

**ORDINANCE #11-03
AMEND SECTION 78-192
WATER EMERGENCIES AND CONSERVATION**

WHEREAS, the Board of Supervisors of King William County, Virginia has received a request to amend and update Chapter 78 (Utilities) of the King William County Code to be consistent with Virginia State Water Control Board Regulation 9 VAC 25-780, Local and Regional Water Supply Planning; and

WHEREAS, guidance received from the VA Department of Environmental Quality regarding the adoption of a regional water supply plan and the subsequent issuing or renewal of groundwater withdrawal permits by the VA Department of Environmental Quality indicates the need to amend and update Section 78-192, Water Emergencies and Conservation; and

WHEREAS, the request is specifically to amend Section 78-192, Water Emergencies and Conservation; and

NOW, THEREOFRE, BE IT ORDAINED AND ENACTED, that the Board of Supervisors of King William County, Virginia, does hereby amend and readopt Section 86-499 of the King William County Code to read as follows:

Section 78-192. Water Emergencies and Conservation

(a) *Application and authority to declare water emergency; notice of impending shortage.* For purposes of this section, unless the context clearly requires a contrary meaning, the term "water" shall mean potable water withdrawn from any water utility system that is owned and/or operated by the County of King William or by a purveyor distributing water within the County for a fee or charge.

In the event of an actual or anticipated shortage of potable water due to climatic, hydrological, mechanical and/or other extraordinary conditions, the County of King William may determine that certain uses of water should be reduced, restricted, curtailed and/or prohibited. These reductions, restrictions, curtailments and/or prohibitions are intended to protect the health, safety and welfare of the residents of the County of King William.

The county administrator, with the approval of the board of supervisors, or with subsequent ratification by the board at its next scheduled regular or special meeting, is authorized to declare a water emergency in the county or in portions thereof, and restrict the use of water as set forth in this section.

The County of King William, in cooperation with other jurisdictions of the Middle-Peninsula Water Supply Planning Region, will monitor the U.S. Drought Monitor operated by the U.S. Geological Service. When the USGS Drought Monitor registers a condition "D1-Moderate Drought" for the County of King William, the county administrator shall declare a Drought Watch alert for all water systems addressed by this ordinance and take appropriate steps to increase public

awareness of the potential for a significant drought event and the potential water conservation measures that may have to be implemented after further public notice.

(b) *Water conservation measures.* Should conditions continue to deteriorate and after the declaration of a water emergency the county administrator shall take the following actions as necessary according to the circumstances:

(1) When the onset of a significant drought is imminent and when moderate but limited supplies of water are available, or when a "D2-Severe Drought" condition is registered on the USGS Drought Monitor, the county administrator through appropriate means shall call upon the affected population and entities to employ prudent restraint in water usage and to conserve water voluntarily by whatever methods available and shall identify voluntary conservation measures that can be expected to reduce usage by five to ten percent.

(2) The county administrator is further authorized during a water emergency for which voluntary measures would be insufficient, to order the restriction or prohibition of any or all of the following water uses:

a. Watering of outside shrubbery, trees, lawns, grass, plants, home vegetable gardens, or any other vegetation except from a watering can or other container not exceeding five gallons in capacity. This limitation shall not apply to commercial greenhouses, nursery stocks and sod growing, which may be watered in the minimum amount required to preserve plant life between 6:00 p.m. and 8:00 a.m.

b. Washing of automobiles, trucks, trailers, or any other type of mobile equipment, except in licensed commercial vehicle wash facilities.

c. Washing of sidewalks, streets, driveways, parking lots, service station aprons, exteriors of homes or apartments, commercial or industrial buildings or any other outdoor surface, except where mandated by federal, state or local law.

d. The operation of any ornamental fountain or other structure making a similar use of water.

e. The filling of swimming or wading pools requiring more than five gallons of water, or the refilling of swimming or wading pools that were drained after the effective date of the declaration of emergency, except that pools may be filled to a level of two feet below normal, or water may be added to bring the level to two feet below normal, or as necessary to protect the structure from hydrostatic damage.

f. The use of water during outdoor recreational activities. This limitation shall not apply to water utilized for drinking and sanitary purposes during such activities.

g. The use of water from fire hydrants for any purposes other than fire suppression and related training exercises, unless otherwise approved by the county administrator.

h. The serving of drinking water in restaurants, except upon request.

i. The operation of any water-cooled comfort air conditioning that does not have water-conserving equipment in operation.

