

COMMONWEALTH OF KENTUCKY  
COUNTY OF TRIMBLE  
ORDINANCE NO. 340.5  
AN ORDINANCE RELATING TO:

Filed  
8-18-01  
James Powell  
TCC

**DECLARATION OF WATER SHORTAGE AND ESTABLISHMENT OF  
PROCEDURES FOR ESSENTIAL CONSERVATION OF WATER RESOURCES**

**WHEREAS**, state law requires all water districts to adopt a Water Shortage Plan;  
and

**WHEREAS**, Water Districts have no police authority to enforce their Water Shortage Plan, and

**WHEREAS**, it is in the best interest of the citizens of Trimble County that the Trimble County Fiscal Court adopt policies and procedures for the enforcement of the Water Shortage Plan

**NOW THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF TRIMBLE COUNTY, KENTUCKY AS FOLLOWS:**

**Section 1: Purpose:** The purpose of this ordinance is to provide for the declaration of official phases of water supply shortage situations and the implementation of voluntary and mandatory water conservation measures throughout Trimble County in the event a shortage is declared. Nothing in this ordinance shall be construed to interfere with the common law riparian or statutory water rights.

**Section 2: Definition:**

- (a.) "Customer" as the term is used in this ordinance, shall mean any person using water for any purpose from a public water distribution system in Trimble County and for which either a regular charge is made or, in the case of bulk sales, a cash charge is made at the site of the delivery;
- (b.) "Other sources of water" as the term is used in this ordinance, shall mean water that has not been introduced into a public water distribution system in Trimble County;
- (c.) "Raw water supplies" as the term is used in this ordinance, shall mean water potentially available to any person in Trimble County;
- (d.) "Treated water", as the term is used in this ordinance, shall mean water that has been introduced by a public water distribution system, including water offered for sale. Uses of treated water are classified as follows:

(1.) Essential Water Uses (Class 1): The following uses of water, listed by site or user type, are essential:

- (a.) Domestic: Water necessary to sustain human life and the lives of domestic pets and livestock and to maintain minimum standards of hygiene and sanitation.
- (b.) Health Care Facilities: Water used for patient care and rehabilitation.
- (c.) Water Hauling: Sales for Domestic Use where not reasonably available elsewhere.
- (d.) Public Use: Firefighting, Health and Public Protection purposes as specifically approved by health officials and the governing bodies.

(2.) Socially or Economically Important Uses of Water (Class 2): The following uses of water, listed by site or user type, are socially or economically important:

- (a.) Domestic: Personal in house water use including kitchen, bathroom and laundry;
- (b.) Water hauling: Non-domestic, when other sources are not reasonably available elsewhere;
- (c.) Commercial and Civic Use: Commercial car and truck washes, laundromats, restaurants, clubs and eating places, schools, churches, motels/hotels and similar commercial establishments.
- (d.) Outdoor Non-commercial watering: Minimal watering of vegetable gardens, minimal watering of trees where necessary for their survival;
- (e.) Outdoor commercial or public watering (using conservation methods and when other sources of water are not available or feasible for use):
  - (1.) agricultural irrigation for the production of food and fiber or the maintenance of livestock;
  - (2.) watering by arboretums and public gardens of national, state, regional, or community significance where necessary to preserve specimens;
  - (3.) watering by commercial nurseries where necessary to maintain stock and watering where necessary to establish or maintain revegetation or landscape plantings required by law or regulation;
  - (4.) watering of woody plants where necessary to preserve them;
  - (5.) minimal watering of golf courses.

- (f.) Recreational: Operation of municipal swimming and residential pools that serve more than 25 dwelling units.
  - (g.) Air Conditioning: Refilling for startup at the beginning of the cooling season, makeup of water during the cooling season, refilling specifically approved by health officials and the municipal governing body, where the system has been drained for health protection or repair services.
- (3.) Non-essential (Class 3): Any waste of water, as defined herein, is non-essential. The following uses of water, listed by site or user type, are also non-essential.
- (a.) Public use: Use of fire hydrants (excluding Class 1 and Class 2 uses), including use of sprinkler caps, testing fire apparatus and fire department drills, flushing of sewers and hydrants except as needed to ensure public health and safety as approved by health officials and the municipal governing body;
  - (b.) Commercial and civic use: Serving water in restaurants, clubs or eating places, except by customer request, failure to repair a controllable leak, increasing water levels in scenic and recreational ponds and lakes, except as necessary to support fish and wildlife;
  - (c.) Ornamental purpose: Fountains and reflecting pools and artificial waterfalls;
  - (d.) Outdoor Non-commercial watering:
    - (1.) Use of water for dirt control or compaction;
    - (2.) Watering of annual or non-woody plants other than vegetable gardens;
    - (3.) Watering of lawns, parks, golf course fairways, playing fields and other recreational areas;
    - (4.) Washing sidewalks, walkways, driveways, parking lots, tennis courts or other hard-surface areas;
    - (5.) Washing down buildings or structures for purposes other than immediate fire protection;

