

CITY-COUNTY GENERAL ORDINANCE NO.\_\_\_\_, 2008  
PROPOSAL NO.\_\_\_\_, 2008

PROPOSAL FOR A GENERAL ORDINANCE to amend the Revised Code to provide for the effective conservation of water furnished by the department of waterworks.

WHEREAS, both natural and man-made conditions may arise or occur to cause a temporary shortage of water; and

WHEREAS, such conditions may affect the department of waterworks' ability to provide an adequate supply of water or to maintain adequate water pressure in its delivery system; and

WHEREAS, in such event it is imperative to the well-being of the public that uses of water not essential to the health, welfare and safety be restricted; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. TITLE III of the "Revised Code of the Consolidated City and County," regarding public health and welfare, hereby is amended by the addition of a NEW Chapter 706 regarding water conservation, to read as follows:

Chapter 706

**WATER CONSERVATION**

**Sec. 706-101. Application.**

This ordinance applies to the use of water from the Indianapolis Water public water system that occurs within the county.

**Sec. 706-102. Definitions.**

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

*Advisory conditions* means conditions under which voluntary conservation measures are appropriate due to decreased supplies in the Indianapolis Water reservoirs, or other circumstances have reduced the amount of treated water available to customers, as determined by Indianapolis Water.

*Customer* means an individual, firm, corporation, government agency or other entity being supplied with water utility service by Indianapolis Water at a location within the county.

*Indianapolis Water* means the City of Indianapolis Department of Waterworks.

*Indianapolis Water reservoirs* means Geist Reservoir and Morse Reservoir.

*Mandatory conservation* means compliance with Indianapolis Water's imposition of requirements that are designed to reduce certain kinds and types of water use.

*Normal conditions* means conditions under which water supply and treatment capacity are adequate to meet all demands.

*Treated water* means water treated in a manner that it is suitable for human consumption or for another designated use.

*Vegetable garden* means a garden where substantially all of the plants are suitable and grown primarily for human consumption.

*Voluntary conservation* means compliance with Indianapolis Water's request to reduce water use.

*Water emergency* means an occurrence wherein Mandatory Conservation measures are appropriate due to the levels in either of the Indianapolis Water reservoirs having been reduced to less than their

designed drawdown curves or reduced by seventy-five (75) percent or more of their annual drawdown design capacities, groundwater wells not functioning properly due to reduced groundwater levels, or the existence of other circumstances that have reduced the amount of treated water available to customers, as determined by Indianapolis Water.

*Water user* means a customer or other individual, firm, corporation, government agency, or other entity using water from the Indianapolis Water public water system within the county.

*Water warning* means an occurrence wherein mandatory conservation measures are appropriate due to the levels in either of the Indianapolis Water reservoirs having been reduced to less than their designed drawdown curves or reduced by fifty (50) percent or more of their annual drawdown design capacities, groundwater wells not functioning properly due to reduced groundwater levels, or the existence of other circumstances that have reduced the amount of treated water available to customers, as determined by Indianapolis Water.

#### **Sec. 706-103. Voluntary conservation.**

During normal conditions and advisory conditions, water users should follow the voluntary conservation measures as found in the Wise Water Use Policy adopted by the board of directors of Indianapolis Water.

#### **Sec. 706-104. Declaration of need; notice.**

(a) Upon determining that the Indianapolis Water public water system is in a condition of water shortage, Indianapolis Water in its discretion may declare the existence of a water warning or water emergency, whereupon the respective water conservation measures described in Section 706-105 of this chapter shall apply for the duration determined appropriate by Indianapolis Water.

(b) Notice of the declaration of a water warning or water emergency shall be made by United States mail to customers at the address where water bills are sent as indicated by the records of Indianapolis Water, and by publication in a newspaper of general circulation. Notice shall be deemed effective at noon of the third day after depositing notice in the United States mail.

