

ORDINANCE NO. 2007-06

AN ORDINANCE RESTRICTING OR PROHIBITING, UPON DECLARATION OF A DROUGHT WARNING OR A DROUGHT EMERGENCY ISSUED BY THE MAYOR, CERTAIN USES OF WATER IN THE CITY OF Center Point, ALABAMA, AND ITS POLICE JURISDICTION, SUPPLIED BY THE WATER WORKS AND SEWER BOARD OF THE CITY OF BIRMINGHAM, NOT ESSENTIAL TO MAINTAIN ADEQUATE HEALTH AND SAFETY STANDARDS; AUTHORIZING THE MAYOR TO DECLARE A DROUGHT WARNING OR A DROUGHT EMERGENCY; AUTHORIZING THE WATER WORKS AND SEWER BOARD OF THE CITY OF BIRMINGHAM TO TERMINATE OR CAUSE TO BE TERMINATED WATER SERVICE FOR VIOLATIONS OF THIS ORDINANCE; TO PROVIDE FURTHER ENFORCEMENT OF THIS ORDINANCE; AND TO PRESCRIBE PENALTIES FOR THE VIOLATION OF THIS ORDINANCE.

RECITALS

WHEREAS, mandatory conservation measures have been undertaken by The Water Works and Sewer Board of the City of Birmingham so as to protect water service to its customers; and

WHEREAS, a drought condition can cause an emergency to exist in the City of Center Point and its police jurisdiction, due to an impending shortage of water due to a prolonged drought; and

WHEREAS, the existence of water shortage conditions make it imperative and necessary that certain non-essential uses of water be restricted or prohibited and that available water resources be conserved in order to protect the health, safety and welfare of the citizens of the City of Center Point; and

WHEREAS, to protect the public health, safety and welfare of the City of Center Point, this ordinance authorizes the Mayor to restrict or prohibit certain uses of water supplied by The Water Works and Sewer Board of the City of Birmingham pursuant to the provisions of this ordinance.

NOW, THEREFORE BE IT ORDAINED by the Council of the City of Center Point Alabama, as follows:

Section 1. Definitions. For the purpose of this Ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (1) "Board" means The Water Works and Sewer Board of the City of Birmingham.
- (2) "City" is the City of Center Point

- (3) "Council" is the Council of the City of Center Point
- (4) "Declaration" means a request by the Board or the formal determination by the Mayor in consultation with such officials as he deems appropriate that a water service emergency exists in the City.
- (5) "Even-Numbered Addresses" means the house address, box number or rural route ending in numbers 0,2,4,6,8 or the letters A-M, or at locations with no address at the Even Numbered side of the street. Post Office Box numbers are not included.
- (6) "Mayor" is the Mayor of the City of Center Point
- (7) "Odd-Numbered Addresses" means the house address, box number or rural route ending numbers 1,3,5,7,9 or letters N-Z , or at locations with no address at the Odd Numbered side of the street. Post Office Box numbers are not included.
- (8) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.
- (9) "Water" is water supplied by The Water Works and Sewer Board of the City of Birmingham either directly or indirectly by the Board through another entity.

Section 2. Declaration of a Drought Warning or Drought Emergency by the Mayor. Whenever, upon request by the Board, the Mayor determines that a water service emergency exists in the City of Center Point and the Mayor issues and publishes a Declaration of a Drought Warning or Drought Emergency relating to such water service emergency, this Ordinance shall become effective immediately upon the publication of such Declaration in a daily newspaper generally circulated in the City of Center Point. In addition, a Declaration of a Drought Warning or a Drought Emergency shall be (1) announced at all public meetings of the Council being held during the water service emergency; and (2) posted during the water service emergency at the City Hall, the City Library, all Police Department buildings and substations, and all Fire Department buildings.