(3) In addition to the restrictions and prohibitions authorized under subsection (2) above, the county administrator is authorized during a water emergency to implement any or all of the following as necessary:

a. For any publicly owned and operated public water utility:

i. Industrial, institutional, commercial, governmental, wholesale and all other nonresidential customers may be allotted a percentage reduction based on that customer's average monthly water consumption for the same billing period of the previous calendar year's consumption.

ii. Individual residential customers may be limited to a specific volume or percentage reduction of water per month.

If the allotted monthly water usage, as determined in subsection (3)a.i. and (3)a.ii. above, is exceeded, the customer shall be charged two times the existing service rate for consumption over the minimum monthly charge for every 1,000 gallons of water or fraction thereof consumed above the allotted volume. Where prior consumption data is not available, the county administrator shall estimate allocations based upon the data available from similar activities of equal intensity.

iii. Declaration of a moratorium on new and expanded connections to the public water utility system, unless such connections are primarily intended and designed to provide fire protection and/or potable drinking water to lawfully permitted residential or nonresidential buildings that are existing or substantially constructed at the time that a water emergency is declared.

b. For any privately owned and operated public water supply:

The system operator shall be required to demonstrate on a monthly schedule, compliance with the capacity requirements set forth by the Virginia Department of Health.

(4) When water supplies are critically limited, the county administrator is authorized to restrict the use of water to purposes which are absolutely essential to life, health and safety. Such permitted uses of water may

include, but may not be limited to, the provision of limited quantities of water for drinking and sanitation purposes to residents, health care facility patients and/or emergency shelter evacuees, who are unable to utilize their potable water supplies due to the loss of electrical power, storm events or other natural or manmade causes.

(c) *Failure to address leaks.* It shall be unlawful for the owner of any residential unit or units, or the owner of any commercial or industrial establishment which is found to be an excessive user of water due to leakage from waterlines or plumbing fixtures on the premises, to fail to take immediate action to repair and to stop such leakage after being so ordered by the county administrator or his agent.

(d) *Effective date.* The imposition of any of the restrictions set forth in this section shall become effective upon their being printed in any newspaper of general circulation in the County of King William, or broadcasted upon any radio or television station serving the County of King William.

(e) *Exemptions.* Upon implementation of subsections (b)(2), (b)(3) or (b)(4) above, the county administrator shall establish an appeals procedure to review customer applications for exemptions from the restrictions imposed on a case-by-case basis and, if warranted, to make equitable adjustments to such provisions. The county administrator is empowered to establish regulations governing the granting of temporary exemptions applicable to specific restrictions. The county administrator shall, in rendering a decision on exemption requests, balance economic and other hardships to the applicant resulting from the imposition of water use restrictions or allocations against the individual and cumulative impacts to the water supply resulting from the granting of such exemptions and may impose reasonable conditions to ensure compliance with the terms of any exemption.

Any person seeking an exemption may appeal the county administrator's decision to the board of supervisors. The appeal shall be in writing and shall be submitted to the county administrator, as agent for and clerk to the board of supervisors.

The county administrator may issue temporary waivers or exemptions within the provisions of this subsection for such periods of time as may be necessary for the board of supervisors to formally consider action on the appeal.

The board of supervisors shall render a decision on the appeal and may: affirm, with or without modification, the county administrator's decision; or approve the requested exemption, with or without modification. The board of supervisors may impose reasonable conditions to ensure compliance with the terms of any exemption granted hereunder.

(f) *Penalty for violations.* Any person who shall violate any of the provisions of this section, or of any of the conservation regulations promulgated pursuant thereto, shall, upon conviction thereof, be subject to the penalties provided in

section 78-190. Each act or each day's continuation of a violation shall be deemed a separate offense.

In addition to the foregoing, the county administrator may suspend public water utility service to any person continuing to violate the provisions of this ordinance or the regulations promulgated hereunder.

If such public water utility service is terminated, the person shall pay a reconnection fee of \$50.00 before service is restored.

(g) *Declaration of end of water emergency.* The county administrator shall notify the board of supervisors when, in his opinion, the water emergency no longer exists. Upon concurrence of the board of supervisors, the water emergency shall be declared to have ended.