#### **Sec. 706-105. Mandatory water conservation; exemptions.**

(a) During a water warning or a water emergency, it shall be unlawful for a water user to cause, permit, allow, do, or engage in any of the following actions:

- (1) Sprinkling, watering, or irrigating of grass;
- (2) Washing cars, trucks, trailers, mobile homes, railroad cars or any other type of mobile equipment, except as required by applicable local, state, or federal law for health or safety reasons;
- (3) Using water to clean sidewalks, driveways, paved areas, structures, buildings, or other outdoor surfaces;
- (4) Filling empty swimming pools;
- (5) Installing new landscaping or new lawn by using sod until return to normal conditions are declared by Indianapolis Water;
- (6) Using hydrants except for fire suppression or as otherwise directed by Indianapolis Water; and
- (7) Operating water fountains that are non-recycling.

(b) In addition to the prohibitions listed in subsection (a), it shall be unlawful during a water emergency for a water user to cause, permit, allow, do, or engage in any outdoor watering; provided, however, that vegetable gardens may be watered every other day by container or hand-held hose equipped with shut-off nozzle.

(c) The following water users and water uses shall be exempt from the prohibitions contained in subsections (a) and (b) of this section:

- (1) Nurseries, provided water use is limited to the amount essential to preserve inventories;
- (2) Automatic commercial car washes, provided a majority of the water used is recycled;
- (3) Manual commercial car washes, provided only a handheld hose equipped with a shut-off nozzle is utilized; and
- (4) Golf courses, provided tee boxes and greens are watered only on an every other day schedule that begins on Monday of each week and fairways are watered only once per week on Thursday.

**Sec. 706-106. Enforcement.**

(a) Each customer shall be responsible for compliance with Section 706-105 of this chapter with respect to the premises where the customer receives water service. If the identity of the water user cannot be ascertained, the customer shall be prima facie liable for violations that occur on such premises.

(b) A person's first and second violations of Section 703-105 in any twelve-month period shall be subject to an admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103, Article III, of the code.

(c) With respect to violations not resolved under Chapter 103, Article III, of the Code, including a person's third and subsequent violations of Section 703-105 in a twelve-month period, Indianapolis Water may refer the matter to the city prosecutor to file an enforcement action in court, or issue a notice of administrative hearing as provided in Chapter 103, Article V of the code. Violations under this subsection are subject to the general penalties provided in Section 103-3 of the code; however, the penalty for each such violation shall not be less than Five Hundred Dollars (\$500.00).

(d) In addition to the enforcement procedures and penalties provided in subsections (b) and (c) of this section, Indianapolis Water in accordance with its rules may terminate water service for any customer who violates Section 706-105.

SECTION 2. Section 103-51 of the "Revised Code of the Consolidated City and County," regarding admission of violations and payment of designated civil penalties, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 103-51. Violations subject to admission and payment.**

Violations of the Code (or ordinance) provisions set forth in the schedule in section 103-52 are designated as subject to admissions of violation and payment of the designated civil penalty ~~(if not more than one hundred dollars (\$100.00))~~ in an amount not exceeding any limitation under IC 33-36-2-3 in accordance with the procedures of this article.

SECTION 3. Section 103-52 of the "Revised Code of the Consolidated City and County," regarding certain code provisions and civil penalties that may be paid through the ordinance violations bureau, hereby is amended by the addition of the language that is underscored, to read as follows:

**Sec. 103-52. Schedule of Code provisions and penalties.**

The following Code (or ordinance) provisions and their respective civil penalties are designated for enforcement through the ordinance violations bureau:

Code Section	Subject Matter	Civil Penalty
293-321	Failure to file economic statement of interest - first offense	50.00
321-1	Swimming in unguarded waters - first offense in calendar year	50.00
361-108	Littering on premises of another	45.00
361-201	Vehicle losing its load--First offense in calendar year	50.00
391-302	Unlawful noise--First offense in calendar year	50.00

