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2<sup>nd</sup> Rdg 12-20  
Effec. 1-9-11

TOWNSHIP OF LOWER, COUNTY OF CAPE MAY, STATE OF NEW JERSEY

MUA  
Gen. Code

ORDINANCE #2010-11

**AN ORDINANCE ESTABLISHING WATER CONSERVATION REQUIREMENTS**

**WHEREAS**, water is essential for the existence of all living organisms and potable water is a commodity that is becoming scarcer;

**WHEREAS**, as the New Jersey Department of Environmental Protection mandates the Lower Township Municipal Utilities Authority and the Township of Lower approve by ordinance a Water Conservation Plan as part of the submission of a major modification to the Lower Township Municipal Utilities Authority water allocation permit;

**WHEREAS**, this water conservation plan must be submitted to the Department of Environmental Protection as part of the request to increase the Lower Township Municipal Utilities Authority water allocation permit for the USDA water main project in the Townbank and Villas section of the township;

**WHEREAS**, as a result of the need for potable water, it is essential that the Township enact all possible ways to manage and conserve potable water;

**WHEREAS**, water conservation can be accomplished in part by a behavioral to reduce water loss, waste, or use

**WHEREAS**, water efficiency is a tool of water conservation with the intent of more efficient water use and that reduces water demand.

**SECTION 1, Determination of Water Conservation Level**

A. The Lower Township Municipal Utilities Authority may, by resolution, declare a water conservation phase upon making a finding specified in paragraph B. Such resolutions shall specify the start day of the phase and shall be effective upon publication in a daily newspaper of general circulation within the Township as well as the use of reverse 911 in conjunction with the Township.

B. The finding necessary for each water conservation phase is as follows:

**Level 1:** A Level 1 Water Supply Shortage exists when the Lower Township Municipal Utilities Authority determines, in its sole discretion, that due to drought or other water supply conditions, a water supply shortage or threatened shortage exists and a consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions. Upon the declaration by the Lower Township Municipal Utilities Authority of a Level 1 Water Supply Shortage condition, the Lower Township Municipal Utilities Authority will implement the mandatory Level 1 conservation measures identified in this section.

**Level 2:** A Level 2 Water Supply Shortage exists when the Lower Township Municipal Utilities Authority determines, in its sole discretion, that due to drought or other water supply conditions, a severe water supply shortage or a threatened severe water supply shortage exists and a consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions. Upon the declaration by the Lower Township Municipal Utilities Authority of a Level 2 Water Supply Shortage condition, the Lower Township Municipal Utilities Authority will implement the mandatory Level 2 conservation measures identified in this section.

**Level 3:** A Level 3 Water Supply Shortage condition is also referred to as an "Emergency" condition. A Level 3 condition exists when the Lower Township Municipal Utilities Authority declares a water shortage

emergency and notifies its residents and businesses that a significant reduction in consumer demand is necessary to maintain sufficient water supplies for public health and safety. Upon the declaration of a Level 3 Water Supply Shortage condition, the Lower Township Municipal Utilities Authority will implement the mandatory Level 3 conservation measures identified in this section.

**Level 1 Measures**, The following water conservation measures apply during water conservation Level 1.

A. Watering or irrigation of lawns shall not be performed except on designated irrigation days Odd and Even system and between the hours of 6:00 p.m. and 6:00 a.m. Irrigation may be performed at any time if done by means of a hand-held hose equipped with a positive shut-off nozzle, a hand-held faucet filled bucket of 5 gallons or less, or a drip irrigation system.

B. When the Lower Township Municipal Utilities Authority declares a Level 1 water conservation, water users shall only water lawns, landscapes, flowers, vegetated areas, or fill swimming pools on Odd or Even day system. The water users address shall dictate if the water user may water on the Odd or Even numbered days of the week.

C. Agricultural users and commercial nurseries shall curtail all non-essential water use, but are otherwise exempt from Level 1 measures. Watering of livestock and irrigation of propagation beds are permitted at any time.

D. Washing of motor vehicles, boats, airplanes and other mobile equipment shall be performed only on designated irrigation days and between the hours of 6:00 p.m. and 6:00 a.m. This prohibition shall not apply to the washing of garbage trucks, vehicles used to transport food and perishables and other mobile equipment for which frequent cleaning is essential for the protection of the public health, safety and welfare.

