ORDINANCE NO. 2014-05

AN ORDINANCE OF THE TOWN OF CUMBERLAND
AMENDING ITS WATER CONSERVATION ORDINANCE

WHEREAS, in 2010, the Cumberland Town Council adopted Ordinance 2010-12 for water conservation and in 2012, the Town Council adopted Ordinance 2012-18 to amend and provide for water conservation regulation; and

WHEREAS, since the adoption of these ordinances, the City of Indianapolis Department of Waterworks sold its water utility to Citizens Water, a division of Citizens Energy Group, and Citizens Energy Group has revised its water conservation guidelines; and

WHEREAS, the Town Council finds that because of change in water conservation guidelines by Citizens Energy Group, changes should be made to the Town's Water Conservation Ordinance;

NOW, THEREFORE, BE IT HEREBY ORDAINED that Chapter 99 of the Town Code is amended as follows:

"Chapter 99, Water Conservation

§00-09-99-01 Application.

This Ordinance applies to the use of water from Citizens Energy Group, or its successors (hereinafter referred to as Citizens Water) that occurs within the Town of Cumberland, Indiana.

§00-09-99-02 Definitions.

As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section.

(A) Advisory conditions means conditions under which voluntary conservation measures are appropriate due to decreased supplies in the Citizens Water reservoirs, or other circumstances have reduced the amount of treated water available to customers, as determined by Citizens Water. Advisory conditions may be either:

(1) Water Shortage Watch Advisory: a voluntary reduction in water use, particularly discretionary use, including lawn watering to no more than one (1) time per week; or

(2) Water Shortage Alert Advisory: a voluntary reduction in water use, particularly during peak demand, including halting lawn watering for a specific period of time.

(B) Customer means an individual, firm, corporation, government agency or other entity being supplied with water utility service by Citizens Water at a location within the Town of Cumberland.
(C) *Citizens Water* means Citizens Water, a division of Citizens Energy Group, or its successors in interest.

(D) *Mandatory conservation* means compliance with Town of Cumberland imposition of requirements that are designed to reduce certain kinds and types of water use all as set forth herein.

(E) *Normal conditions* means conditions under which water supply and treatment capacity are adequate to meet demand.

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

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

(H) *Voluntary conservation* means compliance with the Town of Cumberland request to reduce water use.

(I) *Water shortage emergency* means an occurrence wherein Mandatory Conservation measures are appropriate due to the levels in either of the Citizens Water reservoirs having been reduced to less than their designed drawdown curves or less than an estimated twenty-five (25) percent 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 Citizens Water.

(J) *Water user* means a customer or other individual, firm, corporation, government agency, or other entity using water from Citizens Water system within the Town of Cumberland.

(K) *Water shortage warning* means an occurrence wherein mandatory conservation measures are appropriate due to the levels in either of the Citizens Water reservoirs having been reduced to less than their designed drawdown curves or less than an estimated fifty (50) percent 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 Citizens Water.

§00-09-99-03 Voluntary conservation.

During normal conditions and advisory conditions, water users should follow the voluntary consideration measures as found in the Wise Water Use Policy and other policies adopted by the Citizens Water and approved by the Town of Cumberland.

§00-09-99-04 Declaration of need; notice.

(A) Upon determining that the Citizens Water system is in a condition of water shortage, the Town Manager of the Town of Cumberland may declare the existence of a water shortage
warning or water shortage emergency, whereupon the respective water conservation measures
described in Section 5 of this Chapter shall apply until the water warning or emergency is
terminated. Whenever the Town Manager finds that some or all of the conditions that gave rise
to the declaration of a water warning or water emergency no longer exist, he/she may declare the
water warning or water emergency terminated.

(B) Notice of the declaration or termination of a water shortage warning or water shortage
emergency shall be made by publication in a newspaper of general circulation. Notice shall be
deemed effective upon publication.

§00-09-99-05 Mandatory water conservation; exemptions.

(A) During a water shortage warning, 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 grasses;

(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; and

(3) Filling empty swimming pools.

(B) During a water shortage emergency, it shall be unlawful for a water user to cause,
permit, allow, do, or engage in any outdoor water use with the exception of the watering of
vegetable gardens using a bucket or pail.

(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; and

(2) Growing crops on farms, provided the water use is limited to the amount
essential to prevent a reduction in yield.

(D) The following water users and water uses may be exempted by the Town Manager
from the prohibitions contained in subsections (A) and (B) of this Section:

(1) Automatic commercial car washes, provided a majority of the water used is
recycled;

(2) Manual commercial car washes, provided only a handheld hose equipped with a
shut-off nozzle is utilized; and

(3) Golf courses, provided tee boxes and greens are watered only on any every other
day schedule that begins on Monday of each week and fairways only once per week on
Thursday.
(4) Any watering of property owned or controlled by the Town of Cumberland as
directed by the Town Manager or Town Manager’s designee where such watering is
necessary or appropriate for asset preservation.

§00-09-99-06 Violations.

(A) Each customer shall be responsible for compliance with Section 5 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 5 of this Chapter in any twelve (12)
month period shall be subject to an admission of violation and payment of the designated civil
penalty through the Ordinance Violations Bureau.

(C) Any person who violates the provisions of this Chapter shall be guilty of an infraction,
punishable by a fine of not more than:

<table>
<thead>
<tr>
<th>First offense:</th>
<th>Written Warning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Second offense within a year:</td>
<td>$250</td>
</tr>
<tr>
<td>Third and subsequent offense within a year:</td>
<td>$500</td>
</tr>
</tbody>
</table>

The payment of a penalty for the violation of any provision of this Chapter shall not excuse
the violation to permit to continue nor shall such payment be held to prevent the enforced
correction of the prohibited conditions. A separate offense shall be deemed committed upon each
day during or on which such violation occurs or continues.

(D) With respect to violations not resolved under Section 3 of this Chapter, including a
person’s subsequent violations of Section 5 in a twelve (12) month period, the Town Manager may
refer the matter to a court of competent jurisdiction for enforcement action.

(E) All monies collected from violation of this Chapter shall be deposited in the General
Fund of the Town of Cumberland.

§00-09-99-07 Enforcement.

This Chapter shall be enforced by the Town of Cumberland and any other designee at the
direction of the Town Manager.

§00-09-99-08 Violations subject to admission and payment.

Violations of the Ordinance provisions set forth herein are designated as subject to
admissions of violation and payment of the designated civil penalty through the Ordinance
Violations Bureau of the Town of Cumberland in an amount not exceeding any limitation under
IC33-36-2-3 in accordance with the procedures of this Article.
§00-09-99-09 Severability.

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."

This Ordinance is hereby adopted this 7th day of May, 2014, and shall be in full force and effect from and after its passage and approval and its publication in accordance with law.

A Majority of the Cumberland Town Council

Joe Sieker, President

Anna Pea, Vice President

Brian Gritter, Council Member

Nicole Bell, Council Member

Mark Reynolds, Council Member

ATTEST:

Grace Heck, Clerk-Treasurer