

**ORDINANCE NO. 2016-9-23-3**

**AN ORDINANCE ADOPTING A WATER CONSERVATION PLAN AND  
A PUBLIC EDUCATION PROGRAM TO PROMOTE THE RESPONSIBLE  
USE OF WATER BY THE CITIZENS OF THE VILLAGE OF VINTON, TEXAS**

- WHEREAS,** the Council for the Village of Vinton, Texas (Village) recognizes that the amount of water available to its citizens and customers is limited; and
- WHEREAS,** Village Council recognizes that drought, system failure and acts of God may occur and the Village cannot guarantee an uninterrupted water supply for all purposes at all times; and
- WHEREAS,** the Village Council desires to conserve water resources and prepare for drought; and
- WHEREAS,** the Village Council desires to comply with Section 11.1271 of the Texas Water Code and applicable rules of the Texas Commission on Environmental Quality which requires water conservation plans and adoption of reasonable water conservation measures for all public water supply systems; and
- WHEREAS,** the Village Council desires to comply with the rules of the Texas Water Development Board should it decide to avail itself of various financial assistance programs found in Title 31, Texas Administrative Code Chapter 363; and
- WHEREAS,** pursuant to Chapter 54 of the Local Government Code and in the best interests of its citizens, the Village Council is authorized to adopt Ordinances it deems are necessary and expedient to preserve and conserve its water resources and to prepare for drought; and
- WHEREAS,** the Village of Vinton, its residents and commercial businesses receive retail water services from the El Paso Water Utilities, Vinton Hills Alegre, LLC, Hillside Water Works, private water systems and private wells; and
- WHEREAS,** the Village Council will adopt the applicable portions of the existing water conservation plans of the El Paso Water Utilities, Vinton Hills Alegre, LLC and Hillside Water Works; and
- WHEREAS,** the Village Council will cooperate with all water service providers within the Village of Vinton to further facilitate water conservation; and
- WHEREAS,** the provision of water and wastewater services for the residents and commercial businesses of the Village of Vinton, Texas is necessary to

protect the public health and the protection of the environment and natural resources of the Village; and

**WHEREAS,** the Village of Vinton is in the process of designing and constructing a water and wastewater system to provide services to all residences and businesses within the Village; and

**WHEREAS,** the Village of Vinton will adopt the following non-promotional wastewater service rate structure as a key part of its water conservation plan as provided herein; and

**WHEREAS,** the Village of Vinton will adopt the following Continuing Public Education and Public Information guidelines as another key part of its water conservation plan.

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF VINTON, TEXAS, AS FOLLOWS:**

#### **ARTICLE I. Water Conservation Plan**

##### **Section 1.0 Water conservation compliance.**

No person who uses water from a public water supply system shall make, cause, use or permit the use of water received from the public water supply system for residential, commercial, industrial, agricultural, governmental or any other purposes in a manner contrary to any provisions of this chapter. When used in this chapter, the terms "commercial," "industrial," and "residential" shall have the meaning and usage consistent with the usage of those terms under the Zoning Ordinance of the Village of Vinton

##### **Section 2.0 Mandatory compliance—Lawn and landscape watering.**

The following mandatory restrictions shall apply to all customers of, or persons who use or receive water from a public water system:

- A. All outdoor irrigation of grass, trees, plants or other vegetation on residential and commercial property on the side of the street on which building addresses are even numbered, may be done only Tuesdays, Thursdays and Saturdays; and on the side of the street on which buildings are odd numbered, such vegetation may be irrigated only on Wednesdays, Fridays and Sundays. In case of corner buildings having both odd and even numbers, the number carried on the books of the public service board shall control.
- B. All outdoor irrigation of grass, trees, plants or other vegetation on industrial properties, parks, golf courses, schools and cemeteries may be permitted only on Mondays, Wednesdays and Fridays. All other properties, not falling within the industrial classifications described in this subsection, shall be considered residential and shall be watered in accordance with the requirements of subsection A of this section.

