

ORDINANCE # 2009-44

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 143, "WATER", BY REPLACING ARTICLE I, ENTITLED "EMERGENCY USE RESTRICTIONS" WITH A NEW ARTICLE I, ENTITLED "WATER CONSERVATION REGULATIONS" AND BY REPLACING ARTICLE IV, ENTITLED, "CONSERVATION REQUIREMENTS" WITH A NEW ARTICLE IV, ENTITLED "WATER EMERGENCY REGULATIONS", AND BY ADDING ARTICLE V, ENTITLED, "SWIMMING POOL REGULATIONS" OF THE CODE OF THE TOWNSHIP OF MARLBORO TO SET FORTH REGULATIONS FOR WATER CONSERVATION

WHEREAS, the water supplies within the Township of Marlboro (the "Township") should be protected to afford the greatest beneficial use to the Township'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 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 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 for the protection of public the health, safety, and welfare of the Township's citizens;

WHEREAS, pursuant to N.J.S.A. 40:48-2, the Township of Marlboro 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.

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, being the governing body thereof, that Chapter 143, Water, of the Code of the Township of Marlboro, be and is hereby amended and supplemented by the deletion of Article I, "Emergency Use Restrictions" and the replacement of same with a new Article I, "Water Conservation Regulations" to set forth regulations for water conservation within the Township of Marlboro as follows:

ARTICLE I - WATER CONSERVATION REGULATIONS

§143-1 Water Conservation Guidelines for All Users Including Residential, Commercial, Academic, Municipal Properties and Parks & Recreation Fields.

A. Except as may be further restricted in accordance with Article IV of this Chapter, the use of water within the Township of Marlboro, regardless of the source of water (public or private) shall conform to the following:

1. All citizens are hereby be encouraged to observe indoor water conservation measures at all times; and

2. All citizens are required to adhere to the following outdoor water conservation measures at all times:

(a) Lawn watering:

(i) properties may only be watered two (2) days per week. Properties with odd numbered addresses may be watered two (2) days per week on odd calendar dates, and properties with even numbered addresses may only be watered two (2) days per week on even calendar dates.

(ii) property 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

(iii) the watering of any single area of property shall not exceed thirty (30) minutes per day.

(b) Flowers and shrubs may be additionally 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;

B. Pursuant to N.J.S.A. 52:27D-123.13, all automatic lawn sprinkler systems installed after September 8, 2000 shall be equipped with an automatic rain sensor device or switch that will override the irrigation cycle of the automatic lawn sprinkler system when adequate rainfall has occurred.

C. The regulations established in Article IV of this Chapter shall supersede the regulations established in Article I of this Chapter when the Township Council of the Township of Marlboro has declared a Water Emergency using the procedures established by Article IV of this Chapter.

D. The regulations, orders or requirements established by the State of New Jersey shall supersede the requirements established by this Article when the State requirements are more stringent than those set forth in Article I.

§143-2 Enforcement of Water Conservation Guidelines.

The regulations set forth in Article I, shall be enforced by the Township Engineer and/or Code Enforcement Officer. Whenever the Township Engineer and/or Code Enforcement Officer shall observe a violation of the water use regulations established in Article I, regardless of the source of the water (public supply, semi-public supply or private well), such authorized official shall give the violator a written warning and explain the penalties set forth for a violation of these regulations. The authorized official shall keep such records as may be reasonable and necessary for the purpose of determining the persons and businesses who have been issued a written warning. The Township Engineer and/or Code Enforcement Officer

and/or their designee is hereby duly authorized to issue summonses for the violation of the water use regulations imposed pursuant to Article I.

§143-3 Penalties.

After a written warning has been issued in accordance with §143-2 above, any person or business that thereafter violates the water use regulations imposed pursuant to Article I shall be subject to a minimum penalty of \$50.00 for such first violation. No municipal court appearance shall be required for such first violation, unless the person or business pleads not guilty to the alleged violation. Each subsequent violation shall be subject to a penalty to be imposed at the discretion of the Municipal Court Judge, up to the maximum penalties authorized by §4-3 of the Code.

§143-4 Exemptions.

A. The restrictions established in this Article I shall not apply to the following:

1. Commercial crop and sod farms and nursery stock at nurseries or retail outlets and commercial golf courses;

2. Outdoor irrigation necessary for one day only when a treatment with an application of chemicals requires immediate watering to preserve an existing landscape or to establish a new landscape.;

3. Outdoor irrigation necessary for the establishment of newly sodded lawns or landscaping within the first 21 consecutive days of planting;

4. Visually supervised operation of watering systems by a State of New Jersey Licensed Irrigation Contractor for short periods of time to check the system condition and effectiveness.; and

5. The use of Reclaimed Water for Beneficial Reuse ("RWBR"), as approved in a New Jersey Pollutant Discharge Elimination System permit pursuant to N.J.A.C. 7:14A-1 et seq., and any conditions pertaining thereto.

