

WATER CONSERVATION ORDINANCE NUMBER 61

AN ORDINANCE ESTABLISHING RESTRICTIONS ON THE INDOOR AND OUTDOOR USE OF WATER; ESTABLISHING PENALTIES FOR THE VIOLATION AND PROVISIONS FOR ENFORCEMENT OF THESE RESTRICTIONS, ESTABLISHING A WATER REVIEW COMMITTEE TO CONSIDER HARDSHIP AND SPECIAL CASES AND TO AUTHORIZE THE OUTDOOR USE OF WATER PURSUANT TO EQUITABLE RESTRICTIONS; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the TOWN OF INDIAN LAKE ("CITY"), Texas, located in the Lower Rio Grande River Basin recognizes that the amount of water available to all entities in the Rio Grande Valley is limited; and

WHEREAS, the City realizes that natural limitations due to drought conditions and other acts of God cannot guarantee that a water source will be available in the future for our citizens; and

WHEREAS, the City provides water services to its citizens; and

WHEREAS, as authorized under law, and in the best interest of the Citizens of the Town of Indian Lake, the City Council deems it expedient and necessary to establish certain rules and policies for the emergency conservation of water for all the Town of Indian Lake customers both within and outside the city limits.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF INDIAN LAKE, TEXAS:

Section 1. SCOPE

There is hereby established a Town of Indian Lake Emergency Water Conservation Plan.

Section 2. DECLARATION OF POLICY

(a) In view of the limited water resources available to the Town of Indian Lake, it is hereby declared the public health, safety and welfare require that all water resources available to the city be put to maximum beneficial use and that the waste, unreasonable use, or unreasonable method of use of water be prevented. The conservation of all water resources is to be pursued with a view toward the reasonable and beneficial use thereof in the interests of all people of the area served by the City's water resources.

(b) In making decisions under this Ordinance concerning the allocation of water between conflicting interests, highest priority will be given to allocations which will result in the least loss of employment to persons whose income is essential to their families.

Section 3. AUTHORIZATION

The Mayor, or his disignee, is hereby authorized and directed to implement the applicable provisions of this Ordinance upon the determination that such implementation is necessary to protect the public health, safety, and welfare.

Section 4. APPLICATION

(a) The provisions of this Ordinance shall apply to all persons, customers and property utilizing the city's water wherever situated. The terms "person" and "customer", as used in this Ordinance include individuals, corporations, partnerships, associations and all other legal entities.

(b) In promoting the conservation of the limited water resources available to the Town of Indian Lake, four water conservation stages are hereby created and listed in Section 5 of this Ordinance.

(c) The Mayor shall promulgate guidelines which shall set forth the criteria for determining when a particular conservation state is to be implemented and terminated. These guidelines shall also set for the criteria for approval of industrial customer water conservation plans.

(d) When the use of water is regulated during any period of water shortage, such regulations or restrictions on the use of water shall continue until water conservation measures are no longer deemed necessary by the Mayor.

(e) The order by the Mayor to implement or terminate Stages 1` to 3 in Section 5 of this Ordinance shall be made by public announcement and published a minimum of one time in a newspaper of general circulation in the Town of Indian Lake before the date of implementation. The order shall become effective or terminate after 12:00 midnight on the scheduled date of implementation or termination.

(f) The highest priority of water use during Stages 2 and 3 shall be for human consumption and fire protection.

Section 5. WATER CONSERVATION STAGES

(a) Stage 1 - Voluntary Water Conservation

Stage 1 shall be implemented when the level of U.S. Water stored in Amistad and Falcon Reservoirs reaches 51% or 1.66 MAAF, Stage 1 Voluntary Conservation of the Rio Grande Valley Water Conservation Plan will be put in effect.

1. Citizens are made aware and asked to voluntarily conserve water.
2. Public announcement made in newspaper of general circulation. Public education material distributed to the general public, industries and commercial establishments.
3. Citizens asked to monitor their plumbing for dripping faucets, pipes, and toilets.
4. Citizens are asked to utilize water wisely such as while watering lawns, not to allow water to run into the streets and pavement.
5. Political Subdivisions asked to voluntarily conserve water.