- C. From April 1st to September 30th, all outdoor irrigation of vegetation is prohibited between the hours of ten a.m. and six p.m.
- D. The City Engineer shall have the authority to review special situations and hardship cases upon application of any person in accordance with the procedures set forth in this ordinance.

**Section 3.0 Nonessential water use restrictions**

- A. The following restrictions shall apply to all customers of or persons who use or receive water from a public water supply system:
  - 1. The washing of automobiles, trucks, trailers, boats, airplanes and other types of mobile equipment shall be done only with a hand-held bucket or a hand-held hose equipped with a shut-off nozzle that completely shuts off the flow of water, even if left unattended. This restriction does not apply to the washing of the above-listed vehicles or mobile equipment when conducted on the premises of a commercial car wash or a commercial service station. When used in this chapter, "bucket" means a bucket or other container holding five gallons or less;
  - 2. The washing of automobiles, trucks, trailers, boats, and other types of mobile equipment for fund-raising purposes must be conducted at a commercial car wash.
  - 3. Prior to connection of water service to any commercial car wash issued building permits for construction after September 1, 2016, a certification shall be provided to the Village of Vinton that the car wash uses no more than fifty gallons of water per vehicle washed. Absent such certification, no water service will be provided.
- B. The following uses of water are defined as "wasting water" and are absolutely prohibited:
  - 1. Irrigating any turf grass, tree, plant, or other vegetation, or otherwise utilizing the city water supply system to permit or cause water to pond, or to flow, spray or otherwise move or be discharged from the premises of any person responsible for any property within the corporate limits of the city, or which receives water from the public service board to or upon any street, alley, gutter or ditch, or other public right-of-way, or into a storm water drainage system or facility;
  - 2. Failing to repair a leak within five working days of the discovery of same;
  - 3. Washing sidewalks, driveways, parking areas, patios or other impervious surface areas with a hose, except in emergencies to remove spills of hazardous materials or to eliminate dangerous conditions which threaten the public health, safety, or welfare. "Impervious surface area" means any structure, street, driveway, sidewalk, patio or other surface area covered with brick, paving, tile or other impervious or nonporous material.

- C. When referred to in this subsection, "swimming pool" shall mean any portable or permanent structure containing a body of water twenty-four inches or more in depth and containing one thousand one hundred twenty-two gallons or more of water and intended for recreational purposes, including a wading pool. All swimming pools, which are constructed after the effective date of the ordinance codified in this chapter, must be equipped with filtration, pumping and recirculation systems. It is unlawful to drain swimming pools into the street, alley, gutter or other public right-of-way, ditch, or storm water drainage system or facility. Swimming pools may be drained into the sanitary sewer system only in coordination with the El Paso Water Utilities' Wastewater System Division Manager.
- D. New or replacement bleeder lines from evaporative coolers shall not be larger than one eighth-inch inside diameter. Bleeder lines shall be conducted outside and discharged so that the effluent can be used for water landscaping and other outdoor vegetation, except where this would be impractical or unfeasible.
- E. No person shall use water for non-residential single pass cooling or heating purposes unless the water is reused for other purposes. "Single pass cooling or heating" means the use of water without recirculation to increase or decrease the temperature of equipment, a stored liquid or a confined airspace.

**Section 4.0    Declaring of a Nuisance**

The flow of produced water from property into streets, alleys, gutters, and other public rights-of-way, ditches, or into a stormwater drainage system or facility is contrary to the public health, safety and welfare of the citizens of the Village of Vinton and is therefore declared to be a nuisance.

**Section 5.0    Large and Very Large Users**

- A. For the purpose of this section, a large water user is defined as "any person who uses an average of ten thousand gallons per day or more from the water supply system under the management and control of a public water supply system." A very large water user is defined as "any person who uses an average of one hundred thousand gallons per day or more from a public water supply system."
- B. All new very large water users, or existing very large water users, who apply for new service or an expansion of an existing service shall obtain approval from the Planning & Zoning Commission before being permitted to connect to the system or to expand within the system. Such large water users shall submit a water conservation plan to Development Services which contains a water use justification report that relates the water consumption to recycling potential and meets the requirements of subsection C of this section. The City Engineer must submit a recommendation, based upon this submittal to the Planning & Zoning Commission which shall render its decision within thirty days of the receipt of the recommendation from the City Engineer. The City Engineer shall review all water conservation plans submitted to determine whether the plan meets the requirements of this section. The Planning & Zoning Commission may approve the

application for service with or without conditions, deny the application, or take any other action consistent with the policies expressed in this chapter.

