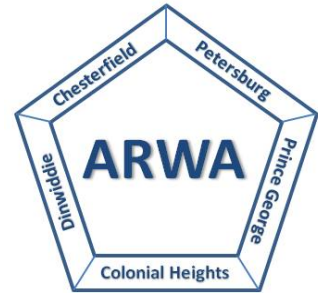


Appomattox River Water Authority



21300 Chesdin Rd. - Petersburg, VA 23803 - Phone (804) 590-1145 - Fax (804) 590-9285

APPOMATTOX RIVER WATER AUTHORITY

- RESOLUTION -

AMENDED AND RESTATED POLICY PERTAINING TO DIRECT IRRIGATION WITHDRAWALS FROM LAKE CHESDIN

Originally Adopted: November 20, 2008
First Amended and Restated: June 23, 2011
Second Amended and Restated: January 16, 2019

WHEREAS, the Appomattox River Water Authority ("ARWA") is the owner of certain property surrounding and lying underneath Lake Chesdin, a 3,100-acre reservoir located on the Appomattox River on the Chesterfield County and Dinwiddie County line that provides a drinking water supply to the Cities of Colonial Heights and Petersburg and the Counties of Chesterfield, Dinwiddie, and Prince George (the "Participating Jurisdictions");

WHEREAS, ARWA faces increases in demand for drinking water for all purposes throughout ARWA's service area;

WHEREAS, the Lake Chesdin area experienced extended droughts between 2001 and 2002 and in 2007 and 2010, which resulted in low lake levels and the imposition of mandatory and emergency water use restrictions for the first times in ARWA's history;

WHEREAS, lawn and garden irrigation may use thousands of gallons of water each day on just one landowner's property;

WHEREAS, in 2007 ARWA noted that a number of persons residing near Lake Chesdin had installed pumps, intake devices, and other equipment and taken other measures for the purpose of withdrawing water directly from Lake Chesdin for the purpose of lawn and garden irrigation ("Direct Irrigation Withdrawals"), and the potential existed for others to do the same as growth occurs around Lake Chesdin;

WHEREAS, none of the Direct Irrigation Withdrawals or pumps, intake devices, or other equipment for making Direct Irrigation Withdrawals ("Systems") had been approved previously by ARWA's Board of Directors (the "Board"), and, on November 2, 2007, the Board appointed a

committee to review the issue of Direct Irrigation Withdrawals and to make recommendations pertaining to such activity (the "Committee");

WHEREAS, the Committee met and reported its recommendations to the Board at the Board's regular meeting on December 20, 2007, which the Board adopted by resolution on December 20, 2007;

WHEREAS, the Board authorized and directed the Committee to (i) draft an appropriate permit or license document in furtherance of its recommendations; and (ii) develop policies and procedures for application for, and issuance of, such documents and for the collection and administration of the recommended fees;

WHEREAS, ARWA held a public hearing on the adoption of a proposed policy pertaining to Direct Irrigation Withdrawals on August 11, 2008, after notice of the public hearing was published once in a newspaper of general circulation in ARWA's service area;

WHEREAS, as agreed during the public hearing, the Committee met with a self-selected group of interested citizens on September 15, 2008 (the "Committee-Citizen Meeting");

WHEREAS, during the Board's September 18, 2008 regular meeting, the Board discussed the public hearing and the Committee-Citizen Meeting;

WHEREAS, the Board determined to schedule a second public hearing on a proposed policy pertaining to Direct Irrigation Withdrawals and held such public hearing on November 20, 2008, after notice of the public hearing was published twice in several newspapers of general circulation in ARWA's service area, and following the public hearing adopted a policy and guidance (the "Original Policy") for the approval of Direct Irrigation Withdrawal licenses ("Licenses");

WHEREAS, on June 23, 2011, ARWA's Executive Director recommended making certain minor changes to the Original Policy and the Board adopted the first amendment and restatement of the Original Policy (the "First Amended Policy");

