

**BOARD OF SUPERVISORS
COUNTY OF NEW KENT
VIRGINIA**

O-27-02

At the regular meeting of the Board of Supervisors of the County of New Kent in the Board Room of the County Office Building in New Kent, Virginia, on the 24th day of September, 2002:

Present:	Vote:
Julian T. Lipscomb	Aye
Rebecca M. Ringley	Nay
James H. Burrell	Aye
Dean E. Raynes	Aye
W. R. "Ray" Davis, Jr.	Aye

Motion was made by Mr. Raynes, which carried 4:1, to adopt the following ordinance:

**EMERGENCY ORDINANCE TO ESTABLISH
PROVISIONS RELATING TO
MANDATORY RESTRICTIONS ON THE USE
OF SURFACE AND GROUND WATER
IN NEW KENT COUNTY**

WHEREAS, stream flows and ground water have reached historic low levels that necessitate limiting use of the public water source for the protection of the health, safety and general welfare of the citizens of New Kent County; and

WHEREAS, on August 30, 2002, the Governor of the Commonwealth of Virginia issued Executive Order Number 33, entitled Declaration of a State of Emergency Due to Extreme Drought Conditions throughout the Commonwealth (the "Executive Order"), in which he proclaimed a state of emergency throughout the Commonwealth due to drought conditions, instituted mandatory restrictions on certain uses of surface and ground water in New Kent County and in other localities in the Commonwealth, mandated agencies of both state and local governments to render appropriate assistance to address drought conditions, and authorized local governments to establish, collect and retain fines for violations of the water restrictions.

NOW, THEREFORE, BE IT HEREBY ORDAINED, by the Board of Supervisors of New Kent County:

1. That the following Ordinance is hereby adopted to read in its entirety as follows:

Sec. 1. Finding of an Emergency.

It is hereby determined and found that a state of emergency exists, as proclaimed in the Executive Order of the Governor of the Commonwealth, due to extreme drought conditions in New Kent County and throughout the Commonwealth, and that a water supply emergency continues to exist in New Kent County, due to the current water levels of the County's water supply sources and anticipated demands in the immediate future, which together necessitate the adoption of this Ordinance mandating restrictions on the use of water in New Kent County under the terms and conditions set forth in this Ordinance.

Sec. 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 bill on which a fine for violation of this Ordinance is imposed.

Fountain: A water display where water is sprayed strictly for ornamental purposes.

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

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

Vegetable garden: Any "non-commercial" vegetable garden planted primarily for household use; "non-commercial" includes incidental direct selling of produce from such a vegetable garden to the public.

Sec. 3. Mandatory Surface and Ground Water Use Restriction Measures.

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

- a.) Lawns. Watering of lawns is prohibited at all times. New and replanted or resodded lawns may be watered for a period not to exceed 30 days.
- b.) Vegetable Gardens, Flowers, Trees and Shrubs. Watering is limited to three (3) days per week by address. Addresses ending with an odd number may water only on Tuesday, Thursday and Saturday. Addresses ending with an even number, or with no number, may water only on Wednesday, Friday and Sunday. Watering is prohibited on Mondays. Watering with buckets that have a capacity of 5 or fewer gallons is permitted at any time.

- c.) 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.
- d.) 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 necessary to maintain the structural integrity of the pool. Indoor pools may be filled as necessary to ensure swimmer health and safety.
- e.) 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.
- f.) Fountains. Water use is prohibited.
- g.) Paved Areas. Washing is prohibited except for health and safety requirements.
- h.) Restaurants. Water shall be served to customers only upon request.
- i.) All Other Businesses. Water use is limited to uses essential for business use and human hygiene.

Sec. 4. When Restrictions Go Into Effect.

- a.) The water use restrictions set forth in this Ordinance shall take effect immediately.
- b.) The water use restrictions shall remain in effect until December 24, 2002, so long as the Executive Order remains in full force and effect.

Sec. 5. Notice.

Notice of these public water restrictions shall be published in a newspaper of local circulation one day each week during which the restrictions are in force.

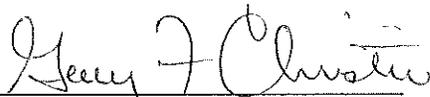
Sec. 6. Violation.

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 after the first publication required by Section 5 of this Ordinance.

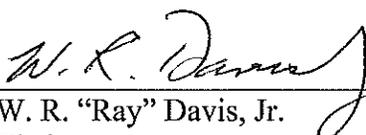
Sec. 7. Penalty.

- a.) Any person who violates any provision of this Ordinance shall be subject to the following penalties:
 - 1.) For the first offense, violators shall receive a written warning delivered in person or posted by a representative of the New Kent County Department of Public Works or Sheriff's department.
 - 2.) For the second offense, violators shall be fined \$50.00. For the third and each subsequent offense, violators shall be fined \$100.00 for each offense. 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.) Persons who have been assessed a penalty 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 shall determine whether the penalty was properly assessed and notify the complaining person in writing of his determination.
 - c.) The County Administrator may waive the penalty if he determines that the violation occurred due to no fault of the person.
- 2. That this Ordinance shall not be set out in the Code of the County of New Kent, Virginia.
 - 3. That the provisions of this Ordinance are severable, and the unenforceability of any provision in the Ordinance, as determined by a court of competent jurisdiction, shall not affect the enforceability of any other provision in the Ordinance.

That this Ordinance shall take effect immediately.



Gary F. Christie
County Administrator



W. R. "Ray" Davis, Jr.
Chairman