(b) Stage 2 - Mandatory Water Conservation

Stage 2 shall be implemented when the level of U.S. Water stored in Amistad and Falcon Reservoirs reaches 25% or 834,600 A/F, Mandatory Conservation will be declared.

1. Citizens are made aware that mandatory water conservation restrictions have been set.
2. Public announcements made in newspaper of general circulation of Stage 2 implementation and alerting Citizens that the amount of water available is very limited. Public education material distributed to the general public, industries and commercial establishments.
3. Watering of lawns and landscapes by the public and political subdivisions to be allowed only on days and times set by the governing body (watering done by hand-held hose to be allowed on any day but on times set by the governing body).
4. Non-commercial washing of vehicles to be allowed only on days and times set by the governing body and only with hand-held hose with shutoff nozzle or with hand-held bucket.
5. Watering of streets and pavements is prohibited.

6. All items in Stage 1 alert to be in effect.
7. Penalties for violations as prescribed by governing body.

(c) **Stage 3 - Water Use Curtailment**

When the level of U.S. Water stored in Amistad and Falcon Reservoirs reached 15% or 504,600 A/F, this phase will be implemented.

1. Citizens are made aware of State 3 Curtailment Alert.
2. Public announcements made in newspaper of general circulation of Stage 3 implementation and alerting Citizens that the amount of water available is critical. Public education material distributed to the general public, industries and commercial establishments.
3. All items in Stage 2 alert to continue to be in effect with additional conditions and requirements as prescribed by governing body (i.e. additional limits of water use for watering of lawns).
4. Review and/or implementation of water use surcharges for residential and commercial/industrial uses as prescribed by governing body.
5. Non-commercial/private washing of vehicles not allowed. Washing of vehicles are not allowed only at commercial car wash facilities.
6. Commercial establishment water usage limited as prescribed by the governing body.
7. Political Subdivisions advised to not water lawns and landscapes unless approved by the governing body.
8. Governing Body begins review of approval of new water meter hookups and water service connections.
9. Penalties for violations as prescribed by governing body.

Section 6. WATER REVIEW COMMITTEE - FORMATION, POWERS AND DUTIES

(a) Upon the approval of this Ordinance, the City Council of the Town of Indian Lake shall immediately establish and form a Water Review Committee ("Committee") to review hardship and special cases involving persons, customers, or property utilizing the city's water that cannot abide by the provisions of this Ordinance. The Water Review Committee shall be composed of five (5) members, including the Mayor, one member from City Council, and three other members ("at-large members") who are permanent residents within the City's water service area boundaries. These three at-

large members shall be appointed by the City Council for a two year term. At the beginning, one of the at-large members shall be appointed for a one (1) year term. At the expiration of each of these at-large member's initial terms, the City Council shall thereafter appoint the at-large members to a two (2) year term. Any vacancies occurring by any at-large member shall be filled by the City Council within 30 days for the remainder of the at-large member's unexpired term.

(b) The Committee shall elect a chairperson from one of its five (5) members annually, and shall establish rules of procedures which include the following:

1. A quorum shall consist of a majority of the members.
2. The chairperson shall be entitled to vote upon any question or matter.
3. Minutes shall be kept of the proceedings of the Committee and shall be a public record.
4. All meetings shall be open to the public.
5. The Committee shall meet as is necessary to review and decide all matters presented to it pursuant to this Ordinance.
6. The place and date of all meetings shall be posted in accordance with the requirements of Article 6242-17 of the Texas Revised Civil Statutes.