WHEREAS, the term of the current Licenses for Direct Irrigation Withdrawals expired on December 31, 2018, and the Board has determined to (i) allow the Licenses to be renewed for a term to end simultaneously with the expiration of ARWA's current Virginia Water Protection Permit on October 31, 2028, (ii) end the moratorium on additional Licenses imposed under the Original Policy and the First Amended Policy and authorize the issuance of new Licenses, (iii) set the fee for renewing or obtaining a License and (iv) make certain other conforming or minor changes to the First Amended Policy; and

WHEREAS, the Board held public hearings regarding the above-described recommendations on October 18, 2018, November 15, 2018, and January 16, 2019 for each of which notice was published twice in several newspapers of general circulation in ARWA's service area;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE APPOMATTOX RIVER WATER AUTHORITY THAT:

1. Protection of Lake Chesdin for Public Drinking Water Supply. The Board hereby finds and determines that this second amended and restated policy (the "Second Amended

Policy") will further the public purposes for which ARWA was created, including without limitation the purposes of conserving, protecting and beneficially utilizing the surface water in Lake Chesdin to ensure the public welfare, safety, and health of the inhabitants of the Participating Jurisdictions who rely upon Lake Chesdin as a source of drinking water and enabling ARWA to obtain permits for additional water sources reasonably required to serve such inhabitants.

2. License Required for Continued Direct Irrigation Withdrawals. No Direct Irrigation Withdrawal shall occur except as authorized by the terms of a License Agreement to be executed by ARWA's Executive Director and the Licensee (the "License Agreement"). The License Agreement shall be substantially in the form presented at this meeting, with such insertions, deletions, or other changes not inconsistent with this Second Amended Policy as may be approved by the Executive Director in his discretion.

3. Applications for Renewals or New Licenses; Grace Period for Renewals. Any person who is (i) a current Licensee as of December 31, 2018, and desires to renew his or her License or (ii) the current owner of a Parcel fronting Lake Chesdin (each, an "Eligible Parcel") and wishes to obtain a new License shall submit an application to the Executive Director (the "Application"). As used herein, a "Parcel" shall mean a discrete parcel of land located in either of the Counties of Chesterfield and Dinwiddie, Virginia, that is separately assessed for real property taxation purposes. For reference purposes, parcel property mapping of Eligible Parcels may be viewed through the public GIS websites provided by the Counties of Chesterfield and Dinwiddie. The Application shall be substantially in the form presented at this meeting, with such insertions, deletions, or other changes as may be approved by the Executive Director in his discretion and not inconsistent with this Second Amended Policy. Any current Licensee as of December 31, 2018, shall have a grace period until June 30, 2019, to renew his or her License and may continue Direct Irrigation Withdrawals without any penalty or additional cost until the renewal date.

4. Term. Regardless of when an application for a new or renewed License is received, the License shall be for a term commencing on the later of June 30, 2019, or the date the License is issued or renewed and ending on October 31, 2028 (the "Term"), unless sooner terminated in accordance with the License Agreement.

5. License Fee. The fee (the "License Fee") for a License newly issued or renewed between January 17, 2019, and June 30, 2019, shall be six hundred seventy-four dollars (\$674). The License Fee for any License renewed or issued after June 30, 2019, shall be prorated over the remaining Term at \$6.00 per month, including the full month in which the License is renewed or issued. The License Fee is payable immediately upon the renewal or issuance of a License; provided that any current Licensee as of December 31, 2018, who renews his or her License before June 30, 2019, may pay the License Fee in two installments of \$337 on the renewal date and \$337 on June 30, 2024. The License Fee is nonrefundable except as provided in paragraph 13(d) of this Second Amended Policy.

6. Conservation. For purposes of this Second Amended Policy and the water conservation measures of the Participating Jurisdictions, each Licensee's System shall be considered to be connected to the public water supply of the Participating Jurisdiction in which the Licensee lives. Each Licensee must agree to abide by irrigation and other water use restrictions imposed by the Participating Jurisdiction in which the Licensee lives, regardless of the level of Lake Chesdin.