BE IT FURTHER ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, being the governing body thereof, that Chapter 143, Water, of the Code of the Township of Marlboro, be and is hereby amended and supplemented by the deletion of Article IV, "Conservation Requirements" and the replacement of same with a new Article IV, "Water Emergency Regulations" to set forth regulations for water emergencies within the Township of Marlboro as follows:

§143-17. Prohibition of Certain Uses of Water During Emergency Conditions.

A. Declaration of Water Emergency. A water emergency may be declared:

1. Upon action by a resolution of the Township Council of the Township of Marlboro:

(a) Whenever the Municipal Engineer in his or her professional judgment finds that emergency conditions exist within the Township, he or she shall recommend to the Township Council that a water emergency be declared. Said recommendation shall contain findings which specify which water use restrictions, if any, contained in §143-17(B) below are appropriate. Factors that the Municipal Engineer may consider in making said recommendation include, but are not limited to, the following:

(i) lack of precipitation for an extended time period;

(ii) below-average water levels in municipal streams or other surface water bodies;

(iii) declaration of a water emergency by the Governor;

(iv) declaration of a water emergency by a surrounding municipality or municipalities;

(v) designation by the New Jersey Department of Environmental Protection of a drought watch or drought warning condition;

(vi) 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;

(vii) evidence of low or dirty water yields in private wells in the Township; and

(viii) declaration of a water emergency resulting from infrastructure failure or any other Safe Drinking Water emergency issues.

(b) Upon the receipt of such a recommendation, the Township Council 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 declaring a water emergency may be adopted by the Township Council at any regular, special, adjourned or emergency public meeting of the Township Council. Such resolution shall specify which of the water use restrictions, if any, contained in Subsection (B) 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 §143-17(C) and (D) below.

B. Water Use Restrictions. Upon adoption by the Township Council of a resolution declaring that a water emergency exists in the Municipality:

1. All citizens shall be urged to observe voluntary indoor conservation measures; and

2. Water use restrictions including but not limited to those set forth below may be included in a Water Emergency Resolution:

(a) Restricting 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) Restricting 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) Restricting the washing of driveways, sidewalks, decks, patios or other paved areas;

(d) Restricting the service of water in restaurants, clubs, or eating places, unless specifically requested by patrons;

(e) Restricting the use of fire hydrants by fire companies for testing fire apparatus and for fire department drills except as the Fire Chief deems necessary in the interest of public safety;

(f) Restricting the use of fire hydrants by the Department of Public Works, contractors, and all others, except as necessary for fire fighting or protection purposes;

(g) Restricting the use of water for all outdoor recreational purposes;

(h) Restricting the washing of outside of dwellings, buildings, or other structures, except windows;

(i) Restricting 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;

(k) Restricting the washing of streets by 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 ("NJPDDES") Permit; and

(l) Restricting any other water use activity specified by the Township Council in the resolution required by §143-17(A) above which is deemed reasonable and necessary under the circumstances considering the nature and extent of the water emergency.

3. The following restrictions may be imposed on the water uses stated in §143-17(B) (2):

(a) Limitation of all outdoor usage which is not strictly prohibited by this Section to between the hours of 6:00 a.m. and 9:00 a.m. or between 5:00 p.m. and 8:00 p.m.;

(b) The watering of any single area shall not exceed thirty minutes per day; and

(c) Any other restriction specified in the resolution adopted by the Township Council which is reasonable under the circumstances considering the nature and extent of the water emergency.

4. Any water use restriction imposed pursuant to this Article IV may be amended by the Township Council to add, alter, or delete any restriction at any time during the water emergency provided that said amendment shall be adopted by resolution of the Township Council.

5. Any water use restriction imposed pursuant to this Article IV shall apply equally to both users on privately owned wells and users served by a public or semi-public water system.

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

C. Duration of Water Emergency. Whenever the Municipal 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 Council of the Township of Marlboro that the water emergency cease. Upon such a recommendation to cease, the Township Council may adopt a resolution declaring the water emergency at an end and the water use restrictions previously imposed as no longer applicable. Otherwise, at the end of the time period specified in the original resolution, the water use restrictions identified in the original resolution shall lapse and be inapplicable and unenforceable.

D. 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 Township Council that the water emergency remain in effect. Said recommendation shall specify the duration of the extension. Whenever the Township Council has received such a recommendation, it may accept the Municipal Engineer's recommendation and findings, or any portion thereof, by adopting 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.

E. 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.

§143-18. Enforcement of Water Use Restrictions.

The water use restrictions imposed pursuant to Article IV shall be enforced during a water emergency by the Township Engineer, Code Enforcement Officer and enforcement personnel in the Department of Public Safety. Whenever these enforcement officials shall find a violation of the water use restrictions, regardless of the source of the water, these enforcement officials shall give the violator a written warning explaining the penalties for a violation of the Code. These enforcement officials shall keep such records as may be reasonable and necessary for the purpose of determining the persons and businesses who have been issued a written warning. These enforcement officials are hereby duly authorized to issue summonses for the violation of the water use restrictions imposed pursuant to this Article IV.

§143-19. Penalties.