- C. All large water users who use more than an average of twenty-five thousand gallons per day shall prepare and submit to the City Engineer a water conservation plan, in accordance with this section as a condition for continued use or new service. All large water users, who use more than an average of ten thousand gallons per day but less than twenty-five thousand gallons per day, shall prepare and submit to the City Engineer a water conservation plan, in accordance with this section as a condition for continued use or new service. The water conservation plan must demonstrate that reasonable diligence will be used to avoid waste and achieve water conservation. The water conservation plan shall include techniques and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water. All conversion to recycling and reuse of water, if required, shall be accomplished within five years from the date of submittal of the water conservation plan. The City Engineer may require additional information to be submitted which he/she deems necessary. If the water conservation plan demonstrates that the large water user will use reasonable diligence to avoid waste and achieve water conservation, the City Engineer shall approve the plan. All approved water conservation plans shall be revised every five years. A fee of twenty-five dollars per plan submittal shall be assessed to defray administrative costs.
- D. In considering approval of a water conservation plan, the City Engineer and the Planning & Zoning Commission shall consider the climatic conditions, best management practices, best available techniques and technologies, the financial capacity of the applicant, and any other such factors which affect the policy of the city as expressed in the water resource management plan or the conservation policy of the State of Texas, as expressed in Section 1.003 of the Texas Water Code or applicable water conservation regulations providing for the conservation and development of the state's water resources adopted by the Texas Commission on Environmental Quality.
- E. Any person whose water conservation plan is disapproved by the City Engineer may appeal the decision to the Planning & Zoning Commission and the city council in accordance with the procedure set forth in this ordinance.

**Section 6.0    Variances and Permits**

- A. Owners of newly seeded or sodded turf grass and landscaping and new residential and commercial developments may receive a landscape watering permit upon application and approval by the City Engineer allowing for daily watering of the same until the turf grass and landscaping are established, which shall not exceed thirty days.
- B. The Planning & Zoning Commission shall be immediately established as a review board to review hardship and special cases which cannot fully comply with the provisions of this chapter after recommendation by the City Engineer. The review board will review hardship or special cases to determine whether a particular case warrants a variance or

permit and shall hear appeals from any person whose water conservation plan is rejected by the City Engineer. The review board shall consider the facts of each case separately and decide whether to grant a variance or permit within ten working days of the receipt of a properly completed "Application for Variance/Permit" form. A variance shall be granted only for reasons of economic hardship, medical hardship, or if there is a legitimate public health or safety concern that will be promoted or fulfilled as a result of granting the permit or variance. An "economic hardship" is defined as a threat to an individual's or business' primary source of income, and where not granting the variance would result in material structural damage to the person's property. A "medical hardship" is defined as a situation where it is determined that a person's ill health or medical condition requires a dependency upon others to water or irrigate. Under no circumstances shall inconvenience or the potential for damages of landscaping be considered an economic hardship or significant damage to property which justifies a variance. The review board shall authorize only the implementation of equitable water use restrictions which further the intent of the public service board's water conservation plan. Any special water use restrictions authorized by the review board in each hardship or special case shall be set forth on the face of the variance or the permit. A fee of twenty-five dollars shall be assessed per application to defray administrative costs. The fee may be waived upon the execution of an affidavit stating that applicant for the variance is unable to pay the fee and such affidavit shall be sworn before a notary public. Final determination of an applicant's inability to pay shall be made by the City Engineer.

