

TOWN OF IPSWICH UTILITIES DEPARTMENT



272 HIGH STREET, PO BOX 151 • IPSWICH, MA 01938 • (978) 356-6635 • FAX: (978) 356-6634

To: Board of Selectmen/Water Commissioners
From: Vicki Halmen, Water Director
Date: March 3, 2017
Subject: Outdoor Water Use Bylaw/Water Regulations

A working group of myself, the Town Manager, Jim Engel and Michael Dougherty convened on March 2nd to review the proposed outdoor water use bylaw and applicable section of the Water Rules and Regulations. The group reached consensus on a bylaw and regulation amendments as follows:

- The bylaw includes restrictions/ban on private water sources;
- The bylaw will reference Article I, Section 7 of the Water Rules and Regulations for specifics on the restrictions or ban to be imposed.
- The regulations will be amended through a public hearing process at the April 3rd meeting of the Board of Selectmen/Water Commissioners, prior to Annual Town Meeting.

The attached bylaw and regulation amendment are recommended for support by the Board of Selectmen/Water Commissioners. A recommendation by the Water Subcommittee is expected prior to the March 20th public hearing and signing of the warrant by the Selectmen.

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TOWN OF IPSWICH

ARTICLE II
OUTDOOR WATER USE

§ 220-2. Authority

This By-law is adopted by the Town under its police powers pursuant to the Home Rule Amendment of the Massachusetts Constitution, Article LXXXIX, to protect public health and welfare and pursuant to its powers under M.G.L. c.40, §§21 et seq. and implements the Town's authority to regulate water use pursuant to M.G.L. c. 41, §69B. This by-law 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 under G.L. c. 21G, §15-17.

§ 220-3. Purpose

The purpose of this by-law is to protect, preserve and maintain the public health, safety and welfare whenever a Restriction or Ban of Water Use is declared, by ensuring an adequate supply of water for drinking and fire protection and to protect the quality and quantity of water in local aquatic habitats such as ponds, rivers and wetlands. This purpose will be accomplished by providing for the imposition and enforcement of any duly implemented restrictions, requirements, provisions or conditions on water use imposed by the Town in accordance with this by-law, the Town of Ipswich Water Rules and Regulations and/or by the Department of Environmental Protection under its state law authorities.

§ 220-4. Applicability

All users of the public water supply system and users of private water sources, exclusive of stormwater harvested and stored in tanks or cisterns, shall be subject to this by-law.

§ 220-5. Definitions

Agriculture shall mean farming in all its branches as defined at M.G.L. c. 128, § 1A.

Department shall mean the Massachusetts Department of Environmental Protection (DEP).

Drought Management Plan shall mean the Town of Ipswich Drought Management Plan, Appendix VII of the Town of Ipswich Water Rules and Regulations.

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

Restriction or Ban of Water Use shall mean a Restriction or Ban of Water Use declared by the Board of Water Commissioners or their designee, pursuant to § 220-6 of this by-law.

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.

Town shall mean the Town of Ipswich.

Water Customers shall mean all persons using the public water supply irrespective of that person's responsibility for billing purposes for use of the water.

Water Sources shall mean all municipal water sources, all private wells, waterways, ponds, rivers and wetlands, excluding harvested stormwater.

Water Users shall mean all persons using water within the Town, including private water sources.

Water Rules and Regulations shall mean the Town of Ipswich Water Rules and Regulations.

§ 220-6. Restriction or Ban of Water Use Declaration

The Town, through its Board of Water Commissioners or its designee authorized to act as such, may restrict or ban the use of water as set forth in Article I, Section 7 of the Water Rules and Regulations. Upon notification to the public that water use is being restricted or banned, no person shall violate any provision, restriction, requirement or condition of the declaration. The Water Commissioners may designate the Water Director or Town Manager to declare a Restriction or Ban of Water Use at any time that conditions warrant. Public notice of a Restriction or Ban of Water Use shall be given under § 220-8 (a) of this by-law before it may be enforced.

§ 220-7. Declaration of a State of Water Supply Emergency

Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the DEP, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the DEP for the purpose of bringing about an end to the State of Water Supply Emergency.

§ 220-8. Public Notification of Restriction or Ban of Water Use Declaration; Notification of DEP

- a) Public Notification of Restriction or Ban of Water Use Declaration – Notice to the public of all provisions, including all restrictions, requirements and conditions imposed by the Town as part of Restriction or Ban of Water Use Declaration shall be made as soon as possible, but no later than 48 hours following the declaration by press release and posting on the Town's website. The Town may also notify the public using other means determined to be appropriate including signage on roadways, cable TV, telephone, email, emergency communication system, etc.

