Council member	X	
<b>AARON D. CLOWARD</b> City Council member	X	
<b>STERLING M. REES</b> City Council member	X	
<b>CRAIG B. WARREN</b> City Council member	X	

I MOVE this ordinance be adopted: Soren Christensen  
City Council member

I SECOND the foregoing motion: Janie Christensen  
City Council member

**ORDINANCE: 31914B**

AN ORDINANCE AMENDING THE PENALTY PROVISIONS OF  
THE PRESSURE IRRIGATION WATER SERVICE ORDINANCE

WHEREAS, Salem City has installed and currently operates a secondary pressure irrigation water service for outdoor irrigation; and

WHEREAS, the reason for creating the secondary water service was to extend the length of time before an addition to the expensive culinary water sources were needed, and to accomplish those goals, conservation is necessary; and

WHEREAS, the loan documents received from the state water board in order to build the system contain stipulations prohibiting waste and penalties if conservation goals are not met; and

WHEREAS, many residents continue to waste water and other various types of abuses of the system have been noted; and

WHEREAS, drought conditions occur with regularity, which causes shortages in available irrigation water, necessitating more diligent conservation and enforcement measures; and

WHEREAS certain amendments are needed in order to adequately enforce the provisions of the Ordinance to meet the objective of conserving water;

NOW THEREFORE, be it ordained and enacted by the Salem City Council as follows:

I.

Salem City Municipal Code Section 11-2b-070, Waste Prohibited. Is hereby amended as follows:

**11.2B.070 Waste Prohibited**

- A. No water user may waste water or allow it to be wasted by imperfect stops, taps, valves, leaking joints or pipes, or to allow tanks or water troughs to leak or overflow, or to wastefully run water from hydrants, taps, hoses, stops, or other apparatus, or to use the water for purposes other than those for which he or she has paid, or to use the water in violation of the rules and regulations for controlling the pressurized irrigation water

supply, including any restrictions imposed under §11-2B-090. The pressurized irrigation water system may not be used to water between the hours of 10:00 a.m. and 6:00 p.m., except for new lawns, short cycles for testing, inspection, or maintenance, and except for those large government or commercial users authorized by the City Engineer in order to more efficiently use the system and/or provide benefit to the system or the residents of the City.

If, in the judgment of the City Engineer, or designee, any user of the city pressurized irrigation water service engages in practices which result in the needless waste of water or are in violation of any of the provisions of this Chapter, they are subject to the penalties of paragraph B.

B. Any user violating any of the measures of this Chapter to prevent waste shall be subject to the following civil penalties, which are in addition to any criminal penalties which may be applicable:

1. A written notice shall be sent for the first violation. Notice is deemed sufficient if left with a resident over age fourteen or with a business occupant of the premises, or if left on the front door of the premises.
2. A second violation by a residential user within the same calendar year shall subject the user to a \$100.00 penalty and the valve shall be turned off and tagged. The valve may not be turned back on until the fee is paid. Notice of the penalty shall be provided as

outlined in subsection (1) and added to the City Utility Bill for the premises.

3. A third violation within the same calendar year shall subject the user to a \$750.00 penalty and the pressure irrigation service shall be metered and a metered rate paid for the water used. Once a meter is installed, it will remain with the property and the owners/users causing its installation shall pay a metered rate each year thereafter. If the owner/user moves the pressure irrigation rate will revert back to the pre-violation rate. Notice of the penalty shall be provided as outlined in subsection (1) and added to the City Utility Bill for the premises. The person(s) violating must appear before the City Council and obtain their approval to have water restored.
4. A fourth violation will also result in the termination of the service for the remainder of the irrigation season.
5. The pressurized irrigation system can only be used on lawns and gardens unless prior written approval by the City is granted or allowed by contract between the user and the City. The pressure irrigation system can only be used on the legal parcel where the pressure irrigation lateral is installed. Use on any other parcel, whether owned by the same person(s)/entity or another person(s)/entity, is strictly prohibited, unless prior written approval

by the City is granted or allowed by contract between the user and the City. Lawns and gardens do not include pastures, orchards, neighborhood gardens, commercial gardens, farm crops, or other large uses of similar type. A contract or written approval by the City may include the requirement to purchase and install a meter and paying a large lot metered rate.

- C. Any user desiring to contest any violation or penalty as set forth in subparagraph B shall have the right to request a hearing. The hearing shall be held before the City Recorder. A request for hearing shall be made within 10 days of the date that the notice is delivered. The hearing shall be scheduled within 20 days of receipt of the request for hearing. The hearing officer shall follow these guidelines:
1. The penalty provisions shall be closely followed. The hearing officer may not reduce the financial amount of any penalty, but may allow it to be paid over a period of time, not to exceed five months.
  2. The hearing officer may waive the penalty if it is determined that the offense occurred through no fault of the user and that means to prevent waste water were taken by the user within 15 days of their knowledge of a wasteful event and/or practice. A member of the user's family, employee, a contractor or a sub-contractor are all considered to be agents of the user and their conduct is to be considered as fault of the user. Economic hardship shall not be a

basis to waive any penalty.

- D. Either the City or the user may appeal the decision of the hearing officer to the City Council. A request for hearing shall be made within 10 days of the decision. The hearing shall be held within 30 days after request for a hearing is made. The decision of the Council is final and non-appealable.
- E. Any penalty added to the City Utility Bill shall be treated as part of the bill, and if not timely paid, is subject to late fees, penalties, and/or shutoff of utility service in accordance with utility rules and regulations in place at the time.

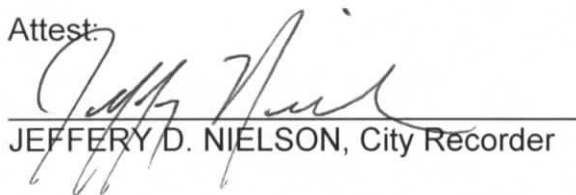
**II.**

This Ordinance shall be effective on passage and posting in accordance with law.

DATED this 19<sup>th</sup> day of March 2014.

  
RANDY A. BRAILSFORD, Mayor

Attest:

  
JEFFERY D. NIELSON, City Recorder

**AFFIDAVIT OF POSTING**

JEFFREY D. NIELSON, being first duly sworn, deposes and says that he is the duly appointed and qualified recorder of the City of Salem, a Municipal Corporation of the State of Utah, and that on the 26 day of March, 2014 he posted a

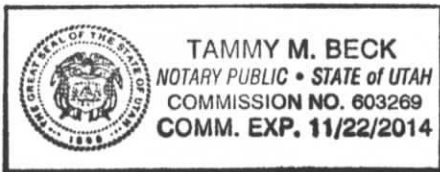
true and correct copy of Ordinance No. 31914B as enacted by Salem City Council on the 19<sup>th</sup> day of March, 2014 said posting being made at the City Offices, at the United States Post Office, and at the Salem City Library, all being public places and located within the City Limits of Salem, Utah County, Utah.

DATED this 26 day of March, 2014

  
JEFFREY D. NIELSON, City Recorder

STATE OF UTAH )  
                          : ss  
COUNTY OF UTAH)

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of March, 2014, by Jeffrey D. Nielson.



  
NOTARY PUBLIC