- C. A variance or permit issued under this section expires under its own terms and conditions, but in no event shall a variance or permit be issued for a period of more than five years from the date of issuance. Any person issued a variance or permit must fully comply with all the provisions of this chapter as an express condition of that person's variance or permit.
- D. Any person who is issued a variance or permit and uses water supplied or delivered by a public water supply service shall provide proof of such variance or permit upon demand by any person authorized to enforce this chapter. Upon conviction of violating any provision of this chapter, the review board may revoke or suspend any permit or variance previously granted. Provided, however, the review board shall notify the permittee of the proposed revocation five working days before taking such action, and if within that time the permittee requests a hearing in writing, the permittee shall be given an opportunity to be heard by the review board prior to taking such action.
- E. No prosecution for a violation of any provision of this chapter may be suspended for the sole purpose of allowing a person to obtain a variance or permit.

**Section 7.0 Appeal to public service board and city council.**

- A. Any person who applies for a permit or variance under this ordinance and is denied such permit or variance by the review board, or whose permit or variance is revoked or suspended by the review board, or whose water conservation plan is disapproved by the review board, may appeal the decision of the review board by filing an intention to appeal in writing with the Chair of the Planning & Zoning Commission within five working days

of the review board's decision. If a proper appeal is timely filed, the Planning & Zoning Commission will hear the appeal within thirty days of the time the appeal is filed with the general manager. The Planning & Zoning Commission may take any action it deems necessary with regard to the appeal including denying same, granting same, or granting the requested permit or variance with conditions, or approving the water conservation plan. The decision of the review board shall be final and binding if there is no timely filing of an appeal in accordance with this section.

- B. Any person, whose appeal to the Planning & Zoning Commission is denied, may appeal the decision of the Planning & Zoning Commission by filing an intention to appeal in writing with the city clerk within five working days of the public service board's decision. If a proper appeal is timely filed, the city council will hear the appeal within thirty days of the time the appeal is filed with the city clerk. The city council may take any action it deems necessary with regard to the appeal including denying same, granting same or granting the requested permit or variance with conditions, or approving the water conservation plan. The decision of the city council shall be final and binding. The decision of the Planning & Zoning Commission shall be final and binding if there is no timely filing of an appeal in accordance with this section.

**Section 8.0 Penalty.**

Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction, shall be punished by a fine not less than fifty dollars and not to exceed five hundred dollars. The violation of each provision of this chapter, and each separate violation thereof, shall be deemed a separate offense and shall be punished accordingly.

**Section 9.0 Other enforcement action.**

Nothing contained in any other provision of this ordinance, shall prevent either the Planning & Zoning Commission or the city from seeking compliance with or enforcement of this chapter, from seeking injunctive relief in a court of competent jurisdiction, or from utilizing any other civil or equitable remedy to enforce the provisions of this chapter. The City Attorney is authorized to institute injunctive relief or any other civil action deemed necessary to enforce compliance with the provisions of this chapter.

**Section 10.0 Exceptions to enforcement.**

The following shall constitute exceptions from compliance with the provisions of this chapter:

- A. The water is a result of natural events such as rain or snow;
- B. The flow is a result of temporary failures or malfunctions of the water supply system;
- C. The flow is a result of water used for firefighting purposes including the inspection and pressure testing of fire hydrants or the use of water for firefighting training activities;
- D. The use of water is required for the control of dust or the compaction of soil as may be required by this code;
- E. The water is used to wash down areas where flammable or otherwise hazardous material has been spilled and creates a dangerous condition;

- F. The water is used to prevent or abate public health, safety or accident hazards when alternate methods are not available;
- G. The water is used for routine inspection or maintenance of the water supply system;
- H. The water is used to facilitate construction within public right-of-way in accordance with the requirements of the city and good construction practices;
- I. The use of water is permitted under the terms of a variance, permit or compliance agreement granted by the review board or city council;
- J. The water that is used for street sweeping, sewer maintenance or other established utility and public works practices;
- K. Watering contrary to the even/odd watering requirements and from the time of day watering requirements may be permissible for one day only where application of chemicals requires immediate watering to preserve an existing lawn. In cases of commercial application, a receipt from a commercial lawn treatment company indicating the date of treatment, the address of the property treated, the name and address of the commercial contractor, and the chemical treatment required shall constitute evidence that the owner or person responsible for the property is entitled to this exception. Where treatment with a noncommercial application of chemicals requires immediate watering to preserve an existing lawn, the owner or person responsible for the property must contact the water conservation department prior to the application of chemicals and provide evidence satisfactory to the City Engineer for approval of this exception;
- L. Outdoor irrigation necessary for the establishment of newly seeded or sodded turf grass and landscaping in new residential and commercial developments;
- M. Plants which cannot be kept alive without daily watering may be permitted to be watered from a bucket but not from the use of a hose on the days when watering is prohibited.