391-303	Noisy house--First offense in calendar year	50.00
407-103	Loitering—First offense in calendar year	50.00
431-108	Parking prohibited for street repairs and cleaning	20.00
431-314	Premises address violation--Second offense in calendar year	25.00
431-602	Bicycles--Second and subsequent violations regarding children under twelve	50.00
431-603	Unlawful operation of bicycle--First violation	50.00
431-702	Prohibited activity in roadways--First violation in twelve-month period	25.00
431-703	Interference with vehicular traffic--First violation in twelve-month period	25.00
441-108	Pedestrian violations	12.50
441-214	Parking when temporarily prohibited	20.00
441-318	Unlawful use of horn or sounding device	15.00
441-363	Unlawfully parked trailer	20.00
441-407	Display of unauthorized traffic controls	15.00
441-408	Interference with traffic control devices	15.00
441-503	Consumption or possession by operator of motor vehicle--First offense in calendar year	50.00
441-504	Operating motor vehicle containing open alcoholic beverages--First offense in calendar year	50.00
511-702	Open burning	50.00
531-102	Animal at large--First offense in twelve-month period	50.00
611-403	Unlawful loading or unloading of private bus	15.00
611-501	Unlawful stopping of food vendor vehicle	15.00
611-502	Violation of noise restriction on food vendors	15.00
611-504	Failure of food vending vehicle to display required warnings	15.00
611-506	Unlawful vending from other than curbside of vending vehicle	15.00
621-106	Unlawful parking on sidewalk, in crosswalk, or adjacent yard	25.00
621-107	Unlawful parking in certain school areas	20.00
621-108	Unlawful manner of parking	20.00
621-109	No required lights on certain parked vehicles	20.00
621-110	Violation of handicapped parking restrictions	100.00
621-111	Unlawful parking in handicapped parking meter zone	100.00
621-112	Unloading perpendicular to curb without permit	20.00
621-113	Unlawful use of bus stops and taxicab stands	20.00
621-114	Unlawful use of passenger and loading zones	20.00
621-115	Unlawful parking adjacent to certain buildings	20.00
621-116	Unlawful parking for display for sale or advertising	20.00
621-117	Unlawful parking for more than six (6) hours	20.00
621-118	Unlawful parking of commercial vehicles at night	20.00
621-119	Unlawful parking in alleys or on certain narrow streets	20.00
621-120	Unlawful parking in designated special parking areas	20.00
621-121	Parking on certain streets where prohibited at all times	20.00
621-122	Stopping, standing or parking on streets where prohibited at all times	20.00
621-123	Parking on certain streets where prohibited at all times on certain days	20.00
621-124	Parking on certain streets when prohibited at certain times on certain days	20.00
621-125	Stopping, standing or parking during prohibited hours on certain days on certain streets	25.00

621-126	Parking longer than permitted on certain streets at certain times on certain days	20.00
621-203	Parking in excess of time permitted in parking meter zone	20.00
621-210	Parking in meter zone when temporarily prohibited	20.00
621-216	Overtime parking in metered parking space	20.00
621-306	Unlawful parking during snow emergency	25.00
621-404	Leaving taxicab unattended	20.00
621-405	Unlawful parking in certain mailbox zones	20.00
621-430(a)	Unlawful use of loading zone in Regional Center by non-eligible vehicle	25.00
621-430(b)	Unlawful use of loading zone in Regional Center--Non-permitted use	25.00
621-430(c)	Unlawful use of loading zone in Regional Center in excess of posted time limits	25.00
621-430(d)	Unlawful obstructing traffic in the Regional Center	25.00
621-430(e)	Unlawful parking in alleys or on certain narrow streets in the Regional Center	25.00
621-501	Unlawful stopping, standing or parking near fire hydrant	75.00
621-502	Unlawful obstruction of fire lane	75.00
631-102	In park after hours--First offense in calendar year	50.00
631-109	Alcohol in park--First offense in calendar year	50.00
645-528	Skateboard or similar play device--First offense in calendar year	50.00
<u>706-105</u>	<u>Water conservation violation--First offense in twelve-month period</u>	<u>100.00</u>
<u>706-105</u>	<u>Water conservation violation--Second offense in twelve-month period</u>	<u>250.00</u>
730-505	Civil zoning violations--First offense in calendar year	50.00
811-214	Alarm business failure to report monitoring information	100.00
811-311	First false alarm in calendar year after a year in which a warning was issued	25.00
811-311	Second false alarm in same calendar year as warning	25.00
811-311	Second false alarm in all other calendar years	50.00
811-311	Third false alarm in same calendar year as warning	50.00
811-311	Third false alarm in all other calendar years	75.00
811-311	Fourth false alarm in same calendar year as warning	75.00
811-311	Fourth false alarm in all other calendar years	100.00
811-704	Second faulty fire alarm in twelve-month period	25.00
811-704	Third faulty fire alarm in twelve-month period	50.00
811-704	Fourth faulty fire alarm in twelve-month period	75.00
Ch. 895	Horse-drawn carriage violation--First offense in twelve-month period	100.00
Ch. 903	Pedal cab violation--First offense in twelve-month period	100.00
931-305	Excessive parking charge at commercial parking facility--First offense in twelve-month period	100.00
996-77	No monthly taxicab certificate--First offense in twelve-month period	25.00
996-123	Failure to maintain public vehicle for hire--First offense in twelve-month period	25.00
996-124	Taxicab operator dress code violation--First offense in twelve-month period	25.00
996-126	Failure to display licenses or fare schedule--First offense in twelve-month period	25.00
996-138	Taxicab operator exceeding limitation on hours--First offense in twelve-month period	25.00

