

ADOPTED ORDINANCE

CITY OF RAHWAY, NEW JERSEY

No. O-46-22

AN ORDINANCE AMENDING CHAPTER 411-5 WATER CONSERVATION REGULATIONS

WHEREAS, Sustainable Jersey is a 501(c)(3) non-profit entity that collaborates with state agencies, non-profit organizations, foundations, academia and the business community, to research best practices for what communities could and should do to contribute to a sustainable future. The program culminates in a prestigious certification award to municipalities and schools that have documented meeting a set of rigorous standards;

WHEREAS, the City of Rahway is seeking Sustainable Jersey certification which will help the City of Rahway make great strides towards a sustainable future for the residents and proprietors of the City of Rahway;

WHEREAS, Sustainable Jersey has provided a model ordinance for Water Conservation, which is a priority condition for certification;

WHEREAS, Chapter 411-5 Water Conservation Regulations previously established the requirements for water conservation regulations within the City of Rahway which met most but not all requirements for certification;

WHEREAS, in order to meet all of the requirements for certification for Water Conservation, the City of Rahway is replacing Chapter 411-5 Water Conservation Regulations in its entirety to align with the current model ordinance recommended by Sustainable Jersey;

WHEREAS, the revised ordinance is intended to help the City of Rahway further curtail water waste associated with excessive seasonal outdoor water usage, which can lead to an unnecessary reduction in reservoir storage, ground water levels, and stream flows and which can be detrimental to water conservation for the City of Rahway;

WHEREAS, over-watering actually inhibits the health of the landscape and drought-tolerance of turf which can also be detrimental to water conservation for the City of Rahway;

WHEREAS, the revised ordinance includes, among other requirements, provisions for SMART watering systems, qualified irrigation managers and eliminates the previous exemption for systems installed prior to September 8, 2000 to ensure the highest level of conservation possible for the City of Rahway.

NOW, THEREFORE, be it ordained, by the City Council of the City of Rahway, County of Union, State of New Jersey, as follows:

The entirety of Chapter 411-5 Water Conservation Regulations is removed and replaced with the attached language.

§ 411-5 Water conservation regulations.

A. Outdoor Landscape Water Use Restrictions

Restrictions on outdoor landscape water use apply to all users in the City of Rahway 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 § **411-5E**. Such water use shall conform to the following Outdoor Landscape Water Use Restrictions:

- (1) Lawn watering with a hose or hose-end sprinkler
 - (a) May only be done two days per week.
 - [1] Properties may only be watered two days per week. Properties with odd numbered addresses may be watered two days per week on Mondays and Thursdays, and properties with even numbered addresses may only be watered two days per week on Tuesdays and Fridays.
 - (b) 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.
 - (c) The watering of any single area of property shall not exceed 30 minutes per day.
 - (d) Flowers and shrubs may be watered as needed with a handheld hose equipped with an automatic shutoff nozzle.
 - (e) No hose or hose-end watering shall be permitted when it is raining.
- (2) 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 § **411-5 A. (3)**)
 - (a) May only be done two days per week
 - [1] Properties may only irrigate two days per week. Properties with even number addresses may only irrigate on Mondays and Thursdays, properties with odd number addresses may only irrigate on Tuesdays and Fridays.
 - (b) Irrigation shall only be conducted between the hours of 12:00 midnight and 10:00 a.m.
 - (c) Operation of any irrigation zone equipped with spray (mist) heads shall not exceed 15 minutes per zone. Operation of any irrigation zone equipped with rotary sprinkler heads shall not exceed 50 minutes per zone.
- (3) Irrigation with systems equipped with a SMART controller
 - (a) 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/Tested_Products.aspx
 - (b) 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] The SMART controller must be programmed to irrigate between the hours of 12:00 midnight and 10:00 am;

- [2] Proper sprinkler head data and accurate soil/plant/irrigation information must be entered;
 - [3] The SMART controller programming data shall be posted at the controller;
 - [4] The WaterSense Partner must make a minimum of two site visits after the initial programming to adjust and fine tune the irrigation schedule.
- (4) Irrigation systems programmed and monitored by an irrigation manager
- (a) The property owner must designate a qualified person who will be the irrigation manager and register that person with the municipality with defining qualifications.
 - (b) The irrigation manager must be an EPA WaterSense Partner or show evidence of successfully completing one of the approved courses listed below:
 - [1] Rutgers University Continuing Education Course, *Irrigation Systems: Scheduling*
 - [2] Irrigation Association's online course, *Landscape Irrigation: Scheduling*.
 - [3] A comparable course offered by a recognized continuing education facility or professional association.
 - (c) 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.
 - (d) Weekly adjustments shall be made to the irrigation schedule based on current evapotranspiration (ET) rates or weather conditions.
 - (e) 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.
- (5) All automatic irrigation systems:
- (a) 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.
 - (b) 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).
 - (c) Flowers and shrubs irrigated with drip or micro irrigation may be watered as needed.
- (6) All new irrigation systems must comply with the following:
- (a) The system must be installed by an EPA WaterSense Partner who holds a New Jersey Landscape Irrigation Contractor Certificate pursuant to NJSA 45:5AA-3.
 - (b) New Jersey Irrigation Best Management Design Practices are listed below:
 - [1] designing a system that insures sufficient operating pressure at the sprinkler head;

