

ARTICLE VI. EMERGENCY WATER CONSERVATION*

***Editor's note:** Ord. No. 6155-05, § 1, adopted September 13, 2005, and effective January 1, 2007, amended Art. VI, in its entirety, to read as herein set out. See also the Code Comparative Table.

Sec. 42-90. General.

- (a) *Purpose and intent.* Water conservation provides a public benefit through the reduction of non-essential water use and water losses. To ensure the continued availability of a safe and adequate water supply for the customers of the Newport News Waterworks System, it is necessary to control the demand for water. During prolonged or extended periods of high temperatures and below average rainfall and streamflow, or in acute emergencies impacting the water supply, it will be necessary to reduce, restrict or curtail potable water use in order to conserve the water supply to protect the welfare, safety, and health of the public.
- (b) *Definitions.* The following words and terms used in this article shall have the following meanings:
- (1) *Alternate water source.* A well or well system, which delivers ground water of suitable quantity and quality for the desired application.
 - (2) *City water.* Water supplied by the city's department of public utilities.
 - (3) *Minimize.* Reduce water consumption to the lowest level technologically and economically feasible.
 - (4) *Recycling system.* A water system that captures and reuses a minimum of ten (10) percent wastewater.
- (c) Sections 42-94 through 42-98 of this article (relating to Tier 2, Tier 3, and Tier 4 restrictions) shall only be in effect during the existence of a water supply emergency declared by an ordinance adopted by the city council, pursuant to section 15.2-924 of the Code of Virginia.
(Ord. No. 6155-05, § 1)

Sec. 42-91. Water conservation, generally.

- (a) *Flow rates for plumbing fixtures and public lavatories.* In recognition of the growing demand for water in the service area and the importance of conservation as a means of ensuring that future water supplies will be sufficient to meet these demands, only fixtures conforming to the flow specifications of the Virginia Uniform Statewide Building Code shall be installed in buildings served by city water.
- (b) *Car washes.* All drive through car wash installations using city water that are put in operation after August 13, 2002, shall be equipped with a water recycling system. Drive through car wash installations, which cannot install or maintain in good repair a water recycling system, shall use an alternate source of water. Self-serve wash installations and mobile car wash systems shall maintain their pressure spray equipment according to the manufacturer's specifications for minimum water use.
- (c) *Waste of water, generally.* No person shall permit or cause uncontrolled flow of water from any hydrant, meter, or other fixture without taking proper care to prevent waste.
- (d) *Waste of water, leak repairs.* No owner of any residential unit or commercial or industrial establishment shall cause an excessive amount of water to be used due to leakage from water lines or plumbing fixtures on the premises.
- (e) *Continuous flow equipment.* In all new construction and when any continuous flow devices are repaired or replaced, any water connector device or appliance requiring a continuous flow of five (5) gallons per minute or more and not covered by section 42-91(a), shall be equipped with a water recycling system.
(Ord. No. 6155-05, § 1)

Sec. 42-92. Declaration of water supply emergency.

(a) Prior to the declaration of a water supply emergency by the Newport News City Council, the director shall report to the city manager and to the Newport News City Council the condition of the city water supply, stating the criteria utilized and the data relied upon in the report and shall recommend adoption of an ordinance declaring a water supply emergency. The report shall be filed with the city clerk. The city clerk shall forthwith transmit a copy of each such report to the city manager or county administrator of each jurisdiction for which Newport News provides treated water or with which Newport News has a raw water agreement.

(b) Following the adoption of an ordinance by the city council declaring a water supply emergency, stating that sections 42-94 through 42-98 are in effect until the city council declares that the emergency is terminated, the city manager, or when so authorized by him, the director, may implement conservation measures or restrictions on water use for certain non-essential purposes for the duration of the water shortage in the manner hereinafter set forth. In exercising this authority and making the determinations set forth herein, the city manager shall give due consideration to water levels, available storage, drawdown rates, the projected supply capabilities, pumping capacity, current and projected water consumption, prevailing and forecasted weather conditions, fire service requirements, pipeline conditions, estimates of minimum essential supplies to preserve public health and safety, and other data relevant to the past, current, and projected water demands.

(Ord. No. 6155-05, § 1)

Sec. 42-93. Tier 1, advisory.

Upon the determination that a limited water supply is available, the city manager, or when so authorized by him, the director, may disseminate information throughout the waterworks system service area advising that the water supply has been depressed and requesting customers to voluntarily reduce water demand through the following actions:

- (1) Reduce or eliminate the use of city water to wash down streets, sidewalks, walkways, driveways, parking lots, service station aprons, tennis courts, other hard surfaced areas, buildings, and structures, except as required for safety concerns.
- (2) Reduce the use of city water to wash automobiles, trucks, trailers, and any other type of mobile equipment, except in facilities operating with an alternate water source or with a water recycling system. Any facility operating with an approved recycling system shall prominently display a sign stating such a recycling system is in operation.
- (3) Reduce the use of city water for watering of shrubbery, trees, lawns, grass, plants, and other vegetation, except when using an alternate water source, recycled water, or a watering container not exceeding three (3) gallons in capacity. Any such watering should be limited to the hours between 8:00 p.m. and 10:00 a.m.

