

Ordinance No. 3237

Introduced by Commissioner Joseph P. Scarpelli

Introduced on Thursday, April 25, 2013

Public Hearing: Thursday, May 16, 2013

Advertise in the Nutley Sun Issue of Thursday, May 2, 2013

Ordinance No. 3237

“AN ORDINANCE TO AMEND CHAPTER 685 OF THE CODE OF THE TOWNSHIP OF NUTLEY, ENTITLED “WATER” ADDING ARTICLE II “WATER CONSERVATION GUIDELINES” AND ARTICLE III “PROHIBITION OF CERTAIN USES OF WATER DURING EMERGENCY CONDITIONS”

WHEREAS, the water supplies within the Township of Nutley should be protected to afford the greatest beneficial use to the Township of Nutley’s citizens and businesses, which depend on current water supplies for their livelihood, health, welfare, and economic production; and

WHEREAS, the water resources associated with the Township of Nutley have been threatened in the past due to drought conditions; and

WHEREAS, there exists a need to restrict certain uses of water not essential to the health, welfare and safety of the Township of Nutley in order to avert or lessen the impact of such shortages; and

WHEREAS, taking steps to ensure clean, wholesome, and adequate water supplies is a high priority in protecting the health, safety, and welfare of Township of Nutley’s citizens;

WHEREAS, pursuant to N.J.S.A. 40:48-2, the Township of Nutley has the power to adopt ordinances necessary and proper for the protection of persons and property, and the preservation of the public health, safety and welfare;

BE IT ORDAINED by the Board of Commissioners of the Township of Nutley in the County of Essex, State of New Jersey that Chapter 685 of the Code of the Township of Nutley, is amended to add Articles II and III as follows:

ARTICLE II Outdoor Landscape Water Conservation Guidelines
(§ 685-11 - § 685-15)

§ 685-11 Water Use Guidelines

Water Conservation Guidelines apply to all users in the Township of Nutley at all times regardless of source of supply (e.g. public water supplies, well or ground water, lakes, streams, or ponds) unless expressly exempt in § 685-15, Exemptions. Such water use shall conform to the following Outdoor Water Use Guidelines:

- A. Lawn watering with a hose or hose-end sprinkler
 1. Properties may only water two days per week to coincide with trash pickup days;
 2. Watering may only be conducted between the hours of 6:00 a.m. and 9 a.m. or between 5:00 p.m. and 8:00 p.m.; and
 3. The watering of any single area may not exceed thirty minutes per day;
 4. Flowers and shrubs may be watered as needed with a hand held hose equipped with an automatic shut-off nozzle;
 5. Vehicles may be washed any day with a hand held hose equipped with an automatic shut-off nozzle;
 6. No hose or hose end watering may be permitted when it is raining.

- B. Irrigating lawns and landscapes with automatic irrigation systems equipped with a conventional irrigation controller (this includes all systems that do not have a “SMART” controller as defined in Section C.

1. Properties may only irrigate two days per week to coincide with trash pickup days;
2. Irrigation may only be conducted between the hours of 12:00 midnight and 10:00 a.m.;
3. Operation of any irrigation zone equipped with spray (mist) heads may not exceed 15 minutes per zone. Operation of any irrigation zone equipped with rotary sprinkler heads may not exceed 50 minutes per zone;

C. Irrigation with systems equipped with a SMART controller

1. To qualify for this provision, the SMART controller must have met the minimum requirements of IA-SWAT protocol testing. Lists of climate-based and sensor based controllers that have successfully completed the protocol testing can be found at <http://www.irrigation.org/SWAT/Industry/ia-tested.asp>
2. The property owner must register the SMART controller with the municipality
 - a. The municipality will issue a yard placard which the owner must display signifying that the property is irrigated with a SMART controller
3. The SMART controller must be programmed by an EPA WaterSense Partner who holds a New Jersey Landscape Irrigation Contractor Certificate pursuant to NJSA 45:5AA-3.
 - a. The SMART controller must be programmed to irrigate between the hours of 12:00 midnight and 10:00 am;
 - b. Proper sprinkler head data and accurate soil/plant/irrigation information must be entered;
 - c. The SMART controller programming data shall be posted at the controller;
 - d. The WaterSense Partner must make a minimum of two site visits after the initial programming to adjust and fine tune the irrigation schedule.

