

TOWNSHIP OF BERKELEY
ORDINANCE NO. 2009-_____

AN ORDINANCE OF THE
TOWNSHIP OF BERKELEY IN OCEAN COUNTY,
AMENDING AND SUPPLEMENTING CHAPTER XVIII OF THE CODE OF
THE TOWNSHIP OF BERKELEY
BY ADDING SECTIONS 18.5 THROUGH 18.13.

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

WHEREAS, the water resources within the Berkeley Township 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 Berkeley 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 Berkeley Township citizens;

WHEREAS, pursuant to N.J.S.A. 40:48-2, the Township of Berkeley 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 Township Committee of the Township of Berkeley in Ocean County as follows:

Section 1. Chapter XVIII of the Code of Berkeley Township, entitled "Water", Section 18.4, entitled "Conservation of Water", shall be supplemented by the addition of the following Sections, entitled "Water Conservation Program", to read as follows:

18.5 Water Conservation Guidelines for All Uses. Except as may be further restricted in accordance with Section 18.8 below, the use of water for outside uses within the Berkeley Township shall conform to the following:

a. Lawn watering:

- (1) Properties with odd numbered addresses may only water on odd calendar dates;
- (2) Properties with even numbered addresses may only water on even calendar dates;
- (3) No watering is permitted on the 31st of the month;
- (4) Watering shall only be conducted between the hours of 6:00 a.m. and 9:00 a.m. or between 5:00 p.m. and 8:00 p.m.; and
- (5) The watering of any single area shall not exceed thirty minutes per day [SCD1].

b. Flowers and shrubs may be watered as needed with a hand held hose equipped with an automatic shut-off nozzle;

- c. Vehicles may be washed any day with a hand held hose equipped with an automatic shut-off nozzle;
- d. Automatic rain sensor devices are required for all sprinkler/irrigation systems to ensure that watering does not occur during periods of rain [SCD2];
- e. Violators of these guidelines are subject to fines;
- f. Restrictions identified in paragraphs b and c of Section 18.8 of this chapter shall supersede when the Township Committee declares a Declaration of Water Emergency pursuant to Section 18.7 of this Chapter;
- g. State of New Jersey requirements shall supersede when more stringent than Berkeley Township program;

18.6 Enforcement of Water Conservation Guidelines. The water use restrictions imposed pursuant to this section shall be enforced by the local authorized official. Whenever a local authorized official shall find a violation of the water use restrictions, regardless of the source of the water, such authorized official shall give the violator a written warning and explain the penalties for a second and third offense as provided in Section 18.12 of this section. The local authorized official 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 local authorized official is hereby empowered to write summons for the violation of the water use restrictions imposed pursuant to this section.

18.7 Declaration of Water Emergency. A water emergency shall be declared:

a. Whenever the Township Engineer in his or her professional judgment finds that emergency [SCD3] conditions exist within the Township, he or she shall recommend to the Township Committee that a water emergency be declared. Said recommendation shall contain findings which specify which water use restrictions, if any, contained in Section 18.8 are appropriate. Factors which the Township Engineer may consider in making said recommendation include, but are not limited to, the following:

1. Lack of precipitation for an extended time period;
2. Below-average water levels in Township streams or other surface water bodies;
3. Administrative actions taken by the Delaware River Basin Commission in relation to stream flows in the Delaware River;
4. Declaration of a water emergency by the Governor;
5. Declaration of a water emergency by a surrounding municipality or municipalities;
6. Designation by the New Jersey Department of Environmental of a drought watch or drought warning condition;
7. Below-average water levels in wells monitored by the United States Geological Survey or other wells monitored by agencies of the United States;
8. Evidence of low or dirty water yields in private wells in the Township.

b. Upon receiving such a recommendation, the Township Committee may accept the Township Engineer's recommendation and findings, or any portion thereof, and adopt a resolution declaring a water emergency in the Township.

c. Such resolution shall be adopted by the Township Committee at any regular, special, adjourned or emergency public meeting of the Township Committee. Such resolution shall specify which of the water use restrictions, if any contained in Section 18.8 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 Sections 18.10 and 18.9 respectively.

18.8 Water Use Restrictions. Upon adoption by the Township Committee of a resolution declaring that a water emergency exists in the Township in accordance with Section 18.7 of this section:

a. All citizens shall be urged to observe voluntary indoor conservation measures; and
b. The restrictions stated in Section 18.5 of this chapter, and those stated in paragraph c. of this subsection, may be imposed on the following water uses:

1. The watering of all plant growth, except commercially grown food crops, sod at commercial sod farms and nursery stock at nurseries or retail outlets;
2. 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;
3. The washing of streets, driveways, sidewalks, decks, patios or paved areas;
4. The serving of water in restaurants, clubs, or eating places unless specifically requested by patrons;
5. The use of fire hydrants by fire companies for testing fire apparatus and for fire department drills except as the Township Fire Chief deems necessary in the interest of public safety;
6. The use of fire hydrants by municipal road departments, contractor, and all others, except as necessary for fire fighting or protection purposes;
7. The use of water for all outdoor recreational purposes;
8. The washing of outside of dwellings, buildings, or other structures, except windows;
9. 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;
10. Any other water use activity specified by the Township Committee in the resolution required by subsection 18.8 of this section 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 paragraph b. of this subsection:

1. Limiting all outdoor usage which is not strictly prohibited by this subsection is limited to the hours of 6:00 a.m. and 9:00 a.m. or between 5:00 p.m. and 8:00 p.m.;
2. The watering of any single area shall not exceed thirty minutes per day; and
3. Any other restriction specified by the Township Committee 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 Township Committee to add, alter, or delete any restriction in subsection at any time during the water emergency. Said amendment shall be by resolution of the Township Committee.

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 utility.

f. Nothing in this subsection shall be read so as to prohibit, restrict or limit water usage where a bona fide health emergency exists.

18.9 Duration of Water Emergency. Whenever the Township Engineer in his or her professional judgment finds that the emergency drought conditions in the Township have abated prior to the expiration of the time period specified in the resolution, he or she shall recommend to the Township Committee that the water emergency cease. Upon such a recommendation to cease, the Township Committee may adopt a resolution declaring the water emergency ended and the water use restrictions identified in subsection 18.7 inapplicable. Otherwise, at the end of the time period specified in the original resolution, the

water use restrictions identified in subsection xxx. 2 shall laps and be inapplicable and unenforceable.

18.10 Extension of Water Emergency Time Period. If at the expiration of the time period specified in the resolution, the Township Engineer in his or her professional judgment finds that the emergency drought conditions have not abated, he or she shall recommend to the Township Committee that the water emergency remain in effect. Said recommendation shall specify the duration of the extension. Whenever the Township Committee has received such a recommendation, it may accept the Township 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.

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

18.12 Enforcement of Water Use Restrictions. The water use restrictions imposed pursuant to this section shall be enforced during a water emergency by the local authorized official. Whenever a local authorized official shall find a violation of the water use restrictions, regardless of the source of the water, such authorized official shall give the violator a written warning and explain the penalties for a second and third offense as provided in subsection 18.13 of this section. The local authorized official 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 local authorized official is hereby empowered to write summons for the violation of the water use restrictions imposed pursuant to this section.

18.13 Penalties. After a warning for a first offense in accordance with subsection 18.12 of this section, any person or business that thereafter violates the water use restrictions imposed pursuant to this section shall be subject to the penalty provisions stated at Section 18.4.