- b) Public Notification of a State of Water Supply Emergency – Notice to the public of all provisions, including all restrictions, requirements and conditions imposed by a State of Water Supply Emergency declared by the DEP shall be made by press release and posting on the Town’s website. The Town may also notify the public using other means determined to be appropriate including signage on roadways, cable TV, telephone, email, emergency communication system, etc. This notice shall be provided as soon as possible, but no later than 48 hours after the public water system receives notice of the DEP’s declaration of a State of Water Supply Emergency.
- c) Any restriction imposed under § 220-6 or § 220-7 or in the DEP’s State of Water Supply Emergency or Order shall not be effective until notification to the public is provided. Submittal of MassDEP’s form “Notification of Water Use Restriction” shall be provided to the DEP within 14 days of the effective date of the restrictions, per MassDEP regulations (310 CMR 22.15(8)).

§ 220-9. Termination of a Restriction or Ban of Water Use Declaration; Notice

A Restriction or Ban of Water Use may be terminated by a majority vote of the Board of Water Commissioners or by decision of their designee upon a determination by either or both of them that the conditions requiring the Restriction or Ban of Water Use no longer exist. Public notification of the termination of a Restriction or Ban of Water Use shall given in the same manner as is required in § 220-8 (a) for notice of its imposition.

§ 220-10. Termination of a State of Water Supply Emergency; Notice

Upon notification to the Town that the declaration of a State of Water Supply Emergency has been terminated by the DEP, the public will be notified of the termination in the same manner as is required in § 220-8 (b) for notice of its imposition.

§ 220-11. Penalties

The Town through its Water Commissioners or its designee including the Water Director or Town Manager and/or local police may enforce this by-law. Any person violating this by-law shall be liable to the Town in the amounts listed below:

- 1) First violation: Warning;
- 2) Second violation: \$ 50;
- 3) Third violation: \$ 100;
- 4) Fourth and subsequent violations: \$ 300.

Each day of violation shall constitute a separate offense. Fines shall be recovered by 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 or the superintendent’s designee. If a State of Water Supply Emergency has been declared the Water Commissioners may, in accordance with G.L. c. 40, s. 41A, shut off the water at the meter or the curb stop.

§ 220-12. Severability

The invalidity of any portion or provision of this by-law shall not invalidate any other portion or provision thereof.

§ 220-13. Controls on In-Ground Irrigation Systems

The Water Commissioners may regulate the registration, specifications, installation and monitoring of in-ground irrigation systems and appurtenances for all water users.

Consistent with the proposed Outdoor Water Use Bylaw, Article I, Section 7 of the Water Rules and Regulations shall be replaced in its entirety with the following:

7. Restriction on Use of Water

The Town reserves the right to restrict the use of water as it deems necessary to ensure an adequate supply of water for drinking and fire protection and to protect the quality and quantity of water in local aquatic habitats such as ponds, rivers and wetlands and to ensure compliance with the Water Management Act.

The restriction of water use shall be guided by the Drought Management Plan, incorporated herein as Appendix VII. The Water Commissioners, Water Director or Town Manager may declare a Restriction of Water Use as authorized in Chapter 220, Article II of the General Bylaws.

Declared Water Restrictions shall be progressive in nature based on drought conditions. Exceptions to the restrictions may be suspended as necessary to further reduce water use.

Outdoor water uses not subject to restrictions or bans are those required:

- (a) for health or safety reasons;
- (b) by regulation;
- (c) for the production of food and fiber;
- (d) for the maintenance of livestock; or
- (e) to meet the core functions of a business (for example, irrigation by golf courses as necessary to maintain tees and greens, or irrigation by plant nurseries or agricultural operations as necessary to maintain stock or establish new plantings, wash equipment to prevent damage and/or maintain performance, pest management and plant cooling).

During declared Water Restrictions, the following practices shall be permitted:

- (a) irrigation of public parks and recreation fields between the hours of 7:00 p.m. and 6:00 a.m.;
- (b) irrigation of lawns, gardens, flowers and ornamental plants by means of hand-held hose between the hours of 7:00 p.m. and 6:00 a.m.

During declared Water Restrictions the following practices shall be prohibited:

- (a) irrigation of lawns via any system other than hand held hose or bucket;
- (b) washing of vehicles, except to meet core function of a business as described in (e) above;
- (c) washing of exterior building surfaces, parking lots, driveways or sidewalks, except as necessary to apply paint, preservatives, stucco, pavement or cement; and
- (d) filling or refilling of swimming pools.

Further restrictions on outdoor water use beyond those detailed herein may be imposed as necessary.

The following outdoor water uses are subject to review and approval by the Town, through its Board of Water Commissioners or their designee:

- (a) irrigation to establish replanted or re-sodded lawn or plantings during the months of May and September; and
- (b) irrigation of newly planted lawns (seeded or sodded) in the current calendar year for homes or businesses newly constructed in the previous twelve months.

During a declared Water Ban, all outdoor water uses shall be prohibited.

The Town of Ipswich General Bylaws Chapter 220, Article II “Outdoor Water Use” and Massachusetts General Laws Chapter 165:11 and 111:171 are incorporated herein as Appendix I.