E. Filling or refilling of swimming pools, spas, ponds and artificial lakes shall be performed only on designated irrigation days Odd or Even day system and between the hours of 6:00 p.m. and 6:00 a.m.

F. Watering golf courses, parks, school grounds and recreational fields shall be performed only between the hours of 6:00 p.m. and 6:00 a.m. This prohibition does not apply to golf course greens.

G. Water shall not be used to wash down sidewalks, hard or paved surfaces, including but not limited to sidewalks, walkways, and driveways, parking areas, tennis courts, patios or alleys. Notwithstanding this prohibition, a water user may wash down such surfaces when necessary to alleviate safety or sanitary hazards, and then only by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off device, a low-volume, high-pressure cleaning machine equipped to recycle any water used, or a low-volume high-pressure water broom.

H. Ornamental fountains and similar structures shall not be operated.

I. When a conservation level 1 is declared by the Lower Township Municipal Utilities Authority, commercial power washing is allowed when the contractor utilizes water saving devices. Power washing by individuals shall not be allowed.

**Level 2 Measures**, The following water conservation measures apply during water conservation Level 2.

A. Watering or irrigation of lawns shall not be performed except on designated irrigation days Odd and Even system and between the hours of 10:00 p.m. and 6:00 a.m.

B. When the Lower Township Municipal Utilities Authority declares a Level 2 water conservation, water users shall only water lawns, landscapes, flowers, vegetated areas, or fill swimming pools on Odd or

Even day system. The water users address shall dictate if the water user may water on the Odd or Even numbered days of the week.

C. Agricultural users and commercial nurseries shall use water only between the hours of 6:00 p.m. and 6:00 a.m. watering of livestock and irrigation of propagation beds are permitted at any time.

D. Washing of motor vehicles, boats, airplanes and other mobile equipment is prohibited except when performed at a commercial car wash. This prohibition shall not apply to the washing of garbage trucks, vehicles used to transport food and perishables and other mobile equipment for which frequent cleaning is essential for the protection of the public health, safety and welfare.

E. Filling or refilling of swimming pools, spas, ponds and artificial lakes shall be performed only on designated irrigation days Odd or Even day system and between the hours of 10:00 p.m. and 6:00 a.m.

F. Watering golf courses, parks, school grounds and recreational fields shall be performed only between the hours of 10:00 p.m. and 6:00 a.m. This prohibition does not apply to golf course greens.

G. Water shall not be used to wash down sidewalks, driveways, parking areas, tennis courts patios or other paved areas except to alleviate immediate fire or sanitation hazards and then only by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off device, a low-volume, high-pressure cleaning machine equipped to recycle any water used, or a low-volume high-pressure water broom.

H. Restaurants shall not serve water to customers unless specifically requested.

I. Ornamental fountains and similar structures shall not be operated.

J. New construction meters and permits for un-metered service shall not be issued. Construction water shall not be used for earth work or road construction purposes.

K. When a conservation level 2 is declared by the Lower Township Municipal Utilities Authority, commercial power washing is allowed when the contractor utilizes water saving devices. Power washing by individuals shall not be allowed.

**Level 3 Measures**, The following water conservation measures apply during water conservation Level 3.

A. Outdoor irrigation is prohibited.

B. Use of water for agricultural or commercial nursery purposes is prohibited. This prohibition shall not apply to watering of livestock.

C. Washing of motor vehicles, boats, airplanes and other mobile equipment is prohibited except when performed at a commercial car wash. This prohibition shall not apply to the washing of garbage trucks, vehicles used to transport food and perishables and other mobile equipment for which frequent cleaning is essential for the protection of the public health, safety and welfare.

D. Filling or refilling of swimming pools, spas, ponds and artificial lakes is prohibited.

E. Watering golf course areas, other than greens, is prohibited. Watering of parks, school grounds and recreational fields is prohibited except for plant materials classified as rare, exceptionally valuable or essential to the well being of rare animals.

F. Water shall not be used to wash down sidewalks, driveways, parking areas, tennis courts patios or other paved areas except to alleviate immediate fire or sanitation hazards.

- G. Restaurants shall not serve water to customers unless specifically requested.
- H. Ornamental fountains and similar structures shall not be operated.
- I. New construction meters and permits for un-metered service shall not be issued. Construction water shall not be used for earth work or road construction purposes.
- J. When a conservation level 3 is declared by the Lower Township Municipal Utilities Authority, commercial power washing is not allowed and power washing by individuals shall not be allowed.

