

ATTACHMENT B
ARTICLE TWENTY-EIGHTH OF THE MAY 6, 2008 ATM
WATER USE RESTRICTION BYLAW AMENDMENT

(Note: insertions shown in **bold**, deletions shown in ~~strikethrough~~)

58-2 WATER USE RESTRICTION BY-LAW

58-2.1 AUTHORITY.

This Bylaw is adopted by the Town under its police powers to protect public health and welfare and its powers under M.G.L. c.40, §21 ~~et seq~~ **as amended from time to time** and implements the Town's authority to regulate water use pursuant to M.G.L. c. 41, §69B. This Bylaw also implements the Town's authority under M.G.L. c. 40, §41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection. (Art. 43, 5/2/2000)

58-2.2 PURPOSE.

The purpose of this Bylaw is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency providing for enforcement of any duly imposed restrictions, requirement, provisions or conditions imposed by the Town or by the Department of Environmental Protection **and to comply with Water Management Act requirements as administered by the Department of Environmental Protection.**

58-2.3 DEFINITIONS.

Conservation Measures shall mean restrictions on water use as defined in Section 58-2.5

DEP shall mean the Massachusetts Department of Environmental Protection.

Essential Use shall include uses of water that have a health or safety impact, are required by regulation or are needed to meet the core functions of a business or other organization. All other uses shall be considered "nonessential".

Nonessential Use shall include uses of water that are not essential uses.

Off-Peak Hours shall be between 5 P.M. and 9 A.M. the following day.

Outdoor Watering shall include watering of lawns, shrubbery, bushes or other outdoor vegetation.

Outdoor Water Use shall include but is not limited to outdoor watering, filling of swimming pools and the washing of automobiles, boats or other vehicles.

Peak Hours shall be between 9 A.M. and 5 P.M. each day.

Person shall mean any Individual, Corporation Trust, Partnership or Association, or other entity.

State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Town pursuant to Section 58-2.4 of this Bylaw.

State of Water Supply Emergency shall mean a State of Water Supply Emergency declared by the Department of Environmental Protection under M.G.L. c. 21G, §15-17.

Water Customers shall mean all users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular location.

Water Users or Water Consumers shall mean all persons, regardless of their geographic location, using water withdrawn from water sources located within the Town of Topsfield. ~~public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular location.~~

WMA shall mean the Water Management Act, M.G.L. c. 21G and any requirement or special condition imposed upon the Town under said act.

58-2.4 DECLARATION OF A STATE OF WATER SUPPLY CONSERVATION.

The Town, through its ~~its~~ Board of Water Commissioners, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Board that **one or more of the following conditions exist:**

- a) **A shortage of water exists. When a shortage exists, conservation measures will be imposed on water customers to ensure an adequate supply of water for all customers. A shortage of water may be caused by drought, loss of water storage, or other condition that impairs the Town's ability to meet water demand for its customers.** ~~and conservation measures are appropriate to ensure an adequate supply of water to all water consumers.~~
- b) **Water use may exceed permitted limits. When the water system's use may exceed that which is permitted through the WMA, conservation measures will be imposed on water customers in order to comply with WMA limits.**
- c) **Ipswich River streamflow is low. When Ipswich River streamflow falls below limits specified through the WMA requiring the implementation of the conservation measure specified as Outdoor Water Use Peak Hours Ban, an Outdoor Water Use Peak Hours Ban will be imposed on all water users in order to comply with the WMA requirements.**
- d) **Ipswich River streamflow is very low. When Ipswich River streamflow falls below limits specified through the WMA requiring the implementation of the conservation measure specified as Outdoor Water Use Restriction, an Outdoor Water Use Restriction will be imposed on all water users in order to comply with the WMA requirements.**

Public Notice of a State of Water Supply Conservation shall be given under Section 58-2.6 of this Bylaw before it can be enforced.