SECTION 4. Section 103-501 of the "Revised Code of the Consolidated City and County," regarding definitions that are applicable to administrative adjudication of environmental violations, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 103-501. Definitions.**

As used in this article, the following terms shall have the meanings ascribed to them in this section:

(a) ~~Code shall mean the Revised Code of Indianapolis and Marion County.~~

(b) ~~DPW shall mean~~ means the department of public works.

(c) ~~Environmental violation shall mean~~ means and includes a violation of one (1) or more of the following:

(1) A regulation, adopted by the Indianapolis Air Pollution Control Board under the authority of section 511-401 of the Code, a violation of which constitutes a violation of Chapter 511 pursuant to section 511-403;

(2) Section 511-403 of the Code, "enforcement of permits; permit fees and the requirement to obtain a permit;"

(3) Section 511-701 of the Code, "air pollution;"

(4) Section 511-702 of the Code, "open burning restricted; general prohibitions;"

(5) Chapter 575 of the Code, "environmental public nuisances;"

~~(6) Chapter 671, Article I, of the Code "general;" sections 671-1 through 671-21.~~

~~(7) Chapter 671, Article II, of the Code "building sewers;" sections 671-22 through 671-31.~~

~~(8) Chapter 671, Article III, of the Code "industrial discharge permits;" sections 671-41 through 671-100.~~

~~(9) Chapter 671, Article VI, of the Code "wastewater hauling;" sections 671-128 through 671-149. and~~

~~(10) Any provision of chapter 575, "environmental public nuisances."~~

(11) Section 760-105 of the Code, "mandatory water conservation; exemptions."

(d) ~~Party and parties shall refer to~~ means and includes the city and respondents.

(e) ~~Respondent shall mean~~ means a person to whom a notice of hearing is issued pursuant to section 103-504 of this article.

SECTION 5. Section 103-504 of the "Revised Code of the Consolidated City and County," regarding notice of administrative hearing on environmental violations, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 103-504. Notice of administrative hearing.**

(a) Whenever DPW issues a notice of violation for an environmental violation or determines that an environmental public nuisance as defined in chapter 575 exists, DPW may either refer the matter to the city prosecutor to file an enforcement action in court, or issue a notice of administrative hearing as provided in this ~~Code~~ article. Whenever the department of waterworks determines that a violation of Section 706-105 of the Code has occurred, the department may either refer the matter to the city prosecutor to file an enforcement action in court, or issue a notice of administrative hearing as provided in this article.

(b) Service of notice of administrative hearing shall be by United States mail to the respondent's last known address, or by personal service. For ~~any a~~ a violation of chapter 575, a notice of administrative hearing sent by United States mail, postage prepaid, to the owner of said real estate at the address to which property tax statements for the real estate are sent, as these addresses are shown by the most current records in the assessor's office, shall be sufficient notice to the property owner under this section. Service on an artificial person or a person incompetent to receive service shall be made on a person

allowed to receive service under the rules governing civil actions in the courts. DPW or the department of waterworks shall keep a record of the time, date and manner of service.

