

RESOLUTION NO. 2019-1706

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, DECLARING AS A PUBLIC RECORD THE DOCUMENT FILED WITH THE CITY CLERK ENTITLED "CHAPTER 3-10: WATER CONSERVATION CODE".

RECITALS:

WHEREAS, the document "Chapter 3-10: Water Conservation Code", three copies of which are filed in the office of the City Clerk, is declared to be a public record, with said copies to remain on file with the City Clerk.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

Section 1. THAT document entitled "Chapter 3-10: Water Conservation Code", attached hereto as Exhibit A, is hereby declared to be a public record.

Section 2. THAT the City Clerk is hereby directed to maintain three (3) copies of the above referenced public document on file at all times for inspection by the public.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this ___ day of _____, 2019.

GREG L. MENGARELLI , Mayor

ATTEST:

APPROVED AS TO FORM:

MAUREEN SCOTT, City Clerk

JON M. PALADINI, City Attorney

CERTIFICATION OF RECORDING OFFICER

STATE OF ARIZONA)
County of Yavapai) ss.

I, the undersigned Maureen Scott, being the duly appointed, qualified City Clerk of the City of Prescott, Yavapai County, Arizona, certify that the foregoing Resolution No. 2019-1706 is a true, correct and accurate copy of Resolution No 2019-1706, passed and adopted at a Voting Meeting of the Council of the City of Prescott, Yavapai County, Arizona, held on the _____ day of _____ 2019, at which a quorum was present and, by a _____ vote, _____ voted in favor of said resolution.

Given under my hand and sealed this _____ day of _____, 2019.

Seal

City Clerk

CHAPTER 3-10: WATER CONSERVATION CODE

SECTIONS:

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- 3-10-15: RAINWATER HARVESTING PERMITTING REQUIREMENTS

3-10-1 ADOPTION OF A WATER CONSERVATION CODE:

This chapter shall apply to any legally adopted plumbing code approved by the mayor and council of the city.

(Ord. 1596, 9-13-1982)

3-10-2 PURPOSE:

The purpose of this chapter is to establish maximum rates of flow for plumbing fixtures and other devices in order to conserve water, and to regulate the use of water from the municipal water supply within the city of Prescott and its water service area. (Ord. 1596, 9-13-1982; amd. Ord. 1884, eff. 6-11-1987)

3-10-3 REGULATIONS:

(A) Scope: The provisions of this section shall apply to all new construction and replacement of fixtures in all existing structures. (Ord. 2377, eff. 6-11-1992)

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(B) Water Closets: Water closets shall be designed, manufactured, and/or installed so as to be operable and adequately flushed with not more than 1.6 gallons of water per flush. (amd. Ord. 3357, eff. 6-22-1995)

(C) Urinals: Urinals shall be designed, manufactured, and/or installed so as to be operable and adequately flushed with not more than 1.0 gallons per flush. (Ord. 3357, eff. 6-22-1995)

(D) Showerheads: Showerheads shall be designed, manufactured and/or installed so that the flow will not exceed 2.0 gallons of water per minute. (amd. Ord 3357, eff. 6-22-1995)

(E) Kitchen And Lavatory Faucets. All kitchen and lavatory faucets shall be designed, manufactured and/or installed so that the flow will not exceed 1.5 gallons per minute. Exception: Hose bibs and exterior faucets having similar uses. (amd. Ord. 3357, eff. 6-22-1995)

(F) Public Restrooms: Faucets located in restrooms intended for unrestricted use by the general public shall be of the metering or self-closing type and shall comply with subsection (E) of this section. (Ord. 687, 11-9-1964)

3-10-4 DEFINITIONS:

ARTIFICIAL LAKE: For purposes of the ordinance codified herein, artificial lake means a manmade lake.

LAKE: Pond, lagoon, swimming pool, or other body of water that has a total capacity, by volume, of 0.075 acre feet or greater. For purposes of this ordinance, two (2) or more lakes that are connected, or that are designed to function as a unit, shall be considered to be one lake.