- (6.) Flushing gutters or permitting water to run or accumulate in any gutter or street.
  - (e.) Outdoor Commercial or Public Watering:
    - (1.) Expanding nursery facilities, placing new irrigational land in production or planting of landscaping except when required by a site design review process;
    - (2.) Use of water for dirt control or compaction;
    - (3.) Watering of lawns, parks, golf course fairways, playing fields and other recreational areas
    - (4.) Washing sidewalks, walkways, driveways, parking lots, tennis courts or other hard-surface areas;
    - (5.) Washing down buildings or structures for purposes other than immediate fire protection;
    - (6.) Flushing gutters or permitting water to run or accumulate in any gutter or street.
  - (f.) Recreational uses other than those specified in Class 2.
  - (g.) Non-commercial washing of motor or other vehicles.
  - (h.) Air Conditioning (see also Class 2 purposes) – Refilling cooling towers after draining.
- (e.) “Waste of Water”, as the term is used in this ordinance, includes, but is not limited to (1) permitting water to escape down a gutter, ditch, or other surface drain, or (2) failure to repair a controllable leak of water due to defective plumbing.
- (f.) “Water Shortage Response Phases”, as the term is used in this ordinance, includes the following:
- (1.) “**Advisory**”, as the term is used in this ordinance, shall mean that conditions exist which indicate the potential for serious water supply shortages;
  - (2.) “**Alert**”, as the term is used in this ordinance, shall mean that raw water supplies are consistently below seasonal averages and if they continue to decline, may not be adequate to meet normal needs;

- (3.) “**Emergency**”, as the term is used in this ordinance, shall mean that water supplies are below the level necessary to meet normal needs and that serious shortages exist in the area.

**Section 3: Declaration of a Water Shortage Advisory:** Whenever the Trimble County Fiscal Court finds that a potential shortage of raw water supplies is indicated, it shall be empowered to declare by resolution that a Water Shortage Advisory exists, and that the water manager or superintendent shall, on a daily basis, monitor the supply and demands upon that supply. In addition, the County Judge/Executive is authorized to call upon all water customers to employ voluntary water conservation measures to limit non-essential (Class 3) water use and eliminate the waste of water. This resolution shall be published in the local newspaper and may be publicized through other media sources or any other appropriate method for making such notice public.

**Section 4: Declaration of Water Shortage Alert:** Whenever the Trimble County Fiscal Court finds raw water supplies to be consistently below seasonal averages and if they continue to decline and may not be adequate to meet normal needs, it shall be empowered to declare by resolution that a Water Shortage Alert exists. The County shall continue to encourage voluntary water conservation measures defined under the Advisory declaration and further impose a ban on all non-essential (Class 3) water uses for the duration of the shortage until it is declared to have ended by resolution of the Trimble County Fiscal Court. Declaration of these resolutions shall follow the guidelines in Section 3 of this Ordinance.

**Section 5: Declaration of Water Shortage Emergency:** Whenever the Trimble County Fiscal Court finds that raw water supplies are below the level necessary to meet normal

needs and that serious shortages exist, it shall be empowered to declare by resolution that a Water Shortage Emergency exists. Essential Uses (Class 1) shall be identified, in specific, as targets for voluntary conservation initiatives. Also, all Socially or Economically Important Uses (Class 2) shall be restricted and Non-Essential Uses (Class 3) shall be banned. These restrictions shall be considered ongoing until the emergency is ended by resolution of the Fiscal Court. Declaration of these resolutions shall follow the guidelines in Section 3 of this Ordinance.