**Section 11.0 Issuance of citations.**

The City Engineer, Building Inspector, Code Enforcement Officer or designee, or any other personnel authorized to issue class C misdemeanor citations are authorized to issue citations for violations of this chapter.

**Section 12.0 Water emergency—Restriction of water use.**

The City Engineer may implement the following additional restrictions and regulations curtailing water use upon the declaration of a water emergency by the mayor upon recommendation of the public water supply service management:

- A. Prohibit all restaurants from serving water to their customers except when specifically requested by the customer;
- B. Prohibit the operation of any ornamental fountain or similar structure;
- C. Suspend the issuance of all variances or permits hereunder;
- D. Prohibit the filling, refilling or adding of water to all swimming pools;
- E. Prohibit the washing of all vehicles and equipment except upon the premises of a commercial car wash;



- F. Require that the washing of motor vehicles, airplanes, boats or other types of mobile equipment, upon the immediate premises of a commercial car wash or a commercial service station, shall occur only between the hours of twelve noon and five p.m.

The mayor may declare a water emergency in case of a severe drought, in the event of any condition which interrupts the ability of the public water supply services to supply water, where curtailment of the use of water is necessary due to war, a natural disaster, to protect the public health, safety or welfare, or to preserve the water supply. In the event such water emergency is to continue for more than five days, such measures must be passed by resolution by majority of city council in order for the declaration of emergency to continue beyond the initial five day period. During such a water emergency, the City Engineer may impose any additional restrictions on the use of water from the city's water supply system in all or in any part of the city as the city council may authorize.

**Section 13.0** Turf grass prohibited.

- A. Turf grass is prohibited in all parkways, narrow strips of land and sloped areas within new residential or commercial sites for which a building permit is issued, unless irrigated with sub-surface irrigation. For purposes of this section, "sloped areas" means an area with a slope ratio of one to three or greater from the horizontal. "Sub-surface irrigation" means a low pressure irrigation system installed below the surface of the ground or mulch, consisting of a water distribution system equipped with pre-installed water emitters that are rated by gallons per hour, and that is suitable for turf grass irrigation.
- B. Turf grass for residential sites shall not be used for more than fifty percent of the total area to be landscaped (front and back yard).
- C. Turf grass for commercial sites shall not be used for more than thirty-three and one-third of the total area to be landscaped (front and back yard).

**Section 14.0** Drought and water emergency management response plan.

It shall be unlawful to violate the imposed provisions of the drought and water emergency management response plan after the declaration of a drought or water emergency and imposition of restrictions in accordance with the plan.

**ARTICLE II. Non-Promotional Rate Structure.**

**Section 1.0** Non-Promotional Rate Structure

The Village of Vinton hereby adopts a tiered wastewater rate schedule as a key part of the Water Conservation Plan. The adopted tiered rate schedule promotes conservation by utilizing a tiered rate structure that charges a higher volumetric rate for high wastewater flow customers.

A base volumetric rate will be established for users that will be sufficient to cover variable system operations costs based upon an average anticipated flow per customer. For customers exceeding the base volumetric rate threshold, a higher volumetric rate will be assessed for each unit of 1,000 gallons in excess of the threshold. The higher rate discourage users from generating high wastewater flows and corresponding water demands.

The tiered rate schedule, in accordance with EPA guidelines, will be modified and updated periodically to consider wastewater flow elasticity in determining conservation-oriented pricing. This will be feasible as historical data is acquired over the period of operation of the new system. Consideration of the allocation between fixed and variable charges, usage blocks and breakpoints, minimum bills and whether wastewater is provided in the minimum bill, seasonal pricing options, and pricing by customer class will be included in future updates.