SERVICE AREA: The area of land actually being served water by the city of Prescott, plus:

(A) Additions to such area which contain an operating distribution system owned by the city.

(B) The service area of a city, town, or private water company that obtains its water from the city pursuant to contract.

(C) Additions to such areas as may be included in the service area map created pursuant to Arizona Revised Statutes, section 45-498, from time to time. (Ord. 687, 11-9-1964)

3-10-5 ARTIFICIAL LAKES WITH CITY WATER PROHIBITED:

(A) The use of treated, metered, potable water from the municipal water supply system for the purpose of filling or refilling artificial lakes within the city of Prescott and its water service area, is prohibited.

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(B) This section shall not apply to an artificial lake that has been filled prior to the effective date of this section, or to a lake owned by the United States, the state of Arizona, the county of Yavapai, or the city of Prescott, and which is open for public use. (Ord. 1884, eff. 6-11-1987)

3-10-6 VARIANCES:

The city council may grant variances on a case by case basis where it finds that the best interests of the city will be served by such variance, and that the development or facility in which the artificial lake is located will develop and implement an effective water conservation program, and that said variance is consistent with the adopted management plan for the Prescott active management area. Application for a variance shall be submitted to the city clerk and city manager. (Ord. 1884, eff. 6-11-1987)

3-10-7 TERMINATION OF WATER SERVICE FOR VIOLATION:

In addition to any other legal or equitable remedy to enforce the provisions of this chapter, the city may terminate or suspend water service to property owned or controlled by any party in violation of section [3-10-5](#) of this chapter. The city manager or designee may cause a notice of water termination to be served upon the violating party stating that service will be discontinued in five (5) days unless a hearing is requested. If a hearing is requested, the city manager or designee shall convene a hearing within three (3) days of the request. Upon finding that a violation has occurred, the city manager or designee may order that water service be terminated or suspended pending compliance with this chapter. (Ord. 1884, eff. 6-11-1987)

3-10-8 INCENTIVE PROGRAM

(A) Intent: To encourage residents and businesses to conserve water, the following conservation incentive program has been established. This program applies to the purchase and installation on or after the effective date of this Ordinance, of devices to retrofit plumbing fixtures with high rates of flow, and to limit outdoor water use for landscaping purposes.

(B) All incentive awards require and are subject to the submittal of complete applications and determination of eligibility and qualifications by the City. Applications will be accepted only from the current property owner(s) of record.

(C) The incentive program is provided on a first come, first served basis, subject to the availability of budgeted funding. Applicants are responsible for confirming the availability of funding for incentive awards prior to submittal of their applications, which information can be obtained by contacting the Prescott Public Works Department. Total incentives granted for a property shall be limited to \$2,500.00.

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(D) Incentive awards will be credited on water bills for the applicable properties within three billing cycles after approval.

(E) Each item is a one-time award for the property, fixture or equipment as indicated, subject to City review, approval and issuance of permits where required.

(F) Incentives shall be administered by Water Resource Management Staff , in accordance with the following Incentive Award List.

Incentive Awards List and qualifying criteria:

INCENTIVE AWARDS LIST	
Water Efficiency Improvement Incentive	Incentive Award Amount
Rainwater cistern (Active Rainwater Harvesting)¹	\$0.50 per gallon of storage \$500.00 maximum award
Rain Garden (Passive)²	\$5.00 per square foot
Turf removal on-site and in adjacent public right-of-way³	\$0.50 per square foot
Toilet: 1.0 gpf or less gpf	\$100.00
Water Customer on Septic System, additional toilet replacement incentive	\$50.00
Commercial urinals (replacement alternative flushless design, flush once at a specified interval, or 1 quart/flush)	\$50.00

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WaterSense labelled Smart Irrigation Timer⁴	\$75.00
Clothes Washing Machine⁵	\$200.00

¹ Rainwater Cistern

Requires the installation of a minimum 100-gallon capacity rainwater catchment tank or engineered cistern. Rainwater storage systems may not be interconnected with the City potable water system. Requires receipts of purchase, and photos of installed cisterns. Applicants must contact the conservation office for guidelines prior to installation of the system.