Sec. 42-94. Tier 2, mandatory.

(a) Upon the determination that the water supply is further reduced beyond Tier 1 conditions, the city manager, or when so authorized by him, the director, shall impose higher water rates and may restrict less essential usage of city water, including, but not limited to, the following:

- (1) The use of city water to wash down streets, sidewalks, walkways, driveways, parking lots, service station aprons, tennis courts, other hard surfaced areas, buildings, and structures, except as required for safety concerns.
- (2) The use of city water to wash automobiles, trucks, trailers, and any other type of mobile equipment, except in facilities operating with an alternate water source or with a water recycling system. Any facility operating with an approved recycling system must prominently display a sign stating such a recycling system is in operation.
- (3) The watering of shrubbery, trees, lawns, grass, plants, and other vegetation, except when using an alternate water source, recycled water, or a watering container not exceeding three (3) gallons in capacity. Any such watering shall be limited to the hours between 8:00 p.m. and 10:00 a.m.

(4) The use of city water in the operation of any ornamental fountain or for scenic or recreational ponds or lakes.

(5) The use of city water from fire hydrants for construction purposes or any purpose other than fire suppression or other public emergency, except as may be specifically authorized by the director upon request.

(6) The use of city water to fill or refill swimming pools.

(7) The serving of drinking water in restaurants unless requested by a customer.

(b) The activation of higher water rates under section 42-97(a) and any of the above restrictions which are imposed shall apply to water customers in all jurisdictions served by the waterworks system and shall become effective upon same being printed in a newspaper of general circulation in the Newport News Waterworks System service area unless a later date is provided therein. In addition, notification of the imposition of water use restrictions and higher water rates shall be broadcast over one (1) or more radio or television stations serving the Newport News Waterworks System service area. The city clerk shall forthwith transmit to the city manager or county administrator of each jurisdiction served by the waterworks system information on the restrictions and higher water rates to be imposed. These restrictions and the higher water rates shall be terminated upon a finding by the Newport News City Council that the water shortage is over and that the emergency measures are no longer required. Should the implementation of Tier 2 fail to conserve sufficient amounts of water supply, then Tier 3 may be implemented.

(c) Penalties. Any person charged with violating any provision of this section shall be assessed a penalty in accordance with section 42-97(c).

(Ord. No. 6155-05, § 1)

Sec. 42-95. Tier 3, severe.

(a) Upon the determination that a critically limited supply of water is available, the city manager, or when so authorized by him, the director, shall impose higher water rates and may restrict less essential usage of city water, including, but not limited to, the following:

(1) The use of city water to wash down streets, sidewalks, walkways, driveways, parking lots, service station aprons, tennis courts, other hard surfaced areas, buildings, and structures, except as required for safety concerns.

(2) The use of city water to wash automobiles, trucks, trailers, and any other type of mobile equipment, except in facilities operating with an alternate water source or with an approved water recycling system. Any facility operating with an approved recycling system shall prominently display a sign stating such a recycling system is in operation.

(3) The watering of shrubbery, trees, lawns, grass, plants, and other vegetation, except when using recycled water, an alternate water source, or a watering container not exceeding three (3) gallons in capacity. Any such watering shall be limited to the hours between 8:00 p.m. and 10:00 a.m.

(4) The use of city water in the operation of any ornamental fountain or for scenic or recreational ponds or lakes.

(5) The use of city water from fire hydrants for construction purposes or any purpose other than fire suppression or other public emergency, except as may be specifically authorized by the director upon request.

(6) The use of city water to fill or refill swimming pools.

(7) The serving of drinking water in restaurants unless requested by a customer.

(b) The activation of higher water rates under section 42-97(a) and any of the above restrictions which are imposed shall apply to water customers in all jurisdictions served by the waterworks system and shall become effective upon same being printed in a newspaper of general circulation in the Newport News Waterworks System service area unless a later date is provided therein. In addition, notification of the imposition of water use restrictions and higher water rates shall be broadcast over one (1) or more radio or television stations serving the Newport News Waterworks System service area. The city clerk shall forthwith transmit to the city manager or county administrator of each jurisdiction served by the

waterworks system information on the restrictions and higher water rates to be imposed. These restrictions and the higher water rates shall be terminated upon a finding by the Newport News City Council that the water shortage is over and that the emergency measures are no longer required.

(c) Penalties. Any person charged with violating any provision of this section shall be assessed a penalty in accordance with section 42-97(c).

(Ord. No. 6155-05, § 1)

Sec. 42-96. Tier 4, emergency.

(a) Upon the determination that the condition of the water supply has deteriorated to an emergency level, the city manager, or when so authorized by him, the director, shall impose higher water rates and may restrict any usage of city water.

