

## CHAPTER XXV

### OUTDOOR WATER USE BY-LAW

#### **SECTION 1. Authority**

This By-Law is adopted by the Town under its police powers to protect public health and welfare and its power under G.L. Ch.40, Sec. 21 et. seq. and implements the Town's authority to regulate water use pursuant to G.L. Ch. 41, Sec. 69B.

#### **SECTION 2. Purpose**

The purpose of this By-law is to protect, preserve and maintain the public health, safety and welfare by creating a balance between the needs of the environment, our ground water supply, the citizens of Hamilton and Hamilton's public water distribution system, and by addressing concerns about lower ground water levels and the potential demand on its water sources during the dry summer months, while recognizing the therapeutic, esthetic and environmental benefits that gardening and landscaping bring to our community. The provisions of this By-law are applicable only to the use of water supplied by the Town's public water system or withdrawn from the same water sources as the Town's public water system and do not apply to the use of recycled water, storm water run-off, gray water or water from cisterns or rain barrels that derive their water directly from precipitation.

#### **SECTION 3. Definitions**

Nonessential Outdoor Water Use shall mean those uses that are not required:

1. for health or safety reasons;
2. by regulation;
3. for the production of food and fiber;
4. for the maintenance of livestock; or
5. to meet the core functions of a business.

Person shall mean any individual, corporation, trust, partnership or association, agency or authority, or other public or private entity and any officer, employee, group or agent of such persons.

State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Board of Selectmen pursuant to Section 4 of this By-law.

Water Users shall mean all persons who use water supplied by the Town's public water system or withdrawn from the same water sources as the Town's public water system, irrespective of such person's legal responsibility for payment for the use of such water.

#### **SECTION 4. Water Ban**

The Town, through the Board of Selectmen, shall have the authority to regulate the use of any automatic or other sprinkler during prescribed daylight hours in an effort to promote water conservation, without declaring a State of Water Supply Conservation pursuant to Section 5 of this By-law.

#### **SECTION 5. Declaration of a State of Water Supply Conservation**

The Board of Selectmen may declare a State of Water Supply Conservation upon their determination that there exists or impends a shortage of water, and that conservation measures are appropriate to ensure that an adequate supply of water is available to all users, including fire-fighting operations; that the Town's water withdrawal volumes remain within the limits of any applicable Registration Statement submitted by the Town to the Massachusetts Department of Environmental Protection pursuant to G.L. Ch.21G, Sec. 5 and any applicable water withdrawal Permit issued to the Town pursuant to G.L. Ch.21G, Sec. 11; and that any conditions set forth in such Permit are satisfied. Public notice of a State of Water Conservation shall be given in accordance with Section 7 of this By-Law before any restrictions, conditions or requirements limiting the use of water may be enforced pursuant thereto.

#### **SECTION 6. Restricted Water Uses**

A declaration of a State of Water Supply Conservation shall be accompanied by the imposition of one or more of the following restrictions, conditions or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required by Section 7.

- A. Odd/Even Day Nonessential Outdoor Water Use: Nonessential outdoor water use by water users with odd-numbered addresses is restricted to odd-numbered days. Nonessential outdoor water use by water users with even-numbered addresses is restricted to even-numbered days.
- B. Nonessential Outdoor Water Use Days: Nonessential outdoor water use is permitted only on the days per week specified in the public notice of the State of Water Supply Conservation.
- C. Nonessential Outdoor Water Use Ban: Nonessential outdoor water use is prohibited at all times.
- D. Nonessential Outdoor Water Use Hours: Nonessential outdoor water use is permitted only during daily periods of low demand, to be specified in the public notice of the State of Water Supply Conservation.
- E. Filling Swimming Pools: Filling of swimming pools is prohibited.

- F. Washing Vehicles: Washing of vehicles is prohibited.
- G. Washing Buildings: Washing of buildings' exterior, surfaces, parking lots, driveways, and sidewalks prohibited.
- H. Outdoor Sprinkler Use: the use of lawn and garden sprinklers of all types, including the use of drip irrigation hoses or other devices that use subsurface application is prohibited. Hand watering is permitted.

**SECTION 7. Public Notice of a State of Water Supply Conservation**

Notice of any declaration of a State of Water Supply Conservation, including the accompanying restrictions, conditions or requirements limiting the use of water imposed by the Board of Selectmen shall be published in a newspaper of general circulation within the Town, sent by mail, posted on the Town's Web site, or provided by such other means reasonably calculated to reach and inform all water users of the State of Water Supply Conservation. Notification of the State of Water Supply Conservation shall also be provided to the Massachusetts Department of Environmental Protection.

**SECTION 8. Termination of a State of Water Supply Conservation- Notice**

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Selectmen, upon their determination that there no longer exists or impends a shortage of water or that the previously imposed restrictions, conditions or requirements limiting the use of water conservation are no longer essential. Public notice of the termination of a State of Water Supply Conservation shall be given in the same manner used pursuant to Section 7 for notice of its declaration.

**SECTION 9 Summer Irrigation/Outdoor Water Use**

This section is applicable only to the use of water supplied by the Town's public water system and shall be in effect from May 1 to September 30 each year; provided, however, that this time period may be extended by vote of the Board of Selectmen, as it deems necessary in light of weather conditions, the need to protect the Town's water supply, applicable regulations of the Department of Environmental Protection, demands on the Town's pumping equipment or other circumstances that the Board deems relevant.

In the event that any provision of this section conflicts with any restrictions, conditions or requirements limiting the use of water imposed by the Board of Selectmen pursuant to Section 7 of this By-law, the applicability of such provision shall be suspended for so long as such conflict continues.

It is unlawful to engage in nonessential outside water use through a sprinkler or lawn irrigation system between 8:00 am and 8:00 pm.

All water hoses shall be controlled by a nozzle, sprinkler or other device to regulate the flow of water leaving the hose. No use of an open-ended hose is permitted with the exception of filling or topping of swimming pools.

All outside spigots shall be retrofitted with an antisiphon device.

All existing automatic underground irrigation systems shall have rain sensors wired into them to prevent unnecessary watering.

Nothing in this section shall be construed to prohibit watering through drip irrigation hoses or other devices that use subsurface application and prevent the water from being evaporated through contact with the atmosphere..

#### **SECTION 10. Penalties**

Any person violating this By-law shall be subject to a penalty, which shall inure to the Town, in the amount of \$50.00 for the first violation and \$100.00 for each subsequent violation. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with G.L. Ch. 40, Sec. 21D. Each day of violation shall constitute a separate offense.

#### **SECTION 11. Severability**

If any portion or provision of this By-law shall be found invalid for any reason by a court of competent jurisdiction, such invalidity shall be construed as narrowly as possible and the balance of the By-law shall be deemed to be amended to the minimum extent necessary to provide the Town substantially the benefits set forth in this By-law.