- [2] dividing irrigated areas into hydro-zones of turf and plants with similar water requirements;
 - [3] creating zoning systems according to exposure;
 - [4] 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;
 - [5] providing separate control of sloped areas;
 - [6] preventing sprinkler heads from overthrowing onto driveways, roads, and sidewalks;
 - [7] providing for separate irrigation for parkway strips between curbs and sidewalks that minimizes overthrow onto walks, pavement, and other impervious surfaces;
 - [8] using pressure regulating technology as necessary to ensure sprinkler heads operate within the manufacturer's recommended range. The pressure regulation may be:
 - [a] a pressure regulation device at the point of connection;
 - [b] pressure regulation at each remote control valve;
 - [c] pressure regulation at the sprinkler head;
 - [d] a combination of the above.
 - [9] irrigating all flowers and shrubs with drip and/or micro-irrigation;
 - [10] including check valves in low sprinkler heads to prevent low-point drainage;
 - [11] having a pressure regulating device and wye strainer on each drip/micro control valve.
- (c) 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.
- [1] The SMART controller must be an EPA WaterSense labeled SMART controller and listed on their website http://www.epa.gov/watersense/product_search.html and select irrigation controllers from the drop down menu.
 - [2] 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] Proper sprinkler head data and accurate soil/plant/irrigation information must be entered;
 - [b] The SMART controller programming data shall be posted at the controller;
 - [c] The WaterSense partner must make a minimum of two site visits after the initial programming to adjust and fine tune the irrigation schedule.

- (7) Upon the Declaration of Water Emergency by the Council of the City of Rahway as stipulated in § **411-5F** additional restrictions may be imposed and shall supersede the restrictions in this ordinance.
- (8) State of New Jersey requirements shall supersede those identified in this Section when more stringent than those identified in § **411-5**.

B. Violations

- (1) Violations include knowingly or recklessly watering or irrigating or permitting irrigation of lawn or landscape on owned, leased, or managed property that results in the following:
 - (a) Watering during any form of precipitation;
 - (b) Water leaking from any irrigation equipment;
 - (c) Water puddling on landscaped or impervious surfaces;
 - (d) Water run-off from irrigated property;
 - (e) Irrigating on days not permitted in this ordinance;
 - (f) Irrigating at hours not permitted in this ordinance.
- (2) Violators of these guidelines and requirements are subject to fines and penalties described in § **411-5D**.
- (3) All water users in the City of Rahway are responsible for preventing the above violations.

C. Enforcement of Water Conservation Guidelines

- (1) The water use restrictions and automatic rain sensor requirement imposed pursuant to this section shall be enforced by the City Engineer and/or Code Enforcement Officer.
- (2) Whenever the City Engineer and/or Code Enforcement Officer shall observe a violation of the water use restrictions established in § **411-5A**, regardless of the source of the water (public supply or private source), such authorized official shall issue a written warning and explain the penalties set forth for a second and third offense, as provided in subsection § **411-5D**.
- (3) The City Engineer and/or Code Enforcement Officer 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.
- (4) The City Engineer and/or Code Enforcement Officer and/or their designee is hereby duly authorized to issue summonses for the violation of the water use restrictions imposed pursuant to § **411-5A**.

D. Penalties

- (1) After a written warning has been issued for a first offense in accordance with subsection **§ 411-5C** above, any person or business that thereafter violates the water use restrictions imposed pursuant to **§ 411-5A**. shall be subject to a minimum penalty of \$50 for such first violation.
- (2) No Municipal Court appearance shall be required for such first violation, unless the person or business pleads not guilty to the alleged violation.
- (3) Each subsequent violation shall be subject to a penalty to be imposed at the discretion of the Municipal Court Judge.

E. Exemptions

Restrictions in **§ 411-5A** above do not apply to the following:

- (1) 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.
- (2) Outdoor water use for commercial farms producing harvestable crops, commercial nurseries, sod farms and golf courses are exempt from the provisions of the ordinance.
- (3) 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.
- (4) Outdoor irrigation necessary for the establishment of newly sodded lawns or landscaping within the first 21 consecutive days of planting.
- (5) 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.