7. Health, Environmental, or Other Restrictions Required by Law or Governmental Entity. Each Licensee must agree to abide by all local, state, and federal laws and regulations now or hereafter in effect and applicable to his Direct Irrigation Withdrawal or System and that ARWA may, as Licensor, impose upon him or her, as Licensee, any health, environmental, or other restrictions required under local, state, or federal law or as may be required by any local, state, or federal governmental entities that regulate or provide assistance to ARWA, including restrictions imposed as a requirement to obtaining permits to construct improvements or enlargements of ARWA's water treatment and/or storage capacity. Each Licensee shall agree to not cause or permit the use, generation, storage, release, or disposal in, on, or about Lake Chesdin of any substances, materials, or wastes in violation of local, state, or federal law.

8. Limitation on Number and Transferability of Licenses. Licenses shall be limited to one per Eligible Parcel, regardless of whether an Eligible Parcel owner subdivides or intends to subdivide his Eligible Parcel. Each Eligible Parcel for which a License has been issued is referred to herein as a "Licensed Parcel". Each Licensee shall promptly report to ARWA the subdivision of any Licensed Parcel the Licensee owns and may transfer the License applicable thereto to a single successor owner of an Eligible Parcel subdivided out of such Licensed Parcel, but may not transfer, assign, divide, allocate, or distribute duplicates of his or her License among the successor owners of any subdivided portions of such Licensed Parcel, regardless of whether the subdivided portions constitute Eligible Parcels in their own right. Any attempt on the part of a Licensee to do so, or any failure by a Licensee to promptly report the subdivision of their Licensed Parcel(s), may result in the immediate termination of such Licensee's License(s) by ARWA, acting in its sole discretion.

9. System Limitations. Each Licensee's System shall originate from a single withdrawal point from Lake Chesdin, which has been identified by Licensee as part of his or her Application, and use a single pump or other intake device. Systems shall not: (i) have a pump capacity greater than 20 gallons per minute, (ii) have the pump or other intake device located beyond the end of the Licensee's dock, pier, or bulkhead, or, in the absence of a dock, pier, or bulkhead, thirty (30) feet from the normal pool limit, and (iii) be used to pump or intake water for storage (i.e., all water removed from Lake Chesdin by Systems must be immediately applied to irrigation). Each Licensee may replace failing equipment that is part of his or her System with functioning equipment that is the same or, if the same equipment is not available, the functional equivalent of the failing equipment, but may not extend, expand, or otherwise improve his or her System or increase its ability to make Direct Irrigation Withdrawals.

10. Right to Enter, Inspect, and Remediate. Each Licensee shall grant ARWA and any of its duly authorized agents or representatives the rights (i) to enter, at reasonable times and under reasonable circumstances, his or her Parcel for the purposes of obtaining information about or conducting a survey or inspection of his or her System and its operation to ensure compliance with any laws, regulations, rules, permits, standards, or policies of ARWA and any applicable local, state, or federal government or governmental entity and (ii) to the extent permitted by law, to remove, dismantle, or otherwise remediate a noncompliant System or portion thereof after written notice of noncompliance has been given by ARWA to the Licensee, unless the Licensee has caused the System to become compliant, as determined by ARWA, within thirty (30) days after the notice was given.

11. Indemnity. Each Licensee shall defend, indemnify, and save harmless ARWA and its Board members, agents, employees, contractors, representatives, affiliates, and other related

entities (the "Indemnites" or an "Indemnitee") from and against any loss, claims, expenses (including reasonable attorney's fees), or damage incurred or suffered by an Indemnitee, by reasons directly or indirectly arising out of, caused (in whole or in part) by, or in any way connected with the Licensee's Direct Irrigation Withdrawal. ARWA shall have no responsibility, liability, or obligation with respect to any property of the Licensee at, in, or on Lake Chesdin, it being acknowledged and understood by the Licensee that the safety, security, and effects of any such property are the sole responsibility and risk of the Licensee.

12. Licensee Shall Have No Other Privileges or Any Right or Interest in ARWA Property. Each Licensee must agree that (i) the License shall be only a license to make Direct Irrigation Withdrawals in accordance with this Second Amended Policy and the terms of the License Agreement, and shall not be construed as granting any other privileges or any right or interest in Lake Chesdin or other ARWA property, (ii) he or she does not have and shall not claim at any time any right or interest of any kind or nature whatsoever in Lake Chesdin or other ARWA property by virtue of the License Agreement or the License, and (iii) the License is personal to the Licensee, and except as may be provided pursuant to paragraph 8 of this Second Amended Policy, the privileges appurtenant thereto shall not inure to the successors and/or assigns of the Licensee.