D. Irrigation systems programmed and monitored by an irrigation manager

1. The property owner must designate a qualified person who will be the irrigation manager and register that person with the municipality with defining qualifications.
 - i. The municipality will issue a yard placard which the owner must display signifying that the property is irrigated by an irrigation manager.
2. The irrigation manager must be an EPA WaterSense Partner or show evidence of successfully completing one of the approved courses listed below:
 - i. Rutgers University Continuing Education Course, *Irrigation Systems: Scheduling*
 - ii. Irrigation Association's online course, *Landscape Irrigation Scheduling*.
 - iii. A comparable course offered by a recognized continuing education facility or professional association.
3. A property specific irrigation program shall be developed by the irrigation manager based on plant variety, soil type, exposure, slope, precipitation rate, and irrigation efficiency.
4. Weekly adjustments shall be made to the irrigation schedule based on current evapotranspiration (ET) rates or weather conditions.
5. If it is found that an irrigation manager does not follow any of the terms prescribed in this ordinance, they may be disqualified from acting as a properties irrigation manager.

E. All Automatic Irrigation Systems

1. Shall be equipped with an operational automatic rain sensor device, which disables the system when a predetermined amount of rainfall has occurred. Each rain sensor device shall be capable of and programmed to interrupt the automatic irrigation cycle when ¼ inch of rain has fallen.
2. Any work performed on a system as a result of any inspection made by the homeowner or a professional must be in compliance with the Landscape Irrigation Contractor Certification Act of 1991 (NJSA 45:5AA-3).
3. Flowers and shrubs irrigated with drip or micro irrigation may be watered as needed.

F. All new irrigation systems must comply with the following:

1. The system must be installed by an EPA WaterSense Partner who holds a New Jersey Landscape Irrigation Contractor Certificate pursuant to N.J.S.A. 45:5AA-3.
2. System must comply with the New Jersey Irrigation Best Management Practices.
 - i. designing a system that insures sufficient operating pressure at the sprinkler head;
 - ii. dividing irrigated areas into hydro-zones of turf and plants with similar water requirements;
 - iii. creating zoning systems according to exposure;
 - iv. considering the soil type so the sprinkler irrigation precipitation rate is compatible with the soil infiltration rate or dividing the zone runtimes into multiple short cycles;
 - v. providing separate control of sloped areas;
 - vi. preventing sprinkler heads from overthrowing onto driveways, roads, and sidewalks;
 - vii. providing for separate irrigation for parkway strips between curbs and sidewalks that minimizes overthrow onto walks, pavement, and other impervious surfaces;
 - viii. using pressure regulating technology as necessary to ensure sprinkler heads operate within the manufacturer's recommended range. The pressure regulation may be:
 1. a pressure regulation device at the point of connection;
 2. pressure regulation at each remote control valve;
 3. pressure regulation at the sprinkler head;
 4. a combination of the above.
 - ix. irrigating all flowers and shrubs with drip and/or micro-irrigation;
 - x. including check valves in low sprinkler heads to prevent low-point drainage;
 - xi. having a pressure regulating device and wye strainer on each drip/micro control valve.
3. System must have a SMART controller capable of estimating or measuring depletion of available plant soil moisture and operating the irrigation system only to replenish the water as needed while minimizing excess water use.
 - i. The SMART controller must have undergone SWAT testing and be listed on the Irrigation Association website www.swatirrigation.org.
 - ii. The SMART controller must be programmed by an EPA WaterSense Partner who holds a New Jersey Landscape Irrigation Contractor Certificate pursuant to NJSA 45:5AA-3.
 1. Proper sprinkler head data and accurate soil/plant/irrigation information must be entered;

2. The SMART controller programming data shall be posted at the controller;
3. The WaterSense partner must make a minimum of two site visits after the initial programming to adjust and fine tune the irrigation schedule.

G. Restrictions identified in § 685-17 shall supersede those identified in this Section when the Township of Nutley Board of Commissioners announces a Declaration of Water Emergency.

H. State of New Jersey requirements shall supersede those identified in this Section when more stringent than the Township of Nutley's Water Conservation Guidelines.

§ 685-12 Violations

A. Violators of these guidelines and requirements are subject to fines and penalties as described in § 685-14, Penalties.

B. All water users in the Township of Nutley are urged to read the Department of Public Works Guide to Water Conservation to prevent violations as defined below:

- a. Knowingly or recklessly watering or irrigating or permitting the irrigation of lawn or landscape on owned, leased, or managed property that results in the following:
 - i. Watering during any form of precipitation;
 - ii. Water leaking from any irrigation equipment;
 - iii. Water puddling on landscape or impervious surfaces;
 - iv. Water runoff from irrigated property;
 - v. Irrigating on days not permitted in this ordinance;
 - vi. Irrigating at hours not permitted in this ordinance.

§ 685-13 Enforcement of Water Conservation Guidelines

A. The water use restrictions and automatic rain sensor requirement imposed pursuant to this section shall be enforced by the Department of Public Works. Whenever the Department of Public Works shall find a violation of the water use restrictions, regardless of the source of the water (public supply or private well), the violator will be given a written warning explaining the violation and penalties for a second and third offense as provided in § 685-14.

B. The Department of Public Works shall keep such records as may be reasonable and necessary for the purpose of determining the persons and businesses who have been warned upon a first offense. The Department of Public Works is hereby empowered to write summons for the violation of the water use restrictions imposed pursuant to § 685-11.