58-2.5 CONSERVATION MEASURES ~~RESTRICTED WATER USES.~~

A declaration of a State of Water Supply Conservation shall **specify include** one or more of the following **conservation measures and shall specify whether the measure(s) are voluntary or mandatory and whether the measure(s) apply to water customers only or to all water users.** ~~restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply. The Board of Water Commissioners may include other restrictions, conditions, or requirements as they see fit.~~ The applicable restrictions, conditions, or

requirements shall be included in the Public Notice required under Section 58-2.6 **and shall not apply to essential uses.**

a) **Outdoor Watering Odd / Even Day Restriction** ~~Outdoor Watering: Outdoor watering by water users with at odd numbered addresses is restricted to odd numbered days;- Outdoor outdoor watering by water users with at even numbered addresses is limited~~ **restricted** to even numbered days.

b) **Outdoor Water Use Peak Hours Ban: Outdoor water use is prohibited during peak hours.**

c) **Outdoor Water Use Restriction: Outdoor water use is prohibited during peak hours and outdoor water use during off-peak hours is limited to hand held hoses, buckets or watering cans.**

~~bd) Total Outdoor Watering~~ **Water Use Ban: Outdoor watering water use is prohibited.**

~~e) Outdoor Watering Hours: Outdoor watering is permitted only during periods of low demand, to be specified in the declaration of a State of Water Supply Conservation and Public Notice thereof;~~

~~d) Filling of Swimming Pools: the filling of swimming pools is prohibited.~~

~~e) Automatic Lawn Sprinkler Systems: the use and operation of automatic lawn sprinkler is prohibited.~~

58-2.6 PUBLIC NOTIFICATION OF A STATE OF WATER SUPPLY CONSERVATION.

Notification of any provision, restriction, or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Any restriction imposed under Section 58-2.5 shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation may also be simultaneously provided to the Massachusetts Department of Environmental Protection.

58-2.7 TERMINATION OF A STATE OF WATER SUPPLY CONSERVATION.

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Water Commissioners, upon a determination that **the conditions requiring the State of Water Supply Conservation** ~~the water supply shortage~~ no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by Section 58-2.6.

All water usage restrictions issued by the Board pursuant to the Bylaw shall be superseded by water usage restrictions issued by the DEP under its declaration.

58-2.8 STATE OF WATER SUPPLY EMERGENCY.

~~Compliance with DEP Orders~~

Upon notification to the Public that a declaration of a State of Water Supply Emergency has been issued by the ~~DEP Department of Environmental Protection~~, no person shall violate

any provision, restriction, requirement, or condition of any order approved or issued by the **DEP Department** intended to bring about an end to the State of Emergency.

58-2.9 PENALTIES.

Any person violating any Section of this Bylaw shall be liable to the Town in the amount listed below:

- a) First Violation: Warning
- b) Second Violation: \$50.00
- c) Third Violation: \$100.00
- d) Fourth and subsequent Violations: \$300.00

The fines and charges shall inure to the Town. Fines shall be recovered by indictment or on complaint before the District Court, or by non-criminal disposition in accordance with section 21D of Chapter 40 of the General Laws. For purposes of non-criminal disposition, the enforcing person shall be any Police Officer of the Town or the Water Superintendent. Each day of violation **within a declared State of Water Supply Conservation or State of Water Supply Emergency** shall constitute a separate offense.

58-2.10 RIGHT OF ENTRY.

Entrance to any Building, Dwelling or Business Property shall be restricted as follows:

- a) Public Buildings ~~entrance~~ may only be **entered-made** during normal business hours and in areas normally available to the general public, or upon the order of a Court of Law having jurisdiction.
- b) Private property may be entered only with the advice and consent of the owner, or upon the order of a Court of Law having jurisdiction.

58-2.11 SEVERABILITY.

If any portion or provision of this bylaw is deemed invalid, the remaining portions and provisions shall remain binding.
(Art. 43, 5/2/2000)

Article description

The Board of Water Commissioners recommends that the Town's Water Restriction By-Law be amended to reflect changes made to the Town's water withdrawal permit by the Department of Environmental Protection. The proposed changes include new definitions, specific conditions needed to declare a State of Water Supply Conservation and to whom the restrictions apply, an updated list of conservation measures and other language changes aimed at clarifying the bylaw.