

ORDINANCE No. _____

AN ORDINANCE TO AMEND AND REORDAIN EMERGENCY ORDINANCE NO. 196 IMPLEMENTING THE GOVERNOR OF VIRGINIA’S EXECUTIVE ORDER 33, DECLARING A WATER SUPPLY EMERGENCY PURSUANT TO VIRGINIA CODE SECTION 15.2-924 AND TO ADOPT RESTRICTIONS FOR OUTDOOR WATER USE; TO PROVIDE PENALTIES FOR A VIOLATION THEREOF; AND TO REPEAL ORDINANCE NO. 116A-33 DEALING WITH OUTDOOR WATERING AND RESTRICTIONS ON OUTDOOR WATER USE.

Whereas, the Commonwealth of Virginia, the Hampton Roads Area and the County of James City have experienced an extended period of drought and the level of surface water impoundments, rivers, underground aquifers, and other drinking water sources have declined substantially; and

Whereas, August 30, 2002, the Governor of Virginia has issued Executive Order 33 (2002) which prohibits many uses of surface water and groundwater, including but not limited to watering lawns, washing vehicles, filling swimming pools, irrigating golf courses (with certain limited exceptions for each) and;

Whereas, the Governor’s Executive Order 33 (2002) authorizes localities to “establish, collect and retain fines for violation of these restrictions”; and

Whereas, on July 23, 2002, the Board of Supervisors of James City County adopted Ordinance 116A-33 restricting outdoor water use; and

Whereas, pursuant to Virginia Code Section 15.2-924, the Board of Supervisors of James City County, Virginia, is empowered to declare that a water supply emergency exists and adopt restrictions on the use of outdoor water is necessary in order to protect the health, safety, and welfare of the citizens of the County of James City.

Now, therefore, be it ordained by the Board of Supervisors of James City County, that:

Section 1. Declaration of emergency affecting water supply.

Due to the decreased level of above ground and underground water supplies affecting the public water systems serving county residents and the anticipated demand for water in the immediate future, and due to the Governor's Executive Order 33 (2002), the Board of Supervisors of James City County hereby declares and finds that a water supply emergency exists which necessitates the adoption of this ordinance mandating restriction on the use of water in the county under the terms and condition set forth herein.

Section 2. Definitions.

The following words and phrases, when used in this ordinance, shall have the meaning ascribed to them below, except in those instances where the context clearly indicates a different meaning:

Assessment date: The date of the notice imposing the fine for a violation of this ordinance.

Lawn: Grass areas of any property, including residential, commercial or industrial areas, but excluding agricultural fields and athletic fields.

New or refurbished lawn or fairway: a new lawn or fairway under construction or disturbing and overseeding existing lawn area or fairway area.

Person: Any individual, corporation, partnership, association, company, business, trust, joint venture or other legal entity.

Vehicle: A motor vehicle or semi-trailer as defined in Virginia Code Section 46.2-100, which requires titling and registration pursuant to Virginia Code Section 46.2-600 et. seq.

Section 3. Mandatory surface and ground water use restriction measures.

All persons and households in the county shall limit their use of water, which includes water from the public water system, and ground water consistent with the Executive Order, and in accordance with this section:

1. Lawns. Watering of lawns is prohibited at all times. New or refurbished lawns may be watered for a period not to exceed 30 days.

2. Vehicle Washing. Vehicle washing by persons other than commercial car washes is prohibited at all times. Commercial car washes, auto dealers, body shops and car rental agencies are permitted to operate under normal conditions.

3. Swimming Pools. Filling is prohibited at all times, with the exception of pools used by health care facilities for patient care and rehabilitation, which are permitted to operate under normal conditions. New or repaired pools may be filled as needed to maintain the structural integrity of the pool. Indoor pools may be filled as necessary to ensure swimmer health and safety.

4. Golf Courses. Watering of tees and greens is permitted daily between the hours of 8:00 p.m. and 8:00 a.m. All other watering is prohibited at all times, except that new and refurbished fairways may be watered for a period not to exceed 30 days and the hand watering of greens by means of a hose with an automatic shut-off nozzle which is continuously attended.

Section 4. When restrictions go into effect.

The water use restrictions set forth in this ordinance shall take effect immediately.

The water use restrictions shall remain in effect so long as the Executive Order remains in full force and effect.

Section 5. Violation.

It shall be a violation of this ordinance for any person to use water, or allow or cause the use of water, in violation of the provisions of this ordinance.

Section 6. Penalty.

a. Any person who violates any provision of this ordinance shall be subject to the following fines:

- 1) For the first offense, violators shall receive a written warning.*
- 2) For the second offense, violators shall be fined \$50.00.*
- 3) For the third offense, violators shall be fined \$100.00.*
- 4) For the fourth offense and subsequent offense, violators shall be fined \$250.00.*
- 5) Each violation by a person shall be counted as a separate violation by that person, irrespective of the location at which the violation occurs.*

- b. The county, or its designee, shall serve the written warning or assessment of fine by either:*
- 1) Hand delivering the document to the violator or other adult occupying or employed by a business on the property where the violation occurred; or*
 - 2) Posting the document on the front door of the primary structure and mailing, by first class U.S. Mail, a copy of the document to the owner of record at the current mailing address contained in the county's real estate assessment records for the property where the violation occurred.*
- c. Persons who have been assessed a fine shall have the right to challenge the assessment by providing a written notice to the county administrator within ten (10) days of the date of the assessment of the penalty. The county administrator or his designee shall determine whether the fine was properly assessed and notify the complaining person in writing of his determination. Should the county administrator or his designee determine that the fine was properly assessed, the person may challenge that determination within ten (10) calendar days of receiving the notice of determination by filing an action in court.*
- d. The county administrator or his designee may waive the penalty if he determines that the violation occurred due to no fault of the person.*

Section 7. Supersede prior ordinance.

That this ordinance shall supersede and replace Ordinance No. 116A-33, adopted by the Board of Supervisors on July 23, 2002, for such time as this ordinance is effective.

Section 8. Severability.

That the provisions of this ordinance are severable, and the invalidity of any provision in the ordinance, as determined by a court of competent jurisdiction, shall not affect the validity of any other provision in the ordinance.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of October, 2002.

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