



**DECLARATION NO. 2021-03**

**DECLARATION OF THE MAYOR AND TOWN COUNCIL  
OF THE TOWN OF KEARNY, ARIZONA, DECLARING A  
TOWN STATE OF EMERGENCY AS IT RELATES TO  
WATER USAGE OF THE TOWN'S DOMESTIC WATER  
SYSTEM AND SUPPLY**

**WHEREAS**, the Town of Kearny's municipal rights to supply water to its residents is subject to the issuance of apportionments of the natural flow of the Gila River by the Globe Equity Commissioner which are issued on a yearly basis; and

**WHEREAS**, the Town of Kearny's apportionment rights have a maximum apportionment right of 610.38-acre feet on a yearly basis; and

**WHEREAS**, the Town of Kearny's apportionment rights are subject to the availability of water stored in Coolidge dam and are reduced when there is not sufficient stored water available for apportionment; and

**WHEREAS**, Coolidge Dam has the capacity to store approximately 910,000-acre feet of Gila River water; and

**WHEREAS**, as of May 10, 2021, there was approximately 68-acre feet of Gila River water stored at Coolidge Dam; and

**WHEREAS**, on February 11, 2021, the Gila Water Commissioner issued apportionment No. 2-2021 in which the Town of Kearny was issued a reallocated apportionment in the amount of 61.038-acre feet of sub flow surface water from the Gila River for 2021;

and

**WHEREAS**, it is currently unlikely that there will be additional apportionments until the "Monsoon Season" begins in Central Arizona; and

**WHEREAS**, on March 7, 2005, the Kearny Town Council approved Town Ordinance No. 05-165.01, adding Section 16-11 to the Kearny Town Code; creating a Water Conservation Plan for the Town of Kearny; and

**WHEREAS**, on March 7, 2005, the Kearny Town Code Section 16-11-4 to the Kearny Town Code, the Town Manager upon recommendation of the Town Public Works Director and on consent of the Mayor is allowed to declare an emergency and institute water conservation orders in the Town of Kearny; and

**WHEREAS**, on April 8, 2021 the Mayor of the Town of Kearny declared a local emergency and adopted Emergency Declaration 2021-01 declaring the Town of Kearny to be at *Water Conservation Level 4WE: Severe Water Restrictions*; and

**WHEREAS**, on April 19, 2021, the Kearny Town Council ratified Emergency Declaration 2021-01; and

**WHEREAS**, since the imposition of Emergency Declaration 2021-01, the Town has been in consultation with the Gila River Water Commissioner and other entities which are parties to Globe Equity Decree to determine the amount of Gila River water which Kearny is entitled to receive and the ability to do exchanges for delivery of Central Arizona Project water to Globe Equity parties to offset any potential violation of the Town under the Globe Equity Decree.

**WHEREAS**, on May 11, 2021 the Mayor of the Town of Kearny declared a local emergency and adopted Emergency Declaration 2021-2 declaring the Town of Kearny to be at *Water Conservation Level 3WE: Strict Water Restrictions*; and

**WHEREAS**, on May 17, 2021, the Kearny Town Council ratified Emergency Declaration 2021-02; and

**WHEREAS**, it is necessary and appropriate to take action to ensure there is sufficient water available for the residents of the Town of Kearny to remain safe and healthy; and

**WHEREAS**, the Mayor of the Town of Kearny is authorized by the Kearny Town Code Section 2-2-4(F) POWERS AND DUTIES OF THE MAYOR, Section 16-11-4 and by A.R.S. § 26-311 to declare a continuing emergency; and

**WHEREAS**, during an Emergency, the Mayor shall govern by Declaration and have the authority to preserve the peace and order of the Town of Kearny as it relates to the use of water; and

**NOW, THEREFORE I**, Jamie Ramsey, Mayor of the Town of Kearny by virtue of the authority vested in me by the Constitution and Laws of the State, specifically A.R.S. §§ 26-311 and Kearny Town Code Sections 2-2-4(E) and 16-11, do hereby Proclaim and Order:

1. A public health and safety emergency continues to exist in the Town of Kearny.
2. Pursuant to Section 16-11 of the Kearny Town Code, a severe water shortage and emergency exists.
3. Pursuant to Kearny Town Code Section 16-11-4 the Town's Emergency Water Conservation Level 3WE is modified to Water Conservation Level 2 E effective immediately:

*Water Conservation Level 2WE: Moderate Water Reductions.* The following water uses are restricted or prohibited. In addition to the restrictions set forth in Subsection 1 above, no person shall:

- i. Voluntarily restrict non-essential water usage, including but not exclusive to vehicle washing, irrigation, refill pools, spas, or wading pools.
- ii. Residences, businesses, and other Town of Kearny Utilities customers whose respective addresses end in the numbers zero (0), two (2), four (4), six (6), or eight (8) shall not irrigate landscaping, with the exception of the 2<sup>nd</sup>, 4<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup>, 10<sup>th</sup>, 12<sup>th</sup>, 14<sup>th</sup>, 16<sup>th</sup>, 18<sup>th</sup>, 20<sup>th</sup>, 22<sup>nd</sup>, 24<sup>th</sup>, 26<sup>th</sup>, 28<sup>th</sup>, and 30<sup>th</sup> days of the month, where irrigation shall be permitted.
- iii. Residences, businesses, and other Town of Kearny Utilities customers whose respective addresses end in the numbers one (1), three (3), five (5), seven (7), and nine (9) shall not irrigate landscaping, with the exception of the 1<sup>st</sup>, 3<sup>rd</sup>, 5<sup>th</sup>, 7<sup>th</sup>, 9<sup>th</sup>, 11<sup>th</sup>, 13<sup>th</sup>, 15<sup>th</sup>, 17<sup>th</sup>, 19<sup>th</sup>, 21<sup>st</sup>, 23<sup>rd</sup>, 25<sup>th</sup>, 27<sup>th</sup>, and 29<sup>th</sup> days of the month, where irrigation shall be permitted.

The public is encouraged to continue to mitigate the effects of a drought by using water conservation practices.

4. Any enforcement of the Declaration shall focus first on educating and working to promote best practices to accomplish the goal of water conservation and mitigation. Before any enforcement action is taken to enforce this Order under A.R.S. § 26-317 and Kearny Town Code 16-11-11(a class 1 misdemeanor), a person shall be notified and given an opportunity to comply. Thereafter, all enforcement matters shall be referred to the Town Prosecutor for a determination of charges.
5. If any provision of this Declaration or its application to any person or circumstance is held to be invalid by a court of competent jurisdiction, this invalidity affects no other provision or application of this Declaration. Those provisions that remain valid shall be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Declaration are declared to be severable.
6. This Declaration shall remain in full force and effect until midnight December 31, 2021 unless extended or modified by the majority vote of the Town of Kearny Mayor and Town Council.

**DECLARED AS AN EMERGENCY MEASURE BY THE MAYOR OF THE TOWN OF KEARNY, ARIZONA this 23<sup>rd</sup> day of August 2021.**

**TOWN OF KEARNY**

  
**JAMIE RAMSEY, MAYOR**

**ATTEST:**

  
**AMANDA KENNEY, INTERIM TOWN CLERK**

**APPROVED AS TO FORM:**

  
**STEPHEN R. COOPER, TOWN ATTORNEY**