After a written warning for a first offense in accordance with §143-18, any person or business that thereafter violates the water use restrictions imposed pursuant to this Article IV shall be subject to a minimum penalty of \$50.00 per for such first violation. No municipal court appearance shall be required for such first violation, unless the person or business pleads not guilty to the alleged violation. Each subsequent violation shall be subject to a penalty to be imposed at the discretion of the Municipal Court Judge, up to the maximum penalties authorized by §4-3 of the Code.

BE IT FURTHER ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, being the governing body thereof, that in an effort to balance the need for the citizens of the Township to adequately maintain the use and enjoyment of swimming pools against the need to monitoring the continuing availability of clean, wholesome, and adequate water supplies for the protection of the public health, safety, and welfare of the Township's citizens, that Chapter 143, Water, of the Code of the Township of Marlboro, be and is hereby amended and supplemented by the addition of Article V, "Swimming Pool Regulations" to set forth regulations for filling of swimming pools within the Township of Marlboro as follows:

§143-20 Swimming Pool Regulations.

A. The initial filling, or complete refilling of all swimming pools in Marlboro Township may be permitted only after application is made and a swimming pool filling permit is issued by the Township Engineer.

B. Swimming pools may only be filled under the direction of the Township Engineer to assure that pool filling activities do not endanger the continuing availability of clean, wholesome and adequate water supply in the Township.

C. The Township Engineer shall issue a swimming pool filling permit in his/her sole discretion, subject to the availability and/or continued availability of an adequate and sufficient water supply.

D. Any person who shall fill a pool without having obtained the necessary permit, or who shall have filled a pool in violation of the provisions of the swimming pool permit shall have violated the Code and shall be subject to the fines and penalties set forth in §4-3.

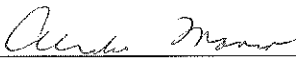
BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that if any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

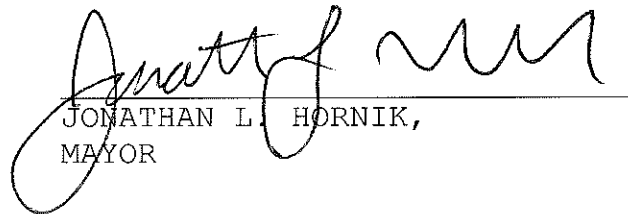
BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

PASSED: November 12, 2009

ADOPTED: December 10, 2009



ALIDA MANCO,
MUNICIPAL CLERK



JONATHAN L. HORNİK,
MAYOR

Date Signed: 12-10-09, 2009

ORDINANCE # 2009-44

ORDINANCE SUMMARY

TAKE NOTICE that on November 12, 2009, the Township Council of the Township of Marlboro introduced Ordinance # 2009-044 entitled:

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 143, "WATER", BY REPLACING ARTICLE I, ENTITLED "EMERGENCY USE RESTRICTIONS" WITH A NEW ARTICLE I, ENTITLED, "WATER CONSERVATION REGULATIONS" AND BY REPLACING ARTICLE IV, ENTITLED, "CONSERVATION REQUIREMENTS" WITH A NEW ARTICLE IV, ENTITLED, "WATER EMERGENCY REGULATIONS", AND BY ADDING ARTICLE V, ENTITLED, "SWIMMING POOL REGULATIONS" OF THE CODE OF THE TOWNSHIP OF MARLBORO TO SET FORTH REGULATIONS FOR WATER CONSERVATION"

TAKE FURTHER NOTICE that Ordinance 2009-044 revises the Township's Code at Chapter 143, entitled, Water, by replacing Article I, entitled, Emergency Use Restrictions, with a new Article I, entitled, Water Conservation Regulations, and by replacing Article IV, entitled, Conservation Requirements, with a new Article IV, entitled, Water Emergency Regulations, and by adding a new Article V, entitled, Swimming Pool Regulations. This Ordinance suggests recommended indoor water conservation measures, imposes outdoor water conservation requirements which are to be adhered to all times where there is no declared "water emergency", and reminds all property owners that all automatic lawn sprinkler systems installed after September 8, 2000 shall have automatic rain sensor devices or switches that override the irrigation cycle when there has been adequate rainfall. This Ordinance also adopts procedures for the imposition of a water emergency by the Township Council upon the recommendation of the Township Engineer and authorizes water use restrictions when a "water emergency has been declared". This ordinance also adopts regulations to be followed in connection with the filling or re-filling of swimming pools in the Township. This ordinance establishes applicable exemptions, enforcement mechanisms and penalty provisions in connection with these water regulations to ensure the public health, safety and welfare of the Township's citizens.

TAKE FURTHER NOTICE that this Ordinance shall be considered for final passage on December 10, 2009, at 8:00 p.m. at the Marlboro Township Town Hall, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning this Ordinance.

TAKE FURTHER NOTICE that a copy of this Ordinance may be obtained at no cost by any member of the general public, during regular business hours, at the Office of the Township Clerk, 1979 Township Drive, Marlboro, New Jersey.