## SECTION 2

### Relief From Water Conservation Measures

A. Within fifteen (15) days of the effective date of a resolution declaring the water conservation phase, any water user may apply to the Executive Director for relief from the applicable water conservation measures. Applications shall be filed on a MUA provided form and shall be accompanied by a non-refundable application fee in an the amount of Fifty dollars (\$50.00) ~~amount~~ set by resolution of the MUA Board by resolution.

B. The Executive Director may approve, conditionally approve or deny an application for relief from water conservation measures. In making such determination, the Executive Director shall consider the following factors:

1. Whether additional reduction in water consumption will result in unemployment.
  2. Whether additional persons have been added to the household.
  3. Whether additional landscaped property has been added to the property since the corresponding billing period of the prior calendar year.
  4. Changes in vacancy factors in multi-family housing.
  5. Increased number of employees in commercial, industrial and governmental offices
  6. Increased production requiring increased process water.
  7. Water uses during new construction.
  8. Adjustments to water use caused by emergency health of safety hazards.
  9. First filling of a permit-constructed swimming pool.
  10. Water use necessary for reasons related to family illness or health.
  11. Whether the applicant has achieved the maximum practical reduction in water consumption other than in the specific areas for which relief is sought.
- C. The decision of the Executive Director shall be final.

## SECTION 3

### Enforcement of Water Conservation Requirements

A. The Lower Township Municipal Utilities Authority (MUA) shall be the agency authorized to enact and enforce mandatory water conservation and restrictions within the Township of Lower.

B. The penalties set forth in this section shall be exclusive and not cumulative with any other provision of this ordinance.

C. Violation of water conservation measures shall be penalized as follows:

1. First violation during a water conservation phase: the Executive Director or designated representative shall issue a written notice.
2. Second violation during a water conservation phase: the Executive Director or designated representative shall impose a surcharge in an amount of \$50.00 per day and not to exceed \$300.00 per week for the offense.
3. Subsequent violations during a water conservation phase: the Executive Director or designated representative shall install a flow restricting device of one gallon per minute capacity for services up to 1.5 inches size, and a comparatively sized restrictor for larger service, on the service of the violator at the premises at which the violation occurred for a period of not less than 48 hours. The Executive Director or designated representative shall charge the water user the actual costs of installation and removal of the device and for restoration of normal service. Normal service shall not be restored until all the account has been made current and all charges have been paid.

D. Any person receiving a notice of second or subsequent violation may request a hearing by the ~~Executive Director~~ MUA Board by filing a written appeal with the MUA within 15 days of the date of such notice. The non-refundable appeal fee shall be Fifty dollars (\$50.00) payable to the MUA and ~~in an amount set by resolution of the MUA Board by resolution~~. A timely request for a hearing shall stay the installation of a flow-restricting device on the appellant's premises until a decision has been made on the appeal. If the ~~Executive Director~~ MUA Board determines that the surcharge was incorrectly assessed, the MUA shall refund any money deposited by the customer. The ~~Executive Director's~~ MUA Board's decision on the appeal shall be final.

## SECTION 4

### Amendments

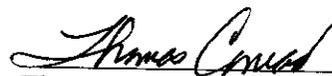
If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance or any part thereof is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining portions of this ordinance or any part hereof. The Lower Township Municipal Utilities Authority hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared invalid.

**SECTION 5**, All other Ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency.

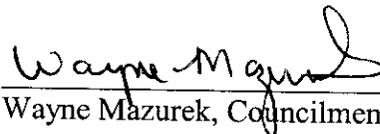
**SECTION 6**, Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this Ordinance are hereby declared to be severable.

**SECTION 7**, Upon final passage and publication according to law, a copy of this Ordinance shall forthwith be certified by an appropriate officer of the Township of Lower.

**SECTION 8**, This Ordinance shall take effect twenty (20) days after final passage and publication as provided by law.



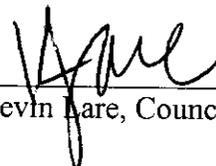
Thomas Conrad, Councilmember



Wayne Mazurek, Councilmember



Glenn Douglass, Councilmember



Kevin Lare, Councilmember



Michael Beck, Mayor

Attest: 

Adopted: Dec 20, 2010