(c) DPW or the department of waterworks shall cause a copy of each notice issued pursuant to this section to be delivered to the hearing officer who will preside over the hearing.

(d) Each notice of administrative hearing shall include the following information:

- (1) A caption for the hearing, which shall include the name of each party expected to participate in the hearing, and an official file or other reference number;
- (2) A statement of the date, time and place of the hearing;
- (3) A statement of the nature of the hearing, including the legal authority under which the hearing is to be held, and a summary of the parties' procedural rights at the hearing;
- (4) A statement of the date, time, place, and nature of each alleged violation, and the maximum penalty that can be imposed thereupon;
- (5) The official title, and mailing address of the hearing officer and a telephone number through which information concerning the hearing may be obtained;
- (6) The official title, mailing address and telephone number of the person who has been designated to appear on behalf of the city; and
- (7) A statement that a party who fails to respond to the notice of the hearing, or to participate in the hearing, may be held in default.

(e) Notice of administrative hearing shall be issued at least twenty (20) days prior to the date of the hearing.

SECTION 6. Sections 103-508 and 103-509 of the "Revised Code of the Consolidated City and County," regarding stipulated penalties and the decision in adjudications of environmental violation, respectively, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 103-508. Stipulated penalties.**

The decision of the hearing officer or the compliance agreement approved by the hearing officer may require the payment of stipulated penalties if the terms of the decision or compliance agreement are violated. The stipulated penalties for each violation shall not exceed:

- (1) ~~¶The penalty amounts described in section 511-607 for violations of Chapter 511 of this Revised Code or section 671-16 of this Revised Code for each violation; or~~
- (2) Two thousand five hundred dollars (\$2,500.00) for all other violations.

**Sec. 103-509. Decision.**

(a) Upon the conclusion of each hearing or within a maximum of forty-five (45) days after conclusion of each hearing, the hearing officer shall render a decision which shall include a determination whether the respondent violated the ordinance as alleged, the amount of civil penalty that must be paid for each violation with instructions on when and how payment shall be made, and a statement of the parties' right to petition for review of the decision. The penalties for each violation shall not exceed:

- (1) ~~¶The penalty amounts described in section 511-607 for violations of Chapter 511 of this Revised Code, chapter 575 of this Revised Code, or section 671-16 of this Revised Code for each violation; or~~
- (2) Two thousand five hundred dollars (\$2,500.00) for all other violations.

(b) The hearing officer's decision may include an order affirming, modifying or revoking any order

issued by DPW with the notice of violation or directing the abatement or cessation of the action described in the notice of violation.

(c) The hearing officer's decision may include a compliance order, establishing a program and schedule to attain and maintain compliance, stipulated penalties, and other provisions necessary to ensure compliance.

(d) The decision shall be based exclusively upon the evidence of record in the hearing and on matters officially noticed therein. The hearing officer's experience and specialized knowledge may be used in the evaluation of the evidence.

(e) The hearing officer shall cause each decision rendered pursuant to this section to be memorialized on a minute sheet or similar written entry into the record. A copy of the minute sheet or similar written entry shall be served upon the parties by United States mail or personal service.

(f) A decision rendered pursuant to this section may be modified by the hearing officer who rendered it, upon the hearing officer's own initiative or by motion of any party. Any motion to modify a decision shall be filed by a party within thirty (30) days after the date of the decision.

SECTION 7. Section 103-511 of the "Revised Code of the Consolidated City and County," regarding transcripts in adjudication of environmental violations, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 103-511. Written transcript of hearing; preparation and cost.**

At the written request of respondent, DPW or the department of waterworks shall provide a written transcript of the audio tape recording of the hearing. Respondent shall pay DPW or the department of waterworks the reasonable cost of preparing the written transcript, unless respondent files with the hearing officer under oath and in writing, a statement of indigency as described in IC 33-37-3-2. Respondent may cause to be prepared, at his own expense, a written transcript which DPW or the department of waterworks shall review and certify as to accuracy.

SECTION 8. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 9. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 10. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.