(Ord. of 7-23-2007(1))

C. Thomas Redd III
Chairman, Board of Supervisors

Those members voting:

S. K. Greenwood _____
T. J. Moskalski _____
T. S. Stone _____
O. O. Williams _____
C. T. Redd III _____

Adopted this _____ of _____, 2012

Copy Teste:

Trenton L. Funkhouser
County Administrator

Sec. 78-192. - Water emergencies and conservation.

(a) *Purpose and authority to declare water emergencies.* For purposes of this section, unless the context clearly requires a contrary meaning, the term "water" shall mean potable water withdrawn from any water utility system that is owned and/or operated by the County of King William.

In the event of an actual or anticipated shortage of potable water due to climatic, hydrological, mechanical and/or other extraordinary conditions, the County of King William may determine that certain uses of water should be reduced, restricted, curtailed and/or prohibited. These reductions, restrictions, curtailments and/or prohibitions are intended to protect the health, safety and welfare of the residents of the County of King William.

The county administrator, with the approval of the board of supervisors, or its subsequent ratification by the board within 48 hours is authorized to declare water emergencies in the county, as a whole or portions thereof, affecting the use of water.

A Drought Emergency declaration will be issued after consideration of the conditions of individual affected systems. The County Administrator may order mandatory restrictions on water use in response to specific conditions, such as when any system exceeds 90 percent of the permitted capacity for 3 consecutive months. The County Administrator may intervene to declare a drought emergency for privately-owned systems if the private system operation is unable to restrict water usage when needed.

(b) Drought monitoring to anticipate water emergency conditions. The County of King William, in cooperation with other jurisdictions of the Middle-Peninsula Water Supply Planning Region, will monitor the U.S. Drought Monitor operated by the U.S. Geological Service and made available through DEQ's website at: <http://www.deq.virginia.org/waterresources/drought.php>. When the USGS Drought Monitor registers a condition "D1-Moderate Drought" for the County of King William, the County Administrator shall declare a Drought Watch alert for all water systems addressed by this ordinance.

(c) *Water conservation measures.* After the declaration of a water emergency under the authority provided by Virginia Code Sections 15.2-923 and 15.2-924, and upon a determination by the county administrator of the existence of the following one or more conditions, the county administrator shall take the following actions which shall apply to any person whose water supply is furnished from an affected water utility system:

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(1) *Condition 1 (Drought Warning).* When moderate but limited supplies of water are available, or when a "D2-Severe Drought" condition is registered on the USGS Drought Monitor, the county administrator may, through appropriate means, call upon the affected population and entities to employ prudent restraint in water usage and to conserve water voluntarily by whatever methods available.

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(2) *Condition 2 (Drought Emergency).* The county administrator is hereby further authorized during the duration of a water emergency for which voluntary measures would be insufficient to order the restriction or prohibition of any or all of the following water uses by users of an identified, affected water system after consultation with the affected water system owner/operator:

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a. Watering of outside shrubbery, trees, lawns, grass, plants, home vegetable gardens, or any other vegetation except from a watering can or other container not exceeding five gallons

in capacity. This limitation shall not apply to commercial greenhouses, nursery stocks and sod growing, which may be watered in the minimum amount required to preserve plant life between 6:00 p.m. and 8:00 a.m.

b. Washing of automobiles, trucks, trailers, or any other type of mobile equipment, except in licensed commercial vehicle wash facilities.

c. Washing of sidewalks, streets, driveways, parking lots, service station aprons, exteriors of homes or apartments, commercial or industrial buildings or any other outdoor surface, except where mandated by federal, state or local law.

d. The operation of any ornamental fountain or other structure making a similar use of water.

e. The filling of swimming or wading pools requiring more than five gallons of water, or the refilling of swimming or wading pools that were drained after the effective date of the declaration of emergency, except that pools may be filled to a level of two feet below normal, or water may be added to bring the level to two feet below normal, or as necessary to protect the structure from hydrostatic damage.

f. The use of water during outdoor recreational activities. This limitation shall not apply to water utilized for drinking and sanitary purposes during such activities.

g. The use of water from fire hydrants for any purposes other than fire suppression and related training exercises, unless otherwise approved by the county administrator.

h. The serving of drinking water in restaurants, except upon request.

i. The operation of any water-cooled comfort air conditioning that does not have water-conserving equipment in operation.

