

ORDINANCE NO. *2020-05-259*

AN ORDINANCE DEFINING “WATER SHORTAGE” AND REQUIRING USERS OF THE TONTITOWN WATER SYSTEM TO CONSERVE OR CURTAIL WATER USAGE; PROVIDING FOR PENALTIES FOR VIOLATIONS OF THE ORDINANCE; AND FOR OTHER PURPOSES.

WHEREAS, it is the intent of the City of Tontitown to assure that available water resources are put to reasonable beneficial uses to avoid depletion of the city’s water supply during a shortage, and

WHEREAS, the City Council of the City of Tontitown, Arkansas, desires to enable city officials to enforce water conservation measures, as appropriate.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TONTITOWN, ARKANSAS:

Section 1: Definitions.

The following terms, phrases, words and their derivation shall have the meaning given herein. The word “shall” is always mandatory and never directory.

- a. **City:** For purposes of this ordinance the term “city” means the City of Tontitown, an Arkansas municipal corporation, acting through its Water and Sewer Commission.
- b. **Customer:** The term “customer” refers to any person who is an owner, occupant, or user of real property to which water is supplied by the city. The term shall also refer to any person who uses water supplied by the city, or to any person who is billed for the supply of water from the city, or to any person who is responsible for or otherwise has the right or permission to utilize the supply of water provided by the city.
- c. **Even-numbered street addresses:** Water service addresses ending in a fraction or in 0, 2, 4, 6, or 8. For purposes of this definition, locations without addresses and customers having multiple street addresses that are served by the same water meter shall be deemed to have an even-numbered street address.
- d. **Odd-numbered street addresses:** Water service addresses ending in 1, 3, 5, 7, or 9.
- e. **Person:** The term “person” means any natural person, any group of person, any firm, partnership, association, corporation, company, or any other organization or entity.

- f. **Water:** The term “water” refers to all water, except wastewater, supplied by the city to any customer.
- g. **Water shortage:** A “water shortage” shall be deemed to exist when the ordinary demands and requirements of water customers served by the city can not be satisfied without depleting the water supply to or below a critical level, the level at which the continued availability of water for human consumption, sanitation, and fire protection is jeopardized. A “water shortage” could extend to all water customers being served by the city, or it could be restricted to specified areas within the city’s water system where only a limited number of water customers could be affected by a depleted water supply.
- h. **Chairman:** The Chairman of the Tontitown Water and Sewer Commission, or a duly authorized agent of the Chairman.
- i. **Mayor:** The Mayor of the City of Tontitown, Arkansas, or a duly authorized agent of the Mayor.

Section 2: Response to Water Shortage.

It shall be the duty of the Chairman to report to the Mayor conditions adversely affecting the city’s water supply that could result in a water shortage. Upon receiving such report, and upon determining that the water conservation measures are necessary to adequately address the water shortage, the Mayor may declare any stage of water conservation described herein to be in force. The imposition of each stage of water conservation shall be reported to the City Council and the Water and Sewer Commission as soon as possible following such imposition. The Mayor may terminate any stage of water conservation upon determining that it is no longer necessary.

Section 3: Violation of ordinance prohibited; enforcement.

- a. *Violation.* In the event that the Mayor shall declare one or more stages of water conservation as set forth herein, it shall be unlawful for any person to use or permit use of water supplied by the city in violation of any mandatory restrictions instituted.
- b. *Enforcement.* It shall be the duty of the Chairman to investigate violations of the mandatory restrictions and issue orders consistent with the purpose and intent of this ordinance. All customers shall cease any violation of the mandatory restrictions upon the order of the Chairman. Any customer who violates any provision of this ordinance, or who shall violate or fail to comply with any order made hereunder shall be subject to penalty or a combination of the penalties as follows:
 - 1. *Discontinuance of service.* The city may discontinue water service to any structure(s) or parcel(s) when the Chairman gives written notice of any violation of mandatory restrictions and the intent to discontinue service.

Water service shall be discontinued within twenty-four (24) hours unless the violation shall cease voluntarily. When service is discontinued pursuant to the provisions of this section, the Chairman shall have the authority to restore service after the condition that prompted the service to be discontinued has been remedied.

2. *Penalty.* Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this ordinance shall be fined in accordance with the City of Tontitown's Code of Ordinances. A separate and distinct offense shall be deemed committed each day on which a violation occurs or continues.
3. *Equitable relief.* Nothing in the provisions of this article shall be construed as limiting any judicial remedies that the city may have, at law or in equity, for enforcement of this ordinance.

- e. *Penalty not a substitute remedy.* The imposition of one or more penalties for any violation shall not excuse any violations or permit it to continue.

Section 4: Water conservation stages; recommendations; mandatory measures.

