

AT A SPECIAL MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 10TH DAY OF SEPTEMBER, 2002, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

James G. Kennedy, Chairman, Stonehouse District
Jay T. Harrison, Sr., Vice Chairman, Berkeley District

John J. **McGlennon**, Iamestown District
Michael J. Brown, **Powhatan** District
Bruce C. **Goodson**, Roberts District

Sanford B. Wanner, County Administrator
Frank M. Morton, **III**, County Attorney

B. BOARD CONSIDERATION

Mr. Larry Foster, General Manager of the James City Service Authority, provided a brief history of the County's drought management **efforts** and weather conditions during the **summer**, and stated that major portions of the Commonwealth continue to experience extreme drought conditions that have resulted in **Executive Order 33** by the Governor on August **30, 2002**.

Mr. Foster stated that as a result of Executive Order **33**, a local Emergency Ordinance is necessary to implement **the** Governor's Order. A draft Ordinance has been provided to the Board for its consideration.

Mr. Foster provided a brief overview of the exemptions to Executive Order **33**, the recommended penalties for violating **the** draft Emergency Ordinance, and recommended the Board adopt the Emergency Ordinance.

Mr. Morton stated that **the** Executive Order superceded only those restrictions of the County's local Ordinance that are less restrictive than the Executive Order.

The Board and staff held a discussion regarding the repeal of the **odd/even** water restrictions, offense penalties that a permanent Ordinance will be presented to the Board at its meeting on October **22, 2002**; enforcement of the Ordinance and collection of the penalties; the proposal that the offense penalties to be consistent with the proposed penalties for the Cities of **Williamsburg** and **Newport News**; and enforcement of the restrictions for citizens served by private systems, private wells, and other localities **such as Newport News Waterworks**.

Mr. **McGlennon** requested additional **information** regarding the Cbickahominy-Piney Point Aquifer, well failures requiring mitigation, and well failures outside the impact area **of the** James City Service Authority.

Mr. Foster provided the Board with information regarding U.S.G.S. graph showing the decline of the **Chickahominy-Piney Point** Aquifer at a rate of about 1-1 ½ foot per year. He stated that about 46 wells have

been approved for mitigation, that well mitigation efforts are being addressed jointly with York County, and that all wells within the **Chickahominy-Piney** Point Aquifer qualify for consideration for well mitigation.

Mr. Kennedy requested **information** on the number of car washes in the County that do not recycle water.

Mr. Foster stated ~~the~~ all the car washes in the County recycle water.

The Board and staff considered the need for additional phrasing revisions to the proposed Ordinance prior to the Board considering a motion on the Ordinance.

The Board and **staff** held a discussion regarding the offense penalty amounts, guidance **from** the Governor's Office, the limited warnings to citizens prior to penalties being assessed, steps for processing a violation, and exemptions.

Mr. Morton briefly provided an **overview** of the violation notification and penalty process.

Mr. **Goodson** made a motion to adopt the Emergency Ordinance.

Mr. Brown made a request to amend ~~the~~ motion to include ~~the~~ reduction of the penalties to \$50 for the second offense, **\$100** for the third offense, and \$250 for the **fourth** and subsequent offenses.

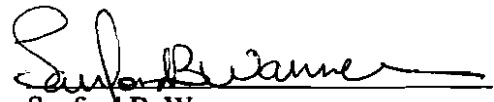
Mr. **Goodson** accepted the amendment into his motion.

On a roll call vote, the vote was: AYE: **McGlennon**, Brown, **Goodson**, **Harrison**, Kennedy (5) NAY: (0).

The Board and **staff** **briefly** discussed the anticipated **financial** impacts of water sales and demands on the James City **Service** Authority based upon the Governor's Executive Order 33.

C. ADJOURNMENT

At 5:10 p.m. Mr. Kennedy and the Board took a dinner break until 7:00 p.m.


Sanford B. Wanner
Clerk to the Board

SEP 10 2002

EMERGENCY ORDINANCE No. 196BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

EMERGENCY ORDINANCE IN ACCORDANCE WITH THE GOVERNOR OF VIRGINIA'S EXECUTIVE ORDER 33, FOR DECLARATION OF A WATER SUPPLY EMERGENCY PURSUANT TO VIRGINIA CODE SECTION 15.2924 AND TO ADOPT RESTRICTIONS FOR OUTDOOR WATER USE AND TO PROVIDE PENALTIES FOR A VIOLATION THEREOF

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:

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Assessment date: ~~The~~ date of the notice imposing ~~the fine~~ for a violation of **this Ordinance**.

Lawn: Grass areas of any property, includii 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, except that such **businesses** may not **wash corporate** fleet vehicles.
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 rest ctions go into effect.

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

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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 **fin**es:
 - 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 **fin**ed **\$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

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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.

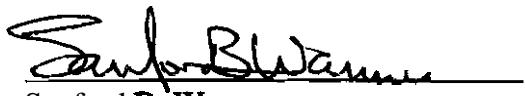
Section 8. Severability.

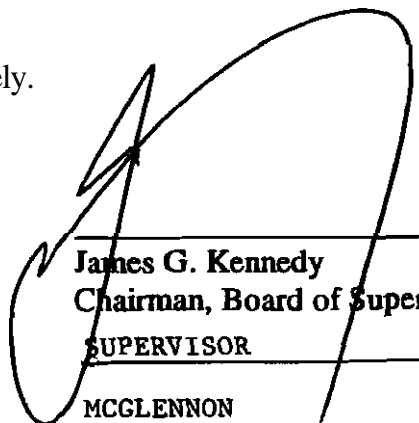
That the provisions of this Ordinance are severable, and the invalidity of any provision in the Ordinance, **as determined** by a court of competent jurisdiction, shall not **affect** the validity of any other provision in the Ordinance.

Sec. 9. Effective Date.

That this Ordinance shall take effect immediately.

ATTEST:


Sanford **B. Wanner**
Clerk to the Board

	
James G. Kennedy Chairman, Board of Supervisors	
SUPERVISOR	VOTE
MCGLENNON	AYE
BROWN	AYE
GOODSON	AYE
HARRISON	AYE
KENNEDY	AYE

Adopted by the Board of Supervisors of James City County, Virginia, **this 10th** day of September, 2002.