(3) *Condition 3.* In addition to the restrictions and prohibitions authorized under subsection (2) above, the county administrator is hereby further authorized during the duration of a water emergency to implement any or all of the following for any of the affected water systems:

a. For any publicly owned and operated public water utility:

i. Industrial, institutional, commercial, governmental, wholesale and all other nonresidential customers shall be allotted a percentage reduction based on that customer's average monthly water consumption for the same billing period of the previous calendar year's consumption.

ii. Individual residential customers shall be limited to a specific volume or percentage reduction of water per month.

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If the allotted monthly water usage, as determined in subsection (3)a.i. and (3)a.ii. above, is exceeded, the customer shall be charged two times the existing service rate for consumption over the minimum monthly charge for every 1,000 gallons of water consumed above the allotted volume. Where prior consumption data is not available, the county administrator shall estimate allocations based upon the data available from similar activities of equal intensity.

iii. Declaration of a moratorium on new and expanded connections to the public water utility system, unless such connections are primarily intended and designed to provide fire protection and/or potable drinking water to lawfully permitted residential or nonresidential buildings that are existing or substantially constructed at the time that a water emergency is declared.

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b. For any privately owned and operated public water supply:

The system operator shall be required to demonstrate on a monthly schedule compliance with the capacity requirements set forth by the Virginia Department of Health Waterworks Regulations (12 VAC5-590-520 and 12 VAC5-590-690).

(4) *Condition 4.* When crucially limited supplies of water are available, the county administrator shall restrict the use of water from any affected water system to purposes which are absolutely essential to life, health and safety. Such permitted uses of water may include, but may not be limited to, the provision of limited quantities of water for drinking and sanitation purposes to residents, health care facility patients and/or emergency shelter evacuees, who are unable to utilize their potable water supplies due to the loss of electrical power, storm events or other natural or manmade causes.

(5) *Failure to address leaks.* It shall be unlawful for the owner of any residential unit or units, or the owner of any commercial or industrial establishment which is found to be an excessive user of water due to leakage from waterlines or plumbing fixtures on the premises, to fail to take immediate action to repair and to stop such leakage after being so ordered by the county administrator or his agent.

(6) *Effective date.* The imposition of the restrictions above shall become effective upon their being printed in any newspaper of general circulation in the County of King William, or broadcasted upon any radio or television station serving the County of King William.

(7) *Appeals for exemptions.* Upon implementation of subsections (2), (3) or (4) above, the county administrator shall establish an appeals procedure to review customer applications for exemptions from the provisions of subsections (2), (3) or (4) on a case-by-case basis and, if warranted, to make equitable adjustments to such provisions. The county administrator shall also be empowered to establish regulations governing the granting of temporary exemptions applicable to all or some of the uses of the water supply set forth in subsections (2), (3) or (4). The county administrator shall, in rendering a decision on such applications, balance economic and other hardships to the applicant resulting from the imposition of water use restrictions or allocations against the individual and cumulative impacts to the water supply resulting from the granting of such exemptions and may impose reasonable conditions to ensure compliance with the terms of the exemption.

Any person subject to a decision rendered by the county administrator under this section may appeal such decision to the board of supervisors. The appeal shall be in writing and shall be submitted to the county administrator, as agent for and clerk to the board of supervisors.

The county administrator may issue temporary waivers or exemptions within the provisions of this subsection for such periods of time as may be necessary for the board of supervisors to formally consider action on the appeal.

The board of supervisors shall render a decision on the appeal and may: affirm, with or

without modification, the county administrator's decision; or approve the requested exemption, with or without modification. The board of supervisors may impose reasonable conditions to ensure compliance with the terms of any exemption granted hereunder.

Any decision rendered by the board of supervisors shall be subject to remedies provided by statute.

(d) *Penalty for violations.* Any person who shall violate any of the provisions of this section, or of any of the conservation regulations promulgated by the County of King William pursuant thereto, shall, upon conviction thereof, be subject to the penalties provided in section 78-190. Each act or each day's continuation of a violation shall be deemed a separate offense.

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In addition to the foregoing, the county administrator may suspend public water utility service to any person continuing to violate the provisions of this ordinance or the regulations promulgated hereunder.

If such public water utility service is terminated, the person shall pay a reconnection fee of \$50.00 before service is restored.

(e) *Declaration of end of water emergencies.* The county administrator shall notify the board of supervisors when, in his opinion, the water emergency situation no longer exists. Upon concurrence of the board of supervisors, the water emergency shall be declared to have ended.

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(Ord. of 7-23-2007(1))