§ 685-14 Penalties

After a warning for a first offense in accordance with § 685-12 above, any person or business that thereafter violates the water use restrictions imposed pursuant to § 685-11 shall be subject to a fine up to \$250.

§ 685-15 Exemptions

Restrictions in § 685-11 above do not apply to the following:

- A. Outdoor water use from rain water harvesting, gray water, or reclaimed water are exempt from the provisions of the ordinance. Use of gray or reclaimed water must have an approved NJPDES permit issued through the NJDEP.
- B. Outdoor water use for commercial farms producing harvestable crops, commercial nurseries, sod farms and golf courses are exempt from the provisions of the ordinance.

- C. Outdoor irrigation necessary for one day only where treatment with an application of chemicals require immediate watering to preserve an existing landscape or to establish a new landscape;
- D. Outdoor irrigation necessary for the establishment of newly sodded lawns or landscaping within the first 21 consecutive days of planting.
- E. Visually supervised operation of an irrigation system by a person in compliance with the New Jersey Landscape Irrigation Contractor Certification Act of 1991 (NJSA 45:5AA-1) and at the minimum rate necessary in order to check system condition and effectiveness.

**ARTICLE III Prohibition of Certain Uses of Water During
Emergency Conditions (§ 685-16 - § 685-22)**

§ 685-16 Declaration of Water Emergency

A water emergency shall be declared upon action by resolution of the Governing Body:

- A. Whenever the Municipal Engineer in his or her professional judgment finds that emergency conditions exist within the Municipality, he or she shall recommend to the Board of Commissioners that a water emergency be declared. Said recommendation shall contain findings which specify which water use restrictions, if any, contained in § 685-17 below are appropriate. Factors which the Municipal Engineer may consider in making said recommendation include, but are not limited to, the following:

- a. Lack of precipitation for an extended period of time;
- b. Below-average water levels in municipal streams or other surface water bodies;
- c. Declaration of a water emergency by the Governor;
- d. Declaration of a water emergency by a surrounding municipality or municipalities;
- e. Designation by the New Jersey Department of Environmental Protection of a drought watch or drought warning condition;
- f. Below-average water levels in wells monitored by the United States Geological Survey, New Jersey Geological Survey or other wells monitored by agencies of the United States or New Jersey; or
- g. Evidence of low or dirty water yields in private wells in the Municipality;
- h. Declaration of a water emergency resulting from infrastructure failure or any other Safe Drinking Water emergency issues.

- B. Upon receiving such a recommendation, the Board of Commissioners may accept the Municipal Engineer's recommendation and findings, or any portion thereof, and adopt a resolution declaring a water emergency in the Municipality.

- C. Such resolution shall be adopted by the Board of Commissioners at any regular, special, adjourned or emergency public meeting of the Board of Commissioners. Such resolution shall specify which of the water use restrictions, if any contained in § 685-17 below are being imposed. Such resolution shall be effective immediately upon publication and shall continue in effect for ninety (90) days, or such lesser time period as may be specified, unless extended or repealed as set for in § 685-18 and § 685-19 below.

§ 685-17 Water Use Restrictions

Upon adoption by the Board of Commissioners of a resolution declaring that a water emergency exists in the Municipality in accordance with § 685-16:

- A. All residents/citizens shall be required to observe voluntary indoor conservation measures; and;

- B. Water uses and restrictions including but not limited to the below may be included in a Water Emergency Resolution:
- a. The watering of all plant growth, except commercially grown food crops, sod at commercial sod farms and golf courses and nursery stock at nurseries or retail outlets;
 - b. The washing of vehicles, except for emergency vehicles and by a commercial enterprise whose primary function is car washing, regardless of whether the operation is mobile or stationary or in those instances where a threat to public health may exist;
 - c. The washing of driveways, sidewalks, decks, patios or paved areas;
 - d. The serving of water sourced from municipal water supplies, well or ground water, lakes, streams, or ponds in restaurants, clubs, or eating places unless specifically requested by patrons;
 - e. The use of fire hydrants by fire companies for testing fire apparatus and for fire department drills except as the Deputy Fire Chief deems necessary in the interest of public safety;
 - f. The use of fire hydrants by municipal road departments, contractor, and all others, except as necessary for firefighting or protection purposes;
 - g. The use of water for all outdoor recreational purposes;
 - h. The washing of outside of dwellings, buildings, or other structures, except windows;
 - i. The operation of any ornamental fountain or other structure making a similar use of water except as necessary to preserve or support fish and aquatic life;
 - j. The washing of streets via a street sweeper, except in those instances where Reclaimed Water for Beneficial Reuse (RWBR) is authorized under a valid New Jersey Pollutant Discharge Elimination System (NJPDES) Permit.
 - k. Any other water use activity specified by the Board of Commissioners in the resolution required by § 685-16 above which is reasonable under the circumstances considering the nature and extent of the water emergency.
- C. The following restrictions may be imposed on the water uses stated in § 685-17.B:
- a. Limiting all outdoor usage which is not strictly prohibited by this subsection to the hours of 6:00 a.m. and 9:00 a.m. or between 5:00 p.m. and 8:00 p.m.;
 - b. Outdoor water usage The watering of any single area shall not exceed thirty minutes per day; and
 - c. Any other restriction specified by the Board of Commissioners which is reasonable under the circumstances considering the nature and extent of the water emergency.
- D. Any water use restriction imposed pursuant to this subsection may be amended by the Board of Commissioners to add, alter, or delete any restriction in subsection at any time during the water emergency. Said amendment shall be by resolution of the Board of Commissioners.
- E. Any water use restriction imposed pursuant to this subsection shall apply equally to both users on privately owned wells and users served by a public water system.
- F. Nothing in this subsection shall be read so as to prohibit, restrict or limit water usage where a bona fide health emergency or a danger to public safety exists.

