

ORDINANCE NO. 40-07

ORDINANCE AMENDING ORDINANCES NUMBER 30-92 AND 31-92  
AND FOR THE IMPLEMENTATION OF WATER CONSERVATION  
MEASURES AND DECLARING AN EMERGENCY

BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, that:

Section 1:

Ordinance No. 30-92, Section 1, is amended to read as follows:

(2) "Contract water users" shall include all persons and entities (with the exception of the cities of Van Buren and Barling, Arkansas, which are required to adopt conservation measures at least as restrictive as those of Fort Smith) who purchase water from the City of Fort Smith for individual use, resale and/or redistribution outside of the corporate limits of the City of Fort Smith, Arkansas.

Contract water users include the following:

Town of Arkoma	Town of Chester
Concord Water Users Association	Cedarville Water Users Association
Highway 71 Water Users Association	Rural Water District Number 7
City of Mountainburg	City of Lavaca
U. S. Army (Fort Chaffee)	Winslow Water Users Association
Central Water Users Association	

Section 2:

Ordinance No. 30-92, Section 2, is amended to read as follows:

During the periods in which the initial phase (Phase I) of the City's Water Conservation Ordinance is in effect, contract water users shall be assessed a surcharge 0.5 times the regular rate (as currently established by Ordinance 26-07) for each 100 cubic feet of water usage above the average monthly usage for the months of June, July, August and September 2006. The surcharge shall be in addition to the total volume charge.

Section 3:

Ordinance No. 30-92, Section 3, is amended to read as follows:

During the periods in which the advance phase (Phase II) of the City's Water Conservation Ordinance is in effect, contract users shall be assessed a surcharge 1.5 times the regular rate (as currently established by Ordinance 26-07) for each 100 cubic feet of water usage above the average monthly water usage for the months of June, July, August and September 2006. The surcharge shall be in addition to the total volume charge.

Section 4:

Ordinance No. 31-92, Section 3, Paragraph (a) is amended to read as follows:

This section shall apply to all users of water from the City of Fort Smith, Arkansas. An initial conservation phase (Phase I) shall go into effect when lake levels drop to a capacity of 55,000 acre-feet (60%) and shall continue until lake levels remain above 56,000 acre-feet (61%) for 15 consecutive days.

Section 5:

Ordinance No. 31-92, Section 4, Paragraph (a) (1) is amended to read as follows:

The total usable water storage decreases to 36,000 acre-feet (39%).

Section 6:

Ordinance No. 31-92, Section 4, Paragraph (d) is amended to read as follows:

The restrictions and prohibitions of Phase II shall be removed when the lake levels remain above 41,000 acre-feet (45%) for 15 consecutive days.

Section 7:

Ordinance No. 31-92, Section 8, is hereby repealed.

Section 8:

During time periods when water conservation measures are not in effect, the following limitations or prohibited uses of water shall be in effect:

(1) No person shall use water for the irrigation or watering of lawns, turf, shrubs, plants, trees or gardens to such an extent as to allow water to escape from user's premises onto public property, such as alleys or streets, nor onto another person's property.

(2) No person shall irrigate or water lawns, turf, shrubs, plants, trees or gardens between the hours of 11:00 a.m. and 6:00 p.m. (not applicable to greens and tee boxes on golf courses)

(3) No person during the course of cleaning or washing motor vehicles, aircraft, building exteriors, sidewalks, walkways, driveways, patios, decks, fences, parking lots, tennis courts, or other similar types of hard surfaces, with a hose or other equipment, will allow the flow of water to be used or uncontrolled at the point of use, or to continue if unattended, such that water is wasted.

(4) No person shall use potable water for any construction activity that cannot be performed using non-potable water unless approved by the Director of Utilities, or his designated representative, and, if required by same, shall be conducted under the direct supervision of an employee of the City of Fort Smith Utility Department.

(5) No person shall use water from a fire hydrant unless approved by the Director of Utilities, or his designated representative, and, if required by same, shall be conducted under the direct supervision of an employee of the City of Fort Smith Utility Department. Any such use shall be registered through a City owned meter issued under a permit for a specific use, time period, location and, if further specified, for a maximum volume of use.

#### Section 9:

This section shall apply to all users of water from the City of Fort Smith. Whenever an emergency exists as determined by the City Administrator(s), or their designated agent, by reason of a shortage of water, limited distribution facilities or any other circumstance which make it necessary to immediately conserve water, there is hereby delegated to the City Administrator(s), or their designated agent, the authority to implement conservation measures additional to the provisions of this Ordinance which are determined to be necessary to maintain potable water for essential public health and safety functions. These emergency measures shall remain in effect until the next regularly scheduled meeting, or special meeting, of the Board of Directors at which time the Board shall decide whether it is necessary to continue said measures.

#### Section 10:

The performing of any act prohibited by this Ordinance or the failure to perform any act required to be performed by this Ordinance is a violation of the Fort Smith Code as defined by Section 1-9 of the Code. It is declared to be unlawful to tamper with or disable any meter used to register the water usage of any user of water from the City of Fort Smith, Arkansas, and any individual or user of water convicted of violating this provision shall be deemed guilty of a misdemeanor and shall be fined in accordance with Section 1-9 of the Code.

Section 11:

If any section, sub-section, sentence, clause or phrase of this Ordinance or any application hereof is for any reason held illegal, invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining parts hereof

Section 12:

The codifier of the ordinances of the City of Fort Smith is hereby directed to codify the provisions of this Ordinance within Chapter 25, Article V, Division 2 of the Fort Smith Code of Ordinances. This Ordinance is not intended to repeal the existing water conservation provisions of Chapter 25, Article V, Division 2 of the Fort Smith Code. In the event of any conflict between the provisions of this Ordinance and the existing water conservation provisions of Chapter 25, Article V, Division 2 of the Code, the provisions of this Ordinance shall be deemed primary and controlling.

Section 13:

Emergency Clause. It is hereby found and determined by the Board of Directors of the City of Fort Smith that an emergency exists in the City of Fort Smith, Arkansas, requiring the efficient management of water. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare shall be immediately effective as of the date of its adoption.

PASSED AND APPROVED this 5<sup>th</sup> day of June 2007


APPROVED:

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM

  
\_\_\_\_\_  
City Attorney  
Publish One Time