(b) The activation of higher water rates under section 42-97(a) shall apply to water customers in all jurisdictions served by the waterworks system and shall become effective upon same being printed in a newspaper of general circulation in the Newport News Waterworks System service area unless a later date is provided therein. In addition, notification of the imposition of water use restrictions and higher water rates shall be broadcast over one (1) or more radio or television stations serving the Newport News Waterworks System service area. The city clerk shall forthwith transmit to the city manager or county administrator of each jurisdiction served by the waterworks system information on the restrictions and higher water rates to be imposed. These restrictions and the higher water rates shall be terminated upon a finding by the Newport News city council that the water shortage is over and that the emergency measures are no longer required.

(c) If the implementation of Tier 4 restrictions fails to conserve sufficient amounts of water supply and fails to reduce demand to levels considered to be adequate to safeguard health and safety due to the duration or magnitude of the drought, or due to other emergency conditions, new service connections may be delayed or postponed until such time as the emergency has been declared over. Water system flushing and other routine maintenance activities that use city water may also be suspended.

(d) Penalties. Any person charged with violating any water use restriction under this section shall be assessed a penalty in accordance with section 42-97(c).

(Ord. No. 6155-05, § 1)

Sec. 42-97. Water rates and penalties during declared water supply emergencies.

(a) Effective with meter readings beginning on the first business day following declaration of a water supply emergency under section 49-92, the schedule of rates to be charged for residential, commercial, and industrial use of water shall be as follows:

Rate Schedule for Water Consumption

TABLE INSET:

Tier Level	Rate
1--Advisory	Normal rate
2--Mandatory	Normal rate for consumption up to 600 cubic feet per billing cycle; normal rate + 15% for consumption above 600 cubic feet per billing cycle.
3--Severe	Normal rate for consumption up to 600 cubic feet per billing cycle; normal rate + 30% for consumption above 600 cubic feet per billing cycle.
4--Emergency	Normal rate + 45% for all consumption.

(b) During Tiers 2 and 3, the first six hundred (600) cubic feet of water used per billing cycle shall be

exempt from the higher water rates. The higher water rates shall be levied on any usage above six hundred (600) cubic feet.

(c) Penalties. A penalty shall be charged to any customer account and added to the water bill upon the occurrence at the service address of a violation of section 42-91 and any specific water use restrictions imposed during a water supply emergency pursuant to sections 42-94 through 42-96. Penalties for such violations shall be assessed as follows:

TABLE INSET:

Violation	Penalty
First offense	Written warning
Second offense	\$50.00 fine
Third offense	\$100.00 fine
Fourth offense	\$250.00 fine and water service suspension

(d) Exemptions. Water customers who are engaged in activities in which water is essential for public health, such as health care facilities (including but not limited to hospitals, minor emergency centers, health care practices, nursing homes, and convalescent centers), will be exempt from the water rates imposed under Tiers 2, 3, and 4, provided that they have satisfactorily completed, submitted, and received approval from the department of public utilities of a water audit which shows they have taken all necessary steps to minimize unnecessary water use both in their processes, and in outdoor use. Likewise, commercial or industrial customers who require water as a major and essential part of their day-to-day operations will be exempt from the higher water rates imposed under Tiers 2, 3, and 4, provided that they have satisfactorily completed, submitted, and received approval from the department of public utilities of a water audit which shows they have taken all necessary steps to minimize unnecessary water use both in their processes, and in outdoor use. Should the water supply situation deteriorate to a Tier 4 emergency, all of the above facilities and customers in this subsection may also be instructed to further reduce water use.

(Ord. No. 6155-05, § 1)

Sec. 42-98. Suspension of water service.

In addition to the foregoing, water service may be suspended to any person who continues to violate the provisions of sections 42-91, or 42-94 through 42-96, or any regulations promulgated hereunder during a water supply emergency. If such water service is suspended by operation of this article, the person shall pay a reconnection fee and all outstanding charges before service is restored.

(Ord. No. 6155-05, § 1)

Sec. 42-99. Water conservation appeals board; appeals.

(a) Upon declaration of a water supply emergency in accordance with section 42-92, the Newport News city council shall appoint an appeals board consisting of three (3) members, selected as follows: an employee of the city but not from the department of public utilities, and two (2) citizens from the public at large.

(b) Any person aggrieved by the issuance of a violation under section 42-97(c) or by a decision of the director, or his designee, concerning application of the higher water rates and customer requests for full or partial exemptions from the higher water rates imposed under section 42-97, may appeal the decision to the city manager, or his designee.

(c) Any person aggrieved by the decision of the city manager, or his designee, issued under subsection (b) may appeal the decision to the appeals board. The appeals board shall decide the merits of all appeals.

(d) Informal hearings shall be conducted at each level unless the aggrieved person does not desire a hearing. All decisions shall be in writing and shall be mailed or delivered to the aggrieved person. The

director may adopt regulations governing the procedure of such appeals before the appeals board and shall provide support services to the board.
(Ord. No. 6155-05, § 1)