**Section 6: Shortage Water Rates:** Upon declaration of a water shortage as provided in Sections 3-5 of this Ordinance, the Trimble County Fiscal Court, shall have the power to adopt shortage water rates, by ordinance, designed to conserve water supplies. Such rates may provide for, but not be limited to: (a) higher charges per unit for increasing usage (increasing block rates); (b) uniform charges for water usage per unit of use (uniform unit rate); (c) extra charges for use in excess of a specified level (excess demand surcharge); or (d) discounts for conserving water below specific levels.

**Section 7: Regulations:** During the effective period of any water supply shortage as provide for in Sections 3-5, the County Judge/Executive is empowered to promulgate such regulations as may be necessary to carry out the provisions of this ordinance, any water supply shortage resolution, or water shortage rate ordinance. Such regulations shall be subject to the approval of the Fiscal Court at its next regular or special meeting.

**Section 8: Penalties:** Any person who violates the provision of this ordinance, who fails to carry out the duties and responsibilities imposed by this ordinance, or who impedes or interferes with any action undertaken or ordered pursuant to this ordinance shall be subject to the following penalties:

(a.) If the Manager of the Water District, or the Chairman of the Water Board, or other County officials in charge of implementation and enforcement of this ordinance or a water supply shortage resolution learn of any violation of any water use restriction imposed pursuant to this ordinance, a written notice of the violation shall be affixed to the property where the violation occurred and mailed to the customer of record and to any other person known to the officials in charge who is responsible for the violation or its correction. Said notice shall describe the violation and order that is to be corrected, cured or abated immediately or within specified time as the official determines is reasonable under the circumstances. If the order is not complied with, the Water District may terminate water service to the customer subject to the following procedures:

- (1.) The Water District shall give the customer notice by mail that, due to the violation, water services will be discontinued within a specified time and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before the District or a District official designated as hearing officer by the Board;
- (2.) If such hearing is requested by the customer charged with the violation, he or she shall be given a full opportunity to be heard before termination is ordered; and
- (3.) The Board or hearing officer shall make findings of fact and order whether service shall continue or be terminated.

(b.) A fee of \$50.00 shall be paid for the reconnection of any water service terminated pursuant to subsection (a). In the event of subsequent violations, the reconnection

fee shall be \$200.00 for the second violation and \$300.00 for the third or subsequent violations.

(c.) Any customer may also be charged with violation of this ordinance and prosecuted in District Court. Any person so charged and found guilty of violating the provisions of this ordinance shall be guilty of a Class B Misdemeanor. Each day's violation shall constitute a separate offense.

**Section 9: Severability:** If any provision of this ordinance is declared unconstitutional, or the application thereof to any person or circumstances is held invalid, the constitutionality of the remainder of the ordinance and its applicability to other persons and circumstances shall not be affected thereby.

**Section 10: Effective date:** This ordinance shall take effect immediately upon adoption and passage.

**Section 11: Effective period:** This ordinance shall remain in effect until terminated or amended by subsequent ordinance.

This matter having come on for a hearing before the Trimble County Fiscal Court at a regular meeting of the Fiscal Court held on July 16, 2001 and a motion having been made by Magistrate Michael Dunaway and seconded by Magistrate Richard Webster and following discussion the same was approved as the second reading by vote of the Fiscal Court and the same is hereby adopted by the Trimble County Fiscal Court

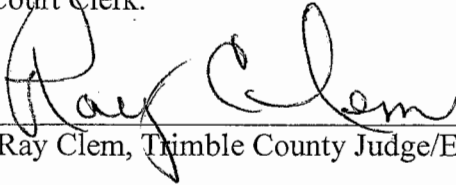
Approved as to form and content by Trimble County Attorney:

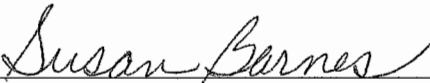
  
Perry R. Arnold, Trimble County Attorney

After second reading on July 16, 2001, 2001 the foregoing Ordinance was approved to be published and on the same occasion was signed in open Court by the



County Judge/Executive, Honorable Ray Clem as evidence of his approval, attested under the seal of the Trimble County Fiscal Court Clerk.

  
Ray Clem, Trimble County Judge/Executive

Attest:   
Trimble County Fiscal Court Clerk

Published: \_\_\_\_\_