Section 3. Application of Ordinance. Upon the publication of Declaration of a Drought Warning or a Drought Emergency pursuant to the provisions of Section 2 above, the provisions of this Ordinance shall apply to all Persons using Water both in the City and outside the City, within its police jurisdiction. This Ordinance does not prohibit the use of water from any other source other than Water supplied by the Board so long as the Person using such water posts a sign indicating that the water source being used is from a source other than the Board.

Section 4. Certain Uses Restricted or Prohibited for Drought Warnings. The use and withdrawal of Water by any Person, subsequent to the Declaration and publication of a Drought Warning will be prohibited except under the following conditions:

- (1) Outdoor Watering shall be limited to two days per week as defined herein by hand watering with a hose or bucket which does not include a spray device pursuant to the following guidelines:
  - (a) The hand watering of established lawns and landscaping is allowed only during the hours of 4 a.m. to 9 a.m. on the

days of the week defined herein. Even Numbered addresses should hand water established lawns and landscaping on Mondays and Thursdays only. Odd Numbered addresses should hand water established lawns and landscaping on Tuesdays and Fridays only.

- (b) New lawns and landscaping are exempt from the days of the week restrictions set out in 1(a) above for the first twenty (20) days after installation of the lawn or landscaping materials. However, in the first twenty (20) days of installation, hand watering for new lawns and landscaping shall be limited to the minimum necessary and shall be permitted only during the hours of 4 a.m. to 9 a.m. After the first twenty days and up to the thirtieth day, subsequent to installation of new lawns and landscaping, hand watering shall be permitted on two days of the week, with Even Numbered addresses hand watering new lawns and landscaping on Mondays and Thursdays, and Odd Numbered addresses hand watering new lawns and landscaping on Tuesdays and Fridays during the hours listed above. After the thirtieth day after the installation of lawns and landscaping, hand watering should be in accordance with the times and dates as provided in paragraph 1(a) above. Documentation to verify the date of installation of new lawns and landscaping material shall be made available upon request. In the absence of such documentation, all outdoor watering shall be restricted as provided in 1(a) above.
- (c) Hand watering for the purpose of watering in insecticides, fungicides, and herbicides, where such watering is required by the manufacturers or by the Federal, State or Local government, shall be conducted on the schedule above for established lawns and shall be hand watered during the hours of 4 a.m. to 9 a.m. only.
- (d) The washing of personal vehicles, trucks, trailers, motor homes, campers, boats, other type motor vehicles or equipment shall not be permitted. The washing of non-emergency vehicles shall be permitted when such washing is performed by a business engaged in car washing by automated means that use only recycled water.
- (e) The use of fire hydrants for any purpose except for fire fighting, or flushing sewers for health protection purposes shall be prohibited.
- (f) The watering of any portion of golf courses except for tees and greens shall be prohibited. The watering of tees and greens is allowed on Mondays, Wednesdays and Fridays between the hours of 1 a.m. and 5 a.m.
- (g) Commercial nurseries are exempt from the day of the

week restrictions set out in 1(a) above but shall restrict water use to the minimum amount necessary to maintain plants. Commercial nurseries shall refrain from watering between the hours of 10 a.m. and 4 p.m.

- (h) City owned or controlled athletic fields may be watered Wednesdays and Saturdays between the hours of 4 a.m. and 9 a.m.
- (i) Newly constructed or existing public and private swimming pools, including outdoor hot tubs, spas and Jacuzzis, may be filled once upon completion. A one-time draining and subsequent re-filling of swimming pools is allowed only for repairs if conditions threaten the integrity of the pool and/or its supporting infrastructure.

