

ORDINANCE NO. 2007-14

**AN ORDINANCE DECLARING THE UNAUTHORIZED,
UNAPPROVED OR UNPERMITTED TAKING OR USE
OF CLINTON CITY WATER WITHOUT PAYMENT
THEREFORE OR WITHOUT APPROVAL OF THE CITY
OF CLINTON TO BE CLASSIFIED AS THEFT OF
SERVICES; PROSCRIBING THE PENALTIES
THEREFORE, DECLARING AN EMERGENCY
AND FOR OTHER PURPOSES**

WHEREAS, the City of Clinton has experienced a considerable loss of water from the Clinton Water System with said amounts of water loss varying from month to month; and,

WHEREAS, the City of Clinton has determined that a substantial portion of the water loss is directly attributable to the unauthorized taking of water from hydrants or other sources, without notice to the City of Clinton and without authorization from the City of Clinton, and that the City of Clinton has not been paid for the water that was misappropriated; and,

WHEREAS, Arkansas state law has criminalized Theft of Services pursuant to Ark. Code Ann. §5-36-104 and created both felony and misdemeanor offenses for the violation thereof; and,

WHEREAS, Ark. Code Ann. §14-55-502 authorizes cities to proscribe penalties for violations of city ordinances similar to state law provided that

the penalties therefore shall not be less than those provided for by state law;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLINTON, ARKANSAS:

Section 1. It shall be unlawful and a violation of this Ordinance for any person, company, corporation, partnership, limited liability company or any other business entity of any kind, any government or agency or subdivision thereof or any person acting for any government or agency or subdivision thereof, or any person acting as an agent or representative or contractor of any of the forgoing to take any water from the Clinton Water System without having first received authorization therefore from the City of Clinton and having made arrangements for payment of the price of the water to be taken.

Section 2. This Ordinance shall apply to all water in the Clinton Water System whether it is taken from a hydrant, line, tower, pool, holding facility, treatment facility or any other place where the City of Clinton's water is treated, held, stored, piped, conveyed or released.

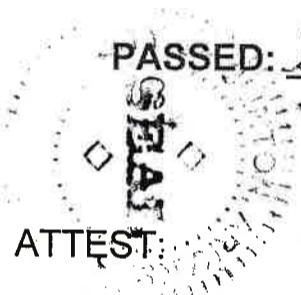
Section 3. A violation of this Ordinance shall be deemed a Theft of Services as defined by Ark. Code Ann. §5-36-104 and the provisions of said statute are incorporated herein.

Section 4. Any person or entity found guilty of having violated this Ordinance shall be fined not less than One Thousand Dollars (\$1000.00) and not more than Five Thousand Dollars (\$5000.00) per occurrence. For purposes of this Ordinance each separate removal of water in violation

hereof shall be deemed an occurrence regardless of the amount of water taken each time.

Section 5. Nothing in this Ordinance shall prevent, or be construed as preventing, the City of Clinton from pursuing all available civil legal remedies to recover the value of the water taken from the system without permission or payment.

Section 6. The maintenance and accountability of the Clinton Water System to the citizens of the City of Clinton and the authorized users of the water provided by the Clinton is essential to both the public welfare and to the creation and setting of appropriate water rates necessary to deliver the water desired by the City's water customers. The unauthorized taking or theft of water from the system jeopardizes the City's ability to deliver clean, potable drinking water, at an equitable rate. Therefore an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after its approval and publication as required by law.



PASSED: September 13, 2007

Roger L Rorie
Roger Rorie, Mayor

ATTEST:

Merl Eoff
Merl Eoff, Recorder/Treasurer/Clerk, CMC

APPROVED AS TO LEGAL FORM:

Brad A. Cazort, City Attorney