§ 685-18 Duration of Water Emergency

Whenever the Municipal Engineer in his or her professional judgment finds that the emergency drought conditions in the Municipality have abated prior to the expiration of the time period specified in the resolution, he or she shall recommend to the Board of Commissioners that the water emergency cease. Upon such a recommendation to cease, the Board of Commissioners may adopt a resolution declaring the water emergency ended and the water use restrictions identified in § 685-17 inapplicable. Otherwise, at the end of the time period specified in the original resolution, the water use restrictions identified in § 685-17 shall lapse and be inapplicable and unenforceable.

§ 685-19 Extension of Water Emergency Time Period

If at the expiration of the time period specified in the resolution, the Municipal Engineer in his or her professional judgment finds that the emergency drought conditions have not abated, he or she shall recommend to the Board of Commissioners that the water emergency remain in effect. Said recommendation shall specify the duration of the extension. Whenever the Board of Commissioners has received such a recommendation, it may accept the Municipal Engineer's recommendation and findings, or any portion thereof, and adopt a resolution to extend the water emergency. Said resolution shall specify the duration of the extension, which shall not be for more than ninety (90) days.

§ 685-20 Notice

Reasonable attempts shall be made to notify citizens and residents of the Municipality of the existence of a water emergency, the restrictions imposed, and the penalties for violations.

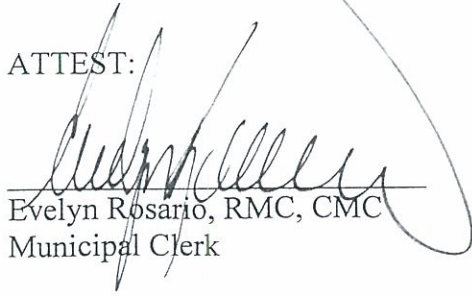
§ 685-21 Enforcement of Water Use Restrictions

The water use restrictions imposed pursuant to § 685-17 shall be enforced during a water emergency by the Department of Public Works. Whenever the Department of Public Works shall find a violation of the water use restrictions, regardless of the source of the water, the violator shall be given a written warning explaining the penalties for a second and third offense as provided in § 685-22. The Department of Public Works shall keep such records as may be reasonable and necessary for the purpose of determining the persons and businesses who have been warned upon a first offense. The Department of Public Works is hereby empowered to write summons for the violation of the water use restrictions imposed pursuant to this section.

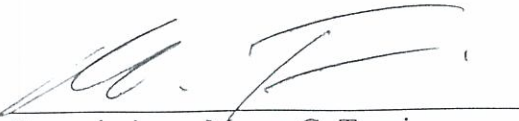
§ 685-22 Penalties

After a warning for a first offense in accordance with § 685-21 above, any person or business that thereafter violates the water use restrictions imposed pursuant to § 685-17 shall be subject to a fine up to \$250.

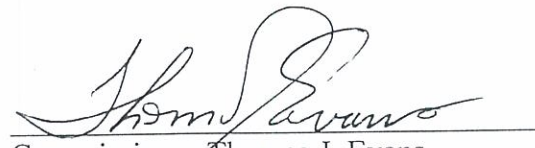
ATTEST:


Evelyn Rosario, RMC, CMC
Municipal Clerk

Commissioner Steven Rogers



Commissioner Mauro G. Tucci



Commissioner Thomas J. Evans



Commissioner Joseph P. Scarpelli

Mayor Alphonse Petracco
(Absent/Excused @ Adoption)

I hereby certify that this is a true copy
of an ordinance adopted by the
Board of Commissioners of the
Township of Nutley, County of Essex,
State of New Jersey on May 16, 2013



Evelyn Rosario, RMC, CMC
Municipal Clerk