

ORDINANCE NO. _____

AN ORDINANCE TO PROHIBIT THE WITHDRAWAL AND USE OF GROUNDWATER ON CERTAIN LANDS IN LITTLE ROCK, ARKANSAS, SO LONG AS THE CITY RETAINS THE ABILITY TO PROVIDE ADEQUATE SAFE WATER SUPPLIES TO THESE PROPERTIES; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, the Board of Directors of the City of Little Rock, Arkansas (the “City”) is authorized and empowered under the provisions of Ark. Code Ann. § 14-55-102 to create ordinances to provide for the safety and preserve the health of the inhabitants thereof; and,

WHEREAS, the Board of Directors has determined that regulation of the use of groundwater beneath certain lands is in the best interests of the City, and will protect the public health, safety and welfare; and,

WHEREAS, the City does not use groundwater as a source for public drinking water; and,

WHEREAS, the City accepts an indemnity agreement from Timex Group, Inc., as a condition for the implementation of this ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY OF LITTLE ROCK, ARKANSAS:

Section 1. Definitions.

(A) “Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity, or their legal representatives, agents or assigns.

(B) “Property” shall mean the Clinton Park Addition Block 13 (lots 1 through 8), Block 14; and Fairgrounds Block 12; and all parts of East 12th Street between Bannockburn Street and Apperson Street; all parts of East 11th Street between Inez Street (Hawkins) and Apperson Street; and all parts of Inze Street (Hawkins), Calhoun Street, and Apperson Street between East 11th Street and East 12th Street.

Section 2. Identification of Lands Subject to the Regulations of this Ordinance. A legal description of the Property is set forth on the attached Exhibit A and a depiction of such lands is set forth on the attached Exhibit B.

Section 3. Prohibition on Use of Groundwater.

(A) **Prohibition of Use of Groundwater Within the Identified Area.** The use of any and all currently existing groundwater wells within the identified area is prohibited for any purpose other than those exceptions listed in Section 3(B). All existing groundwater wells within the identified area, other

1 than those excepted under Section 3(B), shall be closed and abandoned pursuant to applicable
2 requirements within ninety (90) days of the effective date of this ordinance. The construction of new
3 groundwater wells within the identified area is prohibited for any purpose other than those exceptions
4 listed in Section 3(B). This prohibition shall be in effect upon the effective date of this ordinance and
5 shall remain in effect so long as the City, through Central Arkansas Water or some other entity through
6 which the City obtains water for its citizens, is able to provide water to the Property.

7 (B) **Exceptions for Monitoring and Remediation.** This ordinance shall not apply to wells
8 constructed or used for purposes of investigation, monitoring, removal, and/or remediation of any
9 subsurface contamination or suspected subsurface contamination pursuant to an order of, or with the
10 consent of, the City or any State or Federal Regulatory Agency.

11 **Section 4. Penalties for Violations and Noncompliance.** Any person who is found to have violated
12 this ordinance shall be fined. The maximum fine per violation shall be Five Hundred Dollars (\$500.00).

13 **Section 5. No impact on private party rights.** Nothing in this ordinance alters the rights of any private
14 party with respect to any other private party.

15 **Section 6. Certified Copy of Ordinance to be Filed.** A certified copy of this ordinance, with an
16 executed copy of the indemnity agreement between the City and Timex Group U.S.A., Inc., shall be filed
17 with the Pulaski County Clerk.

18 **Section 7. Severability.** In the event any title, section, paragraph, item, sentence, clause, phrase or word
19 of this ordinance is declared or adjudged to be invalid or unconstitutional such declaration or adjudication
20 shall not affect the remaining portions of the ordinance which shall remain in full force and effect as if the
21 portion so declared or adjudged invalid or unconstitutional were not originally a part of the ordinance.

22 **Section 8. Repealer.** All laws, ordinances, resolutions, and parts of the same that are inconsistent with
23 the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

24 **Section 9. Emergency Clause.** *The City has previously declared the importance of assuring the health,
25 safety, and welfare of any person using the groundwater beneath certain lands in the City. The ability to
26 assure the compliance of all landowners with this regulation of the use of groundwater beneath certain
27 lands in the City is essential to the health, safety and welfare; therefore, an emergency is hereby declared
28 to exist, and this ordinance shall be in full force and effect from and after its passage and approval, and
29 the execution of a binding and appropriate indemnity agreement.*

30 **PASSED: November 15, 2016**

31 **ATTEST:**

APPROVED:

32
33 _____
34 **Susan Langley, City Clerk**

32
33 _____
34 **Mark Stodola, Mayor**

1 **APPROVED AS TO LEGAL FORM:**

2

3

4 **Thomas M. Carpenter, City Attorney**

5 //

6 //

7 //

8 //

9 //

10 //

11 //

12 //

13 //

14 //

15 //

16 //

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //

29 //

30 //

31 //

32 //

33 //

34 //

35 //