

ORDINANCE NO. 2009-27

AN ORDINANCE TO PROVIDE FOR THE EFFECTIVE CONSERVATION OF WATER

WHEREAS, both natural and man-made conditions may arise or occur to cause a temporary shortage of water; and

WHEREAS, such conditions may affect the ability of the City of Indianapolis Department of Waterworks to provide an adequate supply of water or to maintain adequate water pressure in its delivery system; and

WHEREAS, the Department of Waterworks is the supplier of water for a majority of the residents of the Town of Avon; and

WHEREAS, in the event of a temporary shortage of water it is imperative to the well-being of the public that uses of water not essential to the health, welfare and safety be restricted.

NOW, THEREFORE, BE IT HEREBY ORDAINED that a new Article 16 be established in Chapter 6 of Avon Municipal Code of Ordinances and titled Water Conservation and that the following sections be ordained as follows:

Chapter 6, Article 17 Water Conservation

Sec. 6-257 Application.

This ordinance applies to the use of water from the City of Indianapolis Department of Waterworks public water system that occurs within the Town of Avon, Hendricks County, Indiana.

Sec. 6-258 Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

Advisory conditions means conditions under which voluntary conservation measures are appropriate due to decreased supplies in the City of Indianapolis Department of Waterworks reservoirs, or other circumstances have reduced the amount of treated water available to customers, as determined by the City of Indianapolis Department of Waterworks.

Customer means an individual, firm, corporation, government agency or other entity being supplied with water utility service by City of Indianapolis Department of Waterworks at a location within the Town of Avon.

City Waterworks or *City Water* means the City of Indianapolis Department of Waterworks.

Mandatory conservation means compliance with Town of Avon imposition of requirements that are designed to reduce certain kinds and types of water use all as set forth herein.

Normal conditions means conditions under which water supply and treatment capacity are adequate to meet demand.

Treated water means water treated in a manner that it is suitable for human consumption or for another designated use.

Vegetable garden means a garden where substantially all of the plants are suitable and grown primarily for human consumption.

Voluntary conservation means compliance with The Town of Avon request to reduce water use.

Water emergency means an occurrence wherein Mandatory Conservation measures are appropriate due to the levels in either of the City of Indianapolis Department of Waterworks reservoirs having been reduced to less than their designed drawdown curves or less than an estimated twenty-five (25) percent of their annual drawdown design capacities, groundwater wells not functioning properly due to reduced groundwater levels or the existence of other circumstances that have reduced the amount of treated water available to customers, as determined by City Waterworks.

Water user means a customer or other individual, firm, corporation, government agency, or other entity using water from the City Waterworks public water system within the Town of Avon.

Water warning means an occurrence wherein mandatory conservation measures are appropriate due to the levels in either of the City Waterworks reservoirs having been reduced to less than their designed drawdown curves or less than an estimated fifty (50) percent of their annual drawdown design capacities, groundwater wells not functioning properly due to reduced groundwater levels, or the existence of other circumstances that have reduced the amount of treated water available to customers, as determined by City Waterworks.

Sec. 6-259 Voluntary conservation.

During normal conditions and advisory conditions, water users should follow the voluntary conservation measures as found in the Wise Water Use Policy adopted by the board of directors of City Water and approved by the Town of Avon, a copy of which is attached hereto and marked exhibit A.

Sec. 6-260 Declaration of need; notice.

- (a) Upon determining that the City Waterworks public water system is in a condition of water shortage, the Town Manager of the Town of Avon may declare the existence of a water warning or water emergency, whereupon the respective water conservation measures described in Section 5 of this chapter shall apply until the water warning or emergency is terminated. Whenever the Town Manager finds that some or all of the conditions that gave rise to the declaration of a water warning or water emergency no longer exist, he/she may declare the water warning or water emergency terminated.

- (b) Notice of the declaration or termination of a water warning or water emergency shall be made by publication in a newspaper of general circulation. Notice shall be deemed effective upon publication.

Sec. 6-261 Mandatory water conservation; exemptions.