Stage I — Continuing Voluntary Conservation Practices. Customers shall be encouraged to observe water conservation measures to reduce the wasting of water as follows:

- a. Check plumbing and toilets for leaks, and to make the necessary repairs.
- b. Repair leaking faucets whenever they develop.
- c. Store drinking water in the refrigerator to avoid trying to run it cool at the tap.
- d. Use shower for bathing purposes or reduce the depth of water used for tub baths. Limit showers to four (4) minutes.
- e. Refrain from running faucets while shaving, brushing teeth, or rinsing dishes.
- f. Install water flow restrictive devices in showerheads.
- g. Install water-saving devices such as plastic bottles or commercial units in toilet tanks.
- h. Wash full loads in clothes washers and dishwashers.
- i. Review water uses and where feasible install recycle systems, particularly in commercial and industrial applications.

Stage II — Voluntary Conservation. Customers shall be encouraged to observe the recommendations of Stage I and to increase the level of conservation efforts as follows:

- a. Limit the use of clothes washers and dishwashers, and, when used, operate fully loaded.
- b. Reduce the flushing of toilets to the minimum whenever practical.
- c. Limit lawn watering to only when grass shows signs of withering and apply water as slowly as possible to achieve deep penetration.
- d. Limit shrubbery watering to the minimum, reusing household water when possible.
- e. Limit car washing to a minimum.
- f. Limit wash downs of outside areas such as sidewalks, patios, driveways, or other similar purposes.
- g. Limit hours of operation of water-cooled air conditioners, if possible.
- h. Use biodegradable disposable dishes and utensils, both for residential and commercial purposes, where feasible.
- i. Automatic sprinkler systems should be set to avoid peak hours of water consumption and to mitigate evaporation. Automatic systems shall operate between the hours of 3:30 a.m. to 5:30 a.m., or from 8:00 a.m. to 10:00 a.m. Watering should be limited to 2 to 3 times per week.

Stage III - Moderate Mandatory Conservation. Customers shall be encouraged to observe the recommendations of Stage I and II, and the level of time conservation effort shall be increased to require the following mandatory measures. All water users shall:

- a. Until outdoor irrigation to not more than three days per week in conformity with the following schedule:
 - (1) Mondays, Wednesdays, and Saturdays for customers with even-numbered street addresses; and
 - (2) Sundays, Tuesdays and Thursdays for customers with odd-numbered street addresses.

Automatic underground irrigation systems used to water lawns, grass, trees, shrubbery, flowers, golf greens or vegetable gardens shall be operated during the hours specified by the Director. Those hours shall, unless otherwise varied by the Chairman, be between 3:30 a.m. and 5:30 a.m. or 8:00 a.m. and 10:00 a.m. When adjustments are made by the Chairman to the above times, they shall be published in the local newspapers of general circulation, the Tontitown Website, and by other means of public notification.

- b. Restrict the use of water for tilling wading pools or swimming pools except to the extent

necessary to replenish losses due to evaporation or spillage, and maintain operation of chemical feed equipment.

- c. Not use water to wash down outside areas such as sidewalks, patios, driveways, or for other similar purposes.
- d. Not introduce water into any decorative fountain, pool or pond except where the water is recycled.
- e. Refrain from serving water in a restaurant or similar establishment except upon request.
- f. Use water only for essential purposes and prevent the loss of water through intentional waste.
- g. Not wash time exterior of a motor vehicle except where a private well system is used, or where 50% or more of the water is recycled or where it can be demonstrated that 30 gallons of water or less are used to wash the vehicle.

Provided, however, any customer may secure a written permit from the Chairman or a designee of the Chairman to use water contrary to the Stage III mandatory conservation measures where it can be shown to the Chairman's satisfaction that use of water pursuant to conditions described by the Chairman in the permit will result in a thirty (30) percent or greater saving of water, is necessary to maintain the public health, or to avoid significant loss of private property. Any permit issued pursuant to this provision: (1) must be in the possession of the permittee whenever water is used contrary to the Stage III mandatory conservation measures; and (2) is subject to amendment or revocation by the Chairman at any time for a good cause.

All industrial, manufacturing and commercial enterprises shall reduce consumption with a goal reduction of at least 30%. Such enterprises shall document the specific efforts they have made to reduce consumption.