² Rain Garden (Passive)

A minimum of 50 sq. ft. must be installed. A minimum of 400 sq. ft. of stormwater needs to be redirected from the roof. Only native plants may be planted in rain garden, but catchment may also be rock lined. Rebate is for basin footprint. Applicants must contact the conservation office for guidelines prior to installation of the system.

³ Turf Removal

Requires conversion from irrigated turf grass to water saving landscaping, and if irrigated, installation of an automatic water timer, backflow prevention device and drip or similar system. Applicants must contact conservation office for guidelines prior to removal of turf. Minimum turf removal areas are 200 square feet for residential and 1000 square feet for non-residential. Requires receipts of purchase, before, and after photos.

⁴Smart Irrigation Timer

Must use local weather data or soil moisture sensors to limit unnecessary outdoor watering, must be easy to use, and be EPA WaterSense approved.

⁵Ultra-Efficient Washing Machine

Washer must be on the City of Prescott Clothes Washer Qualifying Product List at the time of purchase to qualify.

(G) The City Manager may approve higher incentive award amounts when those incentives listed above are not sufficient to recognize the magnitude of conservation by the property. The City Manager may also provide

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conservation incentive awards for actions not listed above in the event those projects provide a significant benefit to the City due to the conservation achieved.

(Rep. by Ord. 4446, 12-21-2004; Added by Ord. 4527, 2-28-2006; Ord. 4691, 3-10-2009; Ord. 4759, 8-31-2010; Ord. 5002-1540, 9-13-2016)

3-10-9 SPRAY TYPE FOUNTAINS PROHIBITED:

The installation of any spray type fountains within the city of Prescott, or on property serviced by the Prescott water system, is hereby prohibited. Does not include small decorative fountains. (Ord. 2377, eff. 6-11-1992)

3-10-10 PROHIBITION AGAINST POTABLE WATER FLOWING UPON STREETS:

(A) It shall be unlawful for any person, firm or entity to allow potable water used for irrigation to flow into or upon a public street, alley, public right of way or adjoining property.

(B) If the irrigation water which is flowing in violation of the foregoing subsection is a direct result of an antiquated irrigation system as determined by the Public Works Director, the responsible individual shall provide to the Public Works Director a plan of implementation within sixty (60) days of issuance of the notice of violation. This implementation plan shall provide for the upgrade, modernization and/or repair of the irrigation system, together with specific time frames to accomplish same. The period to complete the implementation plan shall be as soon as possible given the nature and cost of the repairs and size of the system to be repaired, but in no event may it exceed thirty (30) months. Upon approval of the implementation plan by the Public Works Director the responsible individual or entity shall not be subjected to any civil sanctions pursuant to Section [3-10-12\(B\)](#) provided that upgrading modernization and/or repair is continuing in accordance with the time frames set forth in the implementation plan. The notice of violation and implementation plan shall be filed with the Yavapai County Recorder, and the requirements and time frames contained therein shall run with the land and shall become an obligation of any subsequent purchaser, owner or other person in possession of that property. (Ord. 2377, eff. 6-11-1992; amd. Ord. 3356, eff. 6-22-1995)

(C) Those persons, firms or entities who are irrigating slopes greater than two and one-half (2.5) horizontal to one foot (1') vertical are exempt from this section. (Ord. 2377, eff. 6-11-1992)

3-10-11 RESTRICTIONS DURING WATER SHORTAGES:

(A) The City Manager, upon the recommendation of the Public Works Director, is hereby authorized to declare water conservation levels. The conservation levels shall be initiated based upon the resources status

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which assesses the relationship between water demand and municipal safe production capability. The City Manager shall evaluate resource status levels on no less than a weekly basis.

(B) The following resource status levels are hereby prescribed:

1. Resource Status I. When water demand is equal to or less than safe production capability. "Safe production" shall be defined as a daily system demand of twelve million thirty thousand (12,030,000) gallons.
2. Resource Status II. When demand is greater than safe production capability for three (3) consecutive days.
3. Resource Status III. When demand is greater than safe production capability for two (2) consecutive weeks.
4. Resource Status IV. When water demand exceeds total production capability. "Total production capability" shall be defined as a daily system demand of thirteen million three hundred seventy thousand (13,370,000) gallons.