F. Declaration of water emergency

- (1) Declaration of water emergency. A water emergency may be declared:
 - (a) Upon action by a resolution of the City Council of the City of Rahway:
 - [1] Whenever the City Engineer in his or her professional judgment finds that emergency conditions exist within the City, he or she shall recommend to the City Council that a water emergency be declared. Said recommendation shall contain findings which specify which water use restrictions, if any, contained in **§ 411-5F. (1) (a) [1]** below are appropriate. Factors that the City Engineer may consider in making said recommendation include, but are not limited to, the following:
 - [a] Lack of precipitation for an extended time period;
 - [b] Below-average water levels in municipal streams or other surface water bodies;

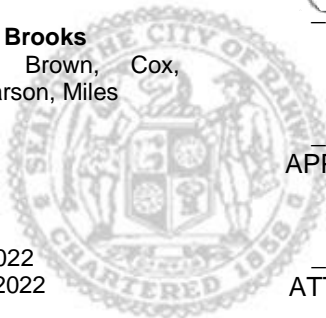
- [c] Declaration of a water emergency by the Governor;
 - [d] Declaration of a water emergency by a surrounding municipality or municipalities;
 - [e] Designation by the New Jersey Department of Environmental Protection of a drought watch or drought warning condition;
 - [f] Below-average water levels 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;
 - [g] Evidence of low or dirty water yields in private wells in the City; and
 - [h] Declaration of a water emergency resulting from infrastructure failure or any other safe drinking water emergency issues.
- [2] Upon the receipt of such a recommendation, the City Council may accept the City Engineer's recommendation and findings, or any portion thereof, and adopt a resolution declaring a water emergency in the City.
- [3] Such resolution declaring a water emergency may be adopted by the City Council at any regular, special, adjourned or emergency public meeting of the City Council. Such resolution shall specify which of the water use restrictions, if any, contained in **§ 411-5F(2)** below are being imposed. Such resolution shall be effective immediately upon publication and shall continue in effect for 90 days, or such lesser time period as may be specified, unless extended or repealed as set forth in **§ 411-5F(3)** and **(4)** below.
- (2) Water use restrictions. Upon adoption by the City Council of a resolution declaring that a water emergency exists in the City:
- (a) All citizens shall be urged to observe voluntary indoor conservation measures; and
 - (b) Water use restrictions including but not limited to those set forth below may be included in a water emergency resolution:
 - [1] 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;
 - [2] 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;
 - [3] Restricting the washing of driveways, sidewalks, decks, patios or other paved areas;
 - [4] Restricting the service of water in restaurants, clubs, or eating places, unless specifically requested by patrons;
 - [5] 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;

- [6] Restricting the use of fire hydrants by the Department of Public Works, contractors, and all others, except as necessary for firefighting or protection purposes;
 - [7] Restricting the use of water for all outdoor recreational purposes;
 - [8] Restricting the washing of outside of dwellings, buildings, or other structures, except windows;
 - [9] 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;
 - [10] 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 (NJPDES) permit; and
 - [11] Restricting any other water use activity specified by the City Council in the resolution required by **§ 411-5F(1)(a)[2]** above which is deemed reasonable and necessary 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 **§ 411-5F(2)(b)**:
- [1] 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.;
 - [2] The watering of any single area shall not exceed 30 minutes per day; and
 - [3] Any other restriction specified in the resolution adopted by the City Council which is reasonable under the circumstances considering the nature and extent of the water emergency.
- (d) Any water use restriction imposed pursuant to **§ 411-5F** may be amended by the City 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 City Council.
- (e) Any water use restriction imposed pursuant to **§ 411-5F** shall apply equally to both users on privately owned wells and users served by a public or semi-public water system.
- (f) Nothing in this section shall be read so as to prohibit, restrict or limit water usage where a bona fide health emergency exists.
- (3) Duration of water emergency. Whenever the City Engineer in his or her professional judgment finds that the emergency drought conditions in the City have abated prior to the expiration of the time period specified in the resolution, he or she shall recommend to the City Council of the City of Rahway that the water emergency cease. Upon such a recommendation to cease, the City 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.

- (4) Extension of water emergency time period. If, at the expiration of the time period specified in the resolution, the City Engineer in his or her professional judgment finds that the emergency drought conditions have not abated, he or she shall recommend to the City Council that the water emergency remain in effect. Said recommendation shall specify the duration of the extension. Whenever the City Council has received such a recommendation, it may accept the City 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 90 days.
 - (5) Notice. Reasonable attempts shall be made to notify citizens and residents of the City of the existence of a water emergency, the restrictions imposed, and the penalties for violations.
- F. Enforcement of water use restrictions. The water use restrictions imposed pursuant to **§ 411-5F** shall be enforced during a water emergency by the City 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 **§ 411-5F**.
- G. Penalties. After a written warning for a first offense in accordance with **§ 411-5B**, any person or business that thereafter violates the water use restrictions imposed pursuant to this subsection shall be subject to a minimum penalty of \$50 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.

MOTION: Gibilisco **SECOND:** Brooks
YES: Councilmembers Brooks, Brown, Cox, Gibilisco, Mojica, Parker, Parson, Miles
NO: None
ABSTAIN: None
ABSENT: Councilmember Newbury

INTRODUCTION: October 11, 2022
ADOPTION: November 9, 2022



Joanna Miles
 Joanna Miles, Council President

Raymond A. Giacobbe
 APPROVAL Raymond A. Giacobbe, Mayor

Jeffrey J. Jotz
 ATTEST Jeffrey J. Jotz, City Clerk