(c) The Committee shall consider requests of water users for special consideration to be given to their respective peculiar circumstances and the Committee shall hear and decide such requests and is hereby authorized to, in special cases grant such variances from the terms of this Ordinance as will not be contrary to the public Ordinance will result in unnecessary hardship, and so that the intent of the Ordinance shall be observed and substantial justice done. The Committee shall consider each case and render a decision to grant a variance within ten (10) working days of the receipt of a properly completed "Application for a Variance" form. A fee of \$25.00 per variance application shall be assessed to defray administrative costs. An "Application for a Variance" form can be obtained from the principal office of the Town of Indian Lake or other sites designated by the Mayor. a variance expires under its own terms and conditions and/or when another stage of the Emergency Water Conservation Ordinance is in effect unless otherwise granted by such Committee. the variance shall be in effect from time of granting, provided that the variance permit is prominently posted on the premises within two (2) feet of the street number located on the premises. Should a protest be received after the

granting of any such variance, the Committee shall consider the revocation or the regranting of the variance at a public hearing, provided notice shall be given in accordance with the requirements of Article 6262-17 of the Texas Revised Civil Statutes prior to the holding of such a hearing. After the conclusion of the hearing, the Committee shall take such action by either upholding the variance as granted, or modifying it as the Committee may deem proper under the circumstances. All decisions by the Water Review Committee may be appealed to the City Council of the Town of Indian Lake.

Section 7. VIOLATIONS, PENALTY AND ENFORCEMENT

(a) No person shall knowingly or intentionally allow the use of water from the Town of Indian Lake system for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provisions of this Ordinance, or in an amount in excess of that permitted by the conservation stage in effect at the time pursuant to action taken by the Town of Indian Lake Mayor, or his designee, in accordance with the provisions of this Ordinance.

(b) Any person who violates this Ordinance is guilty of a misdemeanor and, upon conviction shall be punished by a fine not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$200.00). Each day that any one or more of the provisions in this Ordinance is violated shall constitute a separate offense. If a person is convicted of two or more distinct violations of the provisions of this Ordinance per day the Mayor shall, upon due notice to the customer be authorized to discontinue water service to the premises where such violations occur. Compliance may also be sought through injunctive relief in the district court.

(c) Any police officer or other city employee designated by the Mayor, may issue a citation to a person he reasonably believes to be in violation of this Ordinance. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, the offense charged, and shall direct him/her to appear in the Town of Indian Lake Municipal Court on the date shown on the citation which date shall not be less than 3 days from the date the citation was issued before the next session of the Municipal Court. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon the delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over 14 years of age who is a member of the violator's immediate family or is a resident at the violator's residence. The alleged violator shall appear in Municipal Court to enter a plea of guilty or

not guilty for the violation of this Ordinance. If the alleged violator fails to appear in Municipal Court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant. These cases shall be expedited and given preferential setting in Municipal Court before all other cases.

(d) A person, including a person classified as a water customer of the Town of Indian Lake, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttal presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on a property within the parents' control shall constitute a rebuttal presumption that the parent committed the violation, but any such parent may be excused if he proves that he had previously directed the child not to use the water as it was used in the violation and that the parent could not have reasonably know of the violation.

Section 8. SEVERABILITY OF PARTS OF ORDINANCE

It is hereby declared to be the intention of the City Council that the section, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrases, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgement or decree of any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation into this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 9. AMENDMENT

The regulation, requirements, restrictions and provisions in this Ordinance may from time to time be amended, supplemented, changed or repealed, provided, however, that no such action may be taken until after a public hearing in relation thereof, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City.

Section 10. PROVISIONS OF DECLARED TO BE MINIMUM REQUIREMENTS

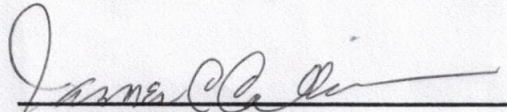
In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, and general welfare. Whenever the requirements, regulations, restrictions and provisions of this Ordinance are at variance with any of the lawfully adopted requirements, regulations, restrictions, and provisions of any other Ordinance, the most restrictive or that imposing the higher standards, shall govern.

Section 11. EMERGENCY DATE

That this Ordinance shall become effective from and after its final passage and publication as provided by the laws of the State of Texas.

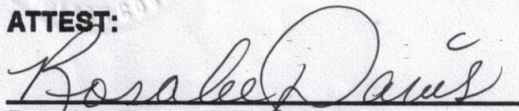
PASSED AND APPROVED on this the 8 date of Mar, A.D., 1999.





James C. Collum, Mayor

ATTEST:



Rosalee Davls, City Secretary