Section 5. Certain Uses Restricted or Prohibited for Drought Emergencies. The use and withdrawal of Water by any Person, subsequent to the Declaration and publication of a Drought Emergency for the following purposes will be prohibited:

- (1) Outdoor Watering. The sprinkling, watering or irrigating of shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens, vegetables, flowers, or any other vegetation.
- (2) Washing Mobile Equipment. The washing of automobiles, trucks, trailers, trailer houses, railroad cars, or any other type of mobile equipment.
- (3) Cleaning Outdoor Surfaces. The washing of sidewalks, driveways, filling station aprons, porches and other outdoor surfaces.
- (4) Cleaning Buildings. The washing of the outside of dwellings; the washing of the inside and outside of office buildings.
- (5) Cleaning Equipment and Machinery. The washing and cleaning of any business or industrial equipment and machinery.
- (6) Ornamental Fountains. The operation of any ornamental fountain or other structure making a similar use of water.
- (7) Swimming Pools. Swimming and wading pools not employing a filter and recirculating system.
- (8) Golf Courses. The watering of any portion of golf courses.

Section 6. Exception to Maintain Sanitation, Health and Safety. The Jefferson County Health Officer shall have the authority to permit a reasonable use of Water in any case necessary to maintain adequate health and sanitation standards, but such reasonable use shall not include any uses restricted or prohibited by Sections 4 and 5 above. Additionally, notwithstanding any other provisions of this Ordinance, the Mayor may permit the watering of City owned or controlled athletic fields when the Mayor, in his sole discretion, determines that said athletic fields are hazardous to the health and safety of children, by being too hard by virtue of a lack of water. The Mayor may permit the watering of such athletic fields to the extent necessary to abate the hazard to the health and safety of such children.

Section 7. Enforcement. Upon publication of a Declaration of a Drought Warning or a Drought Emergency by the Mayor pursuant to Sections 4 and 5 above:

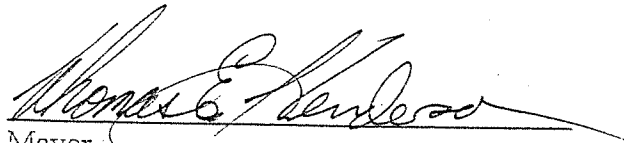
- (a) Police Officers Enforce. Every police officer of the City shall, in connection with his duties imposed by law, diligently enforce the provisions of this Ordinance.
- (b) Discontinuance of Service. The Board shall have the authority to enforce the provisions of this Ordinance by the discontinuance of water service in the event of violation hereof.
- (c) Contrary Use. No Person shall knowingly or intentionally allow the use of Water supplied by the Board for any use, residential, commercial, industrial, agricultural, governmental, or any other purposes in a manner contrary to the provisions of this Ordinance.
- (d) Violations. Any Person, including a Person classified as a Water customer of the Board 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 rebuttable presumption that the Person in apparent control of the property committed the violation but any such Person shall have the right to rebut that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof of a violation, committed by a minor child, occurred on property within the parent's control shall constitute a rebuttable presumption that the parents committed the violation, but any such parent may be excused if he/she provides that he/she has previously directed the minor child not to use Water as it was used in violation of this Ordinance and that the parent could not have reasonably known of the violation.

Section 8. Penalties. Any Person who shall violate or permits the violation of any provision of this Ordinance or shall do any act prohibited hereby shall, upon conviction thereof, be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment not to exceed one hundred eighty (180) days or by both such fine and imprisonment. Each day on which a violation occurs or continues shall be deemed a separate offense.

Section 9. Severability. If any provision of this Ordinance be declared unconstitutional or held invalid by a court of competent jurisdiction, such shall not affect any other provision thereof, but the same shall remain in full force and effect.

Section 10. Effective Date. The provisions of this Ordinance shall become effective immediately upon its passage and approval by the Mayor and Council of the City.

ADOPTED AND APPROVED this the 24<sup>th</sup> day of June, 2007.

  
Mayor

ATTEST:

Jackie Paulsen  
City Clerk

STATE OF ALABAMA     )  
JEFFERSON COUNTY    )

I, the undersigned City Clerk of the City of Center Point do hereby certify that the foregoing Ordinance No 2007-06 is a true and correct copy of an ordinance passed by the Council of said City at a regular meeting held on 6/14, 2007, a quorum being present.

Jackie Paulsen  
City Clerk