Stage IV — Severe Mandatory Conservation. Customers shall be encouraged to observe the conservation measures in Stages I and II and required to continue observing the mandatory requirements in Stage III except to the extent such mandatory requirements are modified by the restrictions regarding Stage IV conservation. The level of the conservation effort shall increase to require the following additional mandatory measures. No person shall:

- a. Water or sprinkle any lawn, grass, trees, golf greens or flowers. Provided, however, that a person regularly engaged in the sale of plants shall be permitted to use water for irrigation of their commercial stock in trade, using the minimal amount for survival. Licensed landscape contractors may continue to water plantings which are under written warranty by hand-held hose, container or drip irrigation.
- b. Water any vegetable garden or ornamental shrubs except by hand-held hose, container, or drip irrigation system, during hours specified by the Director. Those hours shall, unless varied by the Chairman, be between the hours of 8:00 a.m. and 10:00 a.m. or 7:00

p.m. and 9:00 p.m. On each designated day, customers shall water during only one of the allowed periods. When adjustments are made by the Chairman to the above times, they shall be published in local newspapers of general circulation, and set forth on the City's website, where appropriate.

- c. Fill any wading pool or swimming pool or replenish any filled pool except to the minimum essential for operation of chemical feed equipment.
- d. Use water for any nonessential use.
- e. Operate water-cooled air conditioners or other equipment that do not recycle cooling water, except when health and safety are adversely affected.
- f. Wash any motor vehicle or other type of mobile equipment. Provided, however, that any person regularly engaged in the business of washing motor vehicles and any commercial car wash facility shall be permitted to use water for such purposes, when 50% water savings are documented.

Provided, however, any customer may secure a written permit from the Chairman or a designee of the Chairman to use water contrary to the Stage IV mandatory conservation measures where it can be shown to the Chairman's satisfaction, that use of water pursuant to conditions described by the Chairman in the permit will result in a 50% or greater savings of water, or that the proscribed use is necessary to protect the public health. Any permit issued pursuant to this provision: (1) must be in the possession of the permit whenever water is used contrary to the Stage IV mandatory conservation measures; and (2) is subject to amendment or revocation by the Chairman at any time for good cause.

All industrial, manufacturing and commercial enterprises shall reduce consumption with a goal reduction of at least 50%. Such enterprises shall document the specific efforts they have made to reduce consumption.

Stage V — Stringent Mandatory Conservation. Customers shall be encouraged to observe the conservation measures in Stages I and II and required to continue observing the mandatory requirements in Stages III and IV. The level of the conservation effort shall increase to require the following additional mandatory measures, No person shall:

- a. Use water outside a structure except in an emergency involving fire.
- b. Operate evaporative air conditioning units that recycle water except during the operating hours of the business.
- c. Use water to fill any swimming pool or wading pool.
- d. Wash any motor vehicle, including commercial washing unless a private well is used.

In addition to the conservation measures enumerated above, customer shall use plates, glasses, cups and eating utensils that are disposable and biodegradable.

Stage VI — *Rationing*. Customers shall be encouraged to observe the conservation measures in Stages I and II and required to continue observing the mandatory requirements of Stages III, IV and V. The level of the conservation effort shall increase to require the following mandatory measures:

- a. Fire protection will be maintained, but where possible, tank trucks shall use raw water.
- b. All industrial uses of water shall be prohibited.
- c. All other uses of water will be limited to those necessary to meet minimum health and safety needs of the customers as determined by the Director.

Failure to act in accordance therewith or use of water in any manner or attempt to evade or avoid water rationing restrictions, shall be unlawful.

Section 5: Scope and duration; effect of invalidity.

- a. *Scope and duration*. Water conservation measures shall be applicable to all users of the system, including users located outside the city limits. Conservation measures shall be in force until they are terminated by the Mayor. Notice of conservation measures shall be broadly reported to the media, and shall, where feasible, be included on customers' utility bills.
- b. *Effect of invalidity*. Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid such decision shall not affect the validity of this ordinance as a whole or any part other than the part so held unconstitutional or invalid.

PASSED AND APPROVED this 10th day of May, 2006



Tracy Goddard

ACTING MAYOR



Tracy Goddard

RECORDER/TREASURER

Arthur Penzo
Sponsor

ROLL CALL:

Shall the Ordinance pass:

	YEA	NAY	
Alderman Andrew Penzo	<u>✓</u>	_____	<i>(Ward 2, Position 2)</i>
Alderman Arthur Penzo	<u>✓</u>	_____	<i>(Ward 2, Position 1)</i>
Alderman Henry Piazza	<u>✓</u>	_____	<i>(Ward 1, Position 2)</i>
Alderman Bradley Marveggio	<u>✓</u>	_____	<i>(Ward 1, Position 1)</i>
Alderman Ken Robertson	<u>✓</u>	_____	<i>(Ward 3, Position 2)</i>
Alderman Steve Smith	<u>✓</u>	_____	<i>(Ward 3, Position 1)</i>
Mayor Paul Mae Maestri <i>Tracy Goddard</i>	_____	_____	

Yeas: 6 Nays: 0 (total)