(C) The following water conservation levels shall govern the use of water by Prescott water users, as prescribed below:

1. Water Conservation Level I – Water Awareness. Water users are specifically encouraged to minimize waste in water used for irrigation, vehicle and pavement washing, construction and other water consuming activities.
2. Water Conservation Level II – Water Restrictions. The following water uses may be restricted or prohibited by the City Manager: irrigation; washing vehicles; filling or refilling pools, spas and/or wading pools; use of ornamental fountains; use of water from a fire hydrant (except for emergencies or upon the written approval of the Public Works Director and Fire Chief); the noncommercial washing of vehicles.
3. Water Conservation Level III – Water Emergency. The following water uses may be restricted or prohibited by the City Manager: those activities set forth in subsection (C)2 of this section.
4. Water Conservation Level IV – Water Crisis. The following water uses may be restricted or prohibited by the City Manager: those activities set forth in subsection (C)2 of this section; use

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of potable water for irrigation; use of potable water for dust control; and the use of potable water in violation of any other restriction deemed necessary by the City Council. (Ord. 2377, eff. 6-11-1992; amd. Ord. 3618, eff. 5-22-1997; amd. Ord. 3656, eff. 7-22-1997; Ord. 4864-1402, 7-23-2013)

3-10-12 PENALTIES:

(A) A violation of any provision of Sections [3-10-3](#), [3-10-5](#) and [3-10-9](#) shall be a civil violation and shall be subject to the provisions of Section [1-3-2](#) for each day that the violation continues.

(B) A violation of any provision of Section [3-10-10](#) or any rules, regulations, restrictions or prohibitions promulgated pursuant to Section [3-10-11](#) shall constitute a civil violation, which shall be subject to the provisions of Section [1-3-2](#) for each day that the violation continues; provided, however, that a second offense of a similar nature shall result in a mandatory minimum sanction of one hundred dollars (\$100.00), and a third offense of that section shall result in a mandatory minimum sanction of two hundred fifty dollars (\$250.00), which mandatory minimum sanctions shall not be waived. (Ord. 3656, eff. 7-22-1997)

3-10-13 SEVERABILITY:

The provisions of this chapter are declared to be severable, and if any section, sentence, clause or phrase of this chapter shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses or phrases of this chapter, but they shall remain in effect, it being the legislative intent that this chapter shall stand notwithstanding the invalidity of any part. (Ord. 687, 11-9-1964)

3-10-14 TIME OF DAY-OUTDOOR WATERING RESTRICTIONS:

(A) Time of day watering restrictions shall be effective during the period April 15 through November 1 of each year for all potable water customers of the City located within the City limits, during which period outdoor spray irrigation and airborne watering shall only be permitted during the hours between 8:00 p.m. and 8:00 a.m. daily.

(B) The Public Works Director may grant a written exception in such cases where serious hardship to the customer would result. A copy of all such exceptions shall be maintained on file, referenced by address, in the Public Works Department.

(C) Time of day-outdoor watering restrictions shall not apply to:

1. Water systems utilizing low volume drip irrigation watering.

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2. Sustaining decorative, containerized plants and commercial plant stock which are maintained for resale.
3. Visually supervised operation of watering systems for short periods of time to check system condition effectiveness.
4. Newly installed landscapes for a period of 90 days from the actual date of installation, and only where necessary to establish growth.
5. Supervised preparation, operation, maintenance, establishment, repair, or renovation of athletic fields of public parks or educational facilities, or other places used for public festivals and events."

(Ord. 4536, 4-11-2006)

3-10-15 RAINWATER HARVESTING PERMITTING REQUIREMENTS:

- (A) Any rainwater harvesting cistern at or above 1,000 gallons must be properly permitted with the City.
- (B) If 50 cubic yards or more of soil is moved for a passive rainwater harvesting system, a grading permit must be applied for and received.