The Village of Vinton will also consider the effect of introducing a new rate structure on revenues. Conservation-oriented pricing considerations will include certain assumptions (based on the available empirical evidence) about the elasticity of water demand, or the responsiveness of water usage to a change in price. Changes in the rate structure will allow the system to achieve future demand reduction goals while recovering wastewater system costs. In allocating costs, the impact of the rate structure on user flows and revenues for specific customer classes will be considered.

### **ARTICLE III. Public Education and Information Program**

#### **Section 1.0 Public Education and Information Program**

The Village of Vinton will improve public awareness of water use and conservation and encourage the efficient water use through a continued public education and information program.

- a) The goals for the program are as follows:
  - i) Encourage water users to utilize water efficient fixtures and appliances so that less water is consumed;
  - ii) Effectively communicate water conservation practices that include:
    - (1) Periodic checks of leak indicators on water meters;
    - (2) Washing only full loads of clothes and dishes;
    - (3) Using a bucket of water in lieu of a flowing hose to wash vehicles;
    - (4) Turning off water while brushing teeth and washing hands;
    - (5) Watering lawns, gardens, and shrubs during the evening as opposed to daytime hours during the heat of the day;
    - (6) Periodic checks of irrigation systems to ensure proper operation;
    - (7) Maintenance of faucets and spigots to stop leaks.

#### **Section 2.0 Public Information Program Elements:**

The continuing public education and information campaign on water conservation for the Village of Vinton includes the following elements:

- i) Promote the Village of Vinton’s water conservation measures.
- ii) Implement the public information schedule with semi-annual water conservation information send to all customers before and during the peak use periods of May through September.
- iii) Include water conservation information with monthly billing statements at least twice per year. Information will include material developed by the Village of Vinton staff as well as material obtained from the TWDB, the TCEQ, and other sources.
- iv) Encourage local media coverage of water conservation issues and the importance of water conservation.
- v) Make information on water conservation available online at [www.vintontx.govoffice2.com/](http://www.vintontx.govoffice2.com/) and to information on water conservation on the TWDB and TCEQ websites.
- vi) Additionally, this public education program will guide water users toward using water efficient plumbing fixtures and appliances, to utilize drought tolerant and native and adaptive plants which require less water and pesticides for landscaping, to find and repair plumbing leaks, and to take advantage of water conservation incentives where available.

The components of the education program include the following:

- i) **Public Service Announcements:** The Village of Vinton will continue to publicize and promote the importance of water conservation by placing public service announcements on the Village website.
- ii) **Water Conservation Literature:** The Village of Vinton will make water conservation literature available. Water conservation information will be distributed to the public through water bills, the Village website, at the Village Hall and in response to customer telephone calls requests for information.

#### **ARTICLE IV. General Provisions**

##### **Section 1.0 Severability:**

It is hereby declared to be the intention of the Village Council that if any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

##### **Section 2.0 Effective Date:**

This ordinance shall take effect immediately from and after its passage and supersedes any previous ordinance in conflict herewith. The Village Administrator is hereby authorized and directed to publish this Ordinance.

**Section 3.0 Open Meeting:**

It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meetings was given as required by the Open Meetings Act, Chapter 551, Texas Government Code.


**Section 4.0 Filing with TWDB:**

The Village Administrator is hereby directed to file a copy of this Ordinance with the Texas Water Development Board in accordance with Title 31, Chapter 363 of the Texas Administrative Code.

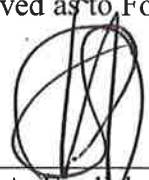
PASSED AND APPROVED by the Village Council for the Village of Vinton, Texas on this \_\_\_23rd\_\_\_ day of \_\_\_September\_\_\_, 2016.

  
\_\_\_\_\_  
Manuel Leos, Mayor Pro Tem

ATTEST:

  
\_\_\_\_\_  
Andrea Carrillo, Deputy Village Clerk

Approved as to Form:

  
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Shane A. English, Village Attorney