13. Amendment of Second Amended Policy and Termination of License.

(a) Each Licensee shall agree that the Board may, in its sole discretion, at any time or from time to time, unilaterally amend this Second Amended Policy and, as a result, the License, to the extent it is inconsistent with the amendments. Before the adoption of any amendment to this Second Amended Policy, the Board shall hold a public hearing regarding the proposed amendment, of which notice shall be published twice in one or more newspapers of general circulation in ARWA's service area and posted on ARWA's website. In addition, ARWA shall provide written notice of any amendment to this Second Amended Policy and the License to each Licensee within thirty (30) days of its adoption by the Board. Any notice to a Licensee pursuant to this Second Amended Policy shall be sent by first class U.S. mail to the address provided in the Application or such other address designated in writing to ARWA at the address provided in paragraph 19 of this Second Amended Policy.

(b) Any License, License Agreement, and the privileges created and conferred thereby on a Licensee are terminable at will by either the Board or the Licensee. Termination of the License, License Agreement, and the privileges shall occur immediately upon providing written notice to the other party. Upon termination, the Licensee shall proceed with diligence to remove his or her System at his or her sole expense.

(c) Notwithstanding the foregoing, before the Board amends this Second Amended Policy or terminates any License, the Board shall make a finding that such amendment or termination furthers the public purposes for which ARWA was created, including without limitation the conservation, protection, and beneficial utilization of the surface water in Lake Chesdin to ensure the public welfare, safety, and health of the inhabitants of the Participating Jurisdictions who rely upon Lake Chesdin as a source of drinking water and enabling ARWA to obtain permits for additional water sources reasonably required to serve such inhabitants.

(d) If an amendment of the Second Amended Policy results in the termination of a License and the privileges granted thereby, or if a License is directly terminated by the Board, the Board shall

return to the affected Licensee a pro rata portion of the License Fee based on the same methodology provided in paragraph 5 of this Second Amended Policy.

14. Unlicensed Direct Irrigation Withdrawals; Grace Period for Unlicensed Direct Irrigation Withdrawals. After June 30, 2019, all Direct Irrigation Withdrawals for which a License has not been renewed or issued shall cease, and all property and equipment used for unlicensed Direct Irrigation Withdrawals shall be removed from Lake Chesdin at the sole expense of the owner. No penalty or cost shall be imposed for unlicensed Direct Irrigation Withdrawals occurring on or before June 30, 2019.

15. Other Water Withdrawals Prohibited. Except for withdrawals (i) permitted under the terms of this Second Amended Policy, (ii) by fire departments or companies and federal, state and local governmental entities to fight fires or address other public safety emergencies on a temporary basis or (iii) otherwise expressly approved by the Board, all withdrawals from Lake Chesdin other than by ARWA are prohibited.

16. Enforcement. The Executive Director is hereby authorized to engage counsel to undertake appropriate legal action on ARWA's behalf to enforce this Second Amended Policy or the terms of any License approved by the Board.

17. Golf Course Irrigation. ARWA has previously approved direct withdrawals from Lake Chesdin for golf course irrigation at Lake Chesdin Golf Club. The Executive Director shall periodically review the agreement with Lake Chesdin Golfers' Club LLC and make recommendations to the Board for amending the conditions upon which that entity may continue to withdraw water from Lake Chesdin consistent with this Second Amended Policy.

18. Conflict with Other Policies. This Second Amended Policy supersedes all prior policies pertaining to Direct Irrigation Withdrawals.

19. Reports of Unauthorized Withdrawals. Anyone observing unauthorized withdrawals from Lake Chesdin can report it to ARWA's Executive Director at:

Appomattox River Water Authority
Executive Director
21300 Chesdin Road
South Chesterfield, Virginia 23803
Phone: (804) 590-1145

20. Effective Date. This Second Amended Policy shall take effect immediately.