- (a) During a water warning or a water emergency, it shall be unlawful for a water user to cause, permit, allow, do, or engage in any of the following actions:
- (1) Sprinkling, watering, or irrigating of grass;
 - (2) Washing cars, trucks, trailers, mobile homes, railroad cars or any other type of mobile equipment, except as required by applicable local, state, or federal law for health or safety reasons;
 - (3) Using water to clean sidewalks, driveways, paved areas, structures, buildings, or other outdoor surfaces;
 - (4) Filling empty swimming pools;
 - (5) Installing new landscaping or new lawn by using sod until return to normal conditions are declared by City Water;
 - (6) Using hydrants except for fire suppression or as otherwise directed by City Water; and
 - (7) Operating water fountains that are non-recycling.
- (b) In addition to the prohibitions listed in subsection (a), it shall be unlawful during a water emergency for a water user to cause, permit, allow, do, or engage in any outdoor watering; provided, however, that vegetable gardens may be watered every other day by container or hand-held hose equipped with shut-off nozzle.
- (c) The following water users and water uses shall be exempt from the prohibitions contained in subsections (a) and (b) of this section:
- (1) Nurseries, provided water use is limited to the amount essential to preserve inventories;
- (d) The following water users and water uses may be exempted by the Town Manager from the prohibitions contained in subsections (a) and (b) of this section:
- (1) Automatic commercial car washes, provided a majority of the water used is recycled;
 - (2) Manual commercial car washes, provided only a handheld hose equipped with a shut-off nozzle is utilized; and
 - (3) Golf courses, provided tee boxes and greens are watered only on an every other day schedule that begins on Monday of each week and fairways are watered only once per week on Thursday.
 - (4) Any watering of property owned or controlled by the Town of Avon as directed by the Town Manager or Town Manager's designee where such watering is necessary or appropriate for asset preservation.

Sec. 6-262 Violations.

- (a) Each customer shall be responsible for compliance with Section 5 of this chapter with respect to the premises where the customer receives water service. If the identity of the water user cannot be ascertained, the customer shall be prima facie liable for violations that occur on such premises.
- (b) A person's first and second violations of Section 5 in any twelve-month period shall be subject to an admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 2, Article 3 of the Avon Municipal Code of Ordinances.
- (c) Any person who violates the provisions of this chapter shall be guilty of an infraction, punishable by a fine of not more than:

First offense: Written Warning

Second offense within a year: \$500

Third and subsequent offenses within a year: \$500

The payment of a penalty for the violation of any provision of this chapter shall not excuse the violation or permit to continue nor shall such payment be held to prevent the enforced correction of the prohibited conditions. A separate offense shall be deemed committed upon each day during or on which such violation occurs or continues.

- (c) With respect to violations not resolved under Chapter 3 of the Code, including a person's subsequent violations of Section 5 in a twelve (12) month period, the Town Manager may refer the matter to the Avon Town Court or other Court for enforcement action.
- (d) All monies collected from violation of this chapter shall be deposited in the General Fund of the Town of Avon.

Sec. 6-263 Enforcement.

This chapter shall be enforced by the Town of Avon and any other designee at the direction of the Town Manager.

Sec. 6-264 Violations subject to admission and payment.

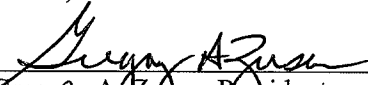
Violations of the ordinance provisions set forth herein are designated as subject to admissions of violation and payment of the designated civil penalty through the Ordinance Violations Bureau of the Town of Avon in an amount not exceeding any limitation under IC 33-36-2-3 in accordance with the procedures of this article.

Sec. 6-265 Severability.

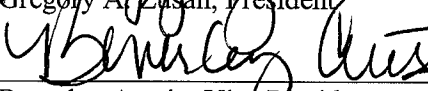
Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

This Ordinance is hereby adopted this 22 day of OCTOBER, 2009 and shall be in full force and effect from and after its passage and approval and its publication in accordance with law.

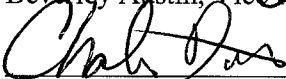
TOWN COUNCIL OF AVON, INDIANA



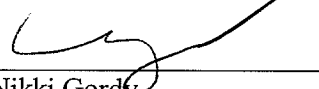
Gregory A. Zusan, President



Beverley Austin, Vice President

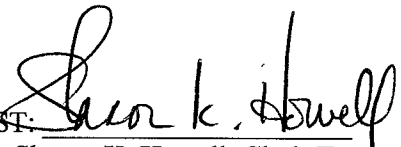


Charles Dorton



Nikki Gordy

Michael C. Rogers

ATTEST: 

Sharon K. Howell, Clerk-Treasurer