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**Amendment in the Nature of a Substitution – 42-16**

ORDINANCE NO 181\_\_\_ - 2016

AN ORDINANCE TO AMEND ORDINANCE NO. 248-A-1987, AN ORDINANCE WITH RESPECT TO ESTABLISHING A COMPREHENSIVE PLAN FOR WATER CONSERVATION AND REGULATION OF WATER THROUGHOUT NASSAU COUNTY, INCLUDING PROVISIONS FOR ENFORCEMENT THEREOF, PURSUANT TO ARTICLE XII OF THE COUNTY GOVERNMENT LAW OF NASSAU COUNTY.

APPROVED AS TO FORM



Majority Counsel

**Passed by Nassau County Legislature**  
on 11-21-16  
votes for 18 votes against 1 abstained 0 recused 0  
Became an ordinance on 11-23-16  
With the approval of the County Executive

WHEREAS, Ordinance No. 248-A-1987 established a Comprehensive Water Conservation and Regulation Program (“Conservation Program”) for Nassau County, which sets forth requirements for lawn sprinkling, air conditioning systems, car washes and fleet maintenance, and fire hydrant usage throughout the County; and

WHEREAS, the purpose of the Conservation Program is to conserve, protect and manage the County’s sole source aquifer system; and

WHEREAS, while the enforcement of the Conservation Program, as well as the actions of the Long Island Commission for Aquifer Protection and the Nassau County Water Resources Board, have furthered the purposes set forth above, the County’s sole source aquifer system can be better conserved, protected and managed if automatic irrigation systems are not operational while sufficient moisture is present for vegetation to thrive; and

WHEREAS, it is the intent of the Nassau County Legislature to expand the Conservation Program by requiring the installation and maintenance of technology that inhibits or interrupts operation of an automatic irrigation systems during periods of sufficient moisture; now therefore, be it

ORDAINED BY THE NASSAU COUNTY LEGISLATURE AS FOLLOWS:

Section 1. Sections 2-a is added to Ordinance No. 248-A-1987 as follows:

§ 2-a. Automatic Irrigation Systems.

- A. For the purposes of this section, "soil moisture device" means a soil-based device that assesses the available plant soil moisture in order to minimize the unnecessary use of water and optimize the effectiveness of an irrigation system.
- B. For the purposes of this section, "rain sensor device" means a low voltage electrical or mechanical component placed in the circuitry of an automatic landscape irrigation system that is designed to restrict operation of a sprinkler controller in the event of precipitation.
- C. For purposes of this section, "evapotranspiration-based (ET) controller" means a controller that calculates soil moisture from known weather and related inputs. An ET-based controller:
  - a. Receives and monitors weather data or on-site environmental conditions including, but not limited to, solar radiation, wind speed, temperature, relative humidity, rainfall, and soil moisture; and
  - b. Calculates or determines the amount of moisture input to and moisture lost from the soil and plant; and

- c. Automatically creates or adjusts the irrigation schedule to apply only the amount of water that is necessary to maintain adequate soil moisture.
- D. For the purposes of this section “contractor” means a contractor that has been issued a license to install automatic irrigations systems by the Office of Consumer Affairs under the conditions and qualifications as determined by the Commissioner of the Department of Consumer Affairs, including any required state or federal certifications.
- E. All automatic irrigation systems installed after the effective date of this Ordinance by a contractor shall be equipped with technology that inhibits or interrupts operation of the system during periods of sufficient moisture. Examples of such technology include, but are not limited to, soil moisture devices, rain sensor devices, and ET controllers. Any device that is installed pursuant to this section must be properly installed, maintained and operated in accordance with manufacturer specifications.
- F. After January 1, 2018, a contractor that activates, installs, repairs, or conducts routine maintenance on automatic landscape irrigation systems shall not activate such system unless that system is equipped with technology that inhibits or interrupts operation of the system during periods of sufficient moisture and such technology has been verified to be operational by such contractor. Examples of such technology include, but are not limited to, soil moisture devices, rain sensor devices, and ET controllers. Any device that is installed pursuant to this section must be

properly installed, maintained and operated in accordance with manufacturer specifications.

G. All contractors that install or activate automatic landscape irrigation systems shall provide written documentation to the owner of the automatic landscape irrigation system and shall certify under penalty of perjury that all work performed on such systems conforms to the provisions of this Ordinance and to the rules and regulations of the local water provider that supplies water to the location of the automatic landscape irrigation system and shall retain copies of such documentation. For all new installations of automatic landscape irrigation systems, copies of such documentation shall be forwarded to the local water provider that supplies water to the location of the automatic landscape irrigation system.

H. Upon the request of the Department of Consumer Affairs, any contractor that installs or activates an automatic landscape irrigation system shall turn over copies of the documentation required by Section 2-a(F) of this Ordinance to the Department of Consumer Affairs.

§ 2. §7 of Ordinance No. 248-A-1987 is amended to read as follows:

§7. Enforcement/Penalties.

A. Except for Section 2-a of this Ordinance, the Nassau County Police Department or the Police Department of the respective cities or villages or Police Districts in the County shall be charged with the enforcement of this Ordinance except that enforcement shall be effected by the respective cities,

towns or villages of the County where express provision for same has been made in this Ordinance.

- B. The Nassau County Office of Consumer Affairs shall be charged with the enforcement section 2-a of this Ordinance.
- C. Any person or persons, association or corporation committing an offense against the provisions of Section 2 of this Ordinance shall be guilty of a violation punishable by a fine of Fifty Dollars (\$50.00) for the first offense, One Hundred Dollars (\$100.00) for the second offense, Two Hundred Dollars (\$200.00) for the third offense and Five Hundred Dollars (\$500.00) for each and every offense thereafter.
- D. Any contractor that does not comply with section 2-a of this Ordinance shall be guilty of a violation punishable by a fine of not more than \$5,000 for each such violation. Additionally, violations of this section are cause for the suspension or revocation of a contractor's license by the Department of Consumer Affairs.
- E. Any person or persons, association or corporation committing an offense of Section 3 and Section 4 of this Ordinance shall be guilty of a misdemeanor punishable by a fine not exceeding Five Hundred Dollars (\$500.00) for the first offense and One Thousand Dollars (\$1,000.00) for each and every subsequent offense, or by imprisonment for a period not exceeding one year for each such offense, or both such fine and imprisonment.
- F. Any person or persons, association or corporation who uses a fire hydrant without authority and not in accordance with the regulations adopted by

water purveyors in Nassau County shall be guilty of a misdemeanor punishable by a fine not exceeding Five Hundred Dollars (\$500.00) for the first offense and One Thousand Dollars (\$1,000.00) for each and every subsequent offense, or both such fine and imprisonment.

§ 3. Severability.

If any provision of this Ordinance or the application of such provision to any person or circumstance shall be held unconstitutional or invalid, the constitutionality or validity of the remainder of this ordinance and the applicability of such provision to other persons or circumstances shall not be affected thereby.


§ 4. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617(c)(20), (21), and/or (27) of Title 6 of the New York Code of Rules and Regulations (6 NYCRR) and within the meaning of section 8-0109(2) of the New York Conservation Law as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection.

§ 5. Effective Date.

This ordinance shall take effect immediately.

**APPROVED**

  
**County Executive**

**DATE** Nov. 23, 2016