

ARTICLE 15 Water Conservation and Restriction Bylaw - Added 10/27/2011

Section 1. Authority

This By-law is adopted by the Town of Spencer 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. This by-law is also intended to implement other water conservation requirements of M.G.L. c. 21G, the "Massachusetts Water Management Act" and its regulations promulgated at 310 CMR 36.00.

Section 2. Purpose

The purpose of this by-law is to protect, preserve and maintain the public health, safety, welfare and the environment whenever there is in force a "State of Water Supply Conservation" or a "State of Water Supply Emergency" 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 of Spencer in accordance with this by-law and/or by the Department of Environmental Protection under its state law authorities.

Section 3. Applicability

All Town of Spencer residents that are customers of the public water supply system shall be subject to this by-law. This by-law shall be in effect year round.

Section 4. Definitions

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

Automatic sprinkler system shall mean any system for watering vegetation other than a hand-held hose or a bucket.

Department and/or "the Department" shall mean the Massachusetts Department of Environmental Protection (MassDEP).

Nonessential outdoor water use shall mean those uses that are not required:

- a) for health or safety reasons;
- b) by regulation;

¹ - This statutory definition includes cultivation of the soil, dairying and the production, cultivation, growing and harvesting of agricultural, aqua cultural, floricultural or horticultural commodities as well as forest harvesting, raising livestock inclusive of bees and fur-bearing animals and forestry, lumbering, preparation for market, delivery to storage or market or to carriers to market incidental to an agricultural operation.

- 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, and limited fairway watering, 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).

Nonessential outdoor water uses that are subject to mandatory restrictions include:

- a) irrigation of lawns via automatic sprinkler systems;
- b) washing of vehicles except in a commercial car wash; and
- c) washing of exterior building surfaces, parking lots, driveways or sidewalks, except as necessary to apply paint, preservatives, stucco, pavement or cement.

Exceptions to nonessential outdoor water uses are:

- a) irrigation of public parks and recreation fields outside the hours of 9 AM to 5 PM and;
- b) washing of vehicles as necessary for operator safety or to prevent damage and/or maintain performance of agricultural or construction vehicles or equipment;
- c) irrigation of lawns, gardens, flowers and ornamental plants by means of a hand-held hose;
- d) irrigation with harvested and stored stormwater runoff; and
- e) irrigation to establish new, replanted or resodded lawn or plantings during the months of May and September.

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

- a) irrigation of newly planted lawns (seeded or sodded) in the current calendar year for homes or businesses newly constructed in the previous twelve months; and
- b) filling of privately owned outdoor pools.

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.

State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Town of Spencer pursuant to Section 5 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.

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 Users shall mean all persons using water within the Town. Inclusive of public water supply system users shall be subject to this by-law. This by-law shall be in effect year round.

Section 5. Declaration of a State of Water Supply Conservation

The Town of Spencer, through its Board of Water Commissioners or their designee authorized to act as such, may declare a State of Water Supply Conservation upon a determination that conservation measures are appropriate to ensure an adequate supply of water for drinking and fire protection, 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 Utilities and Facilities Superintendent may declare a State of Water Conservation if:

- a) The demand for water has exceeded the actual pumping capacity of the system for a period longer than four (4) days; or
- b) A loss or failure has occurred removing one (1) or more of the Town's wells, treatment plants or holding tanks from operation; or
- c) The DEP requires conservation conditions related to the Town's registered or permitted water withdrawals under the Massachusetts Water Management Act.

Upon notification to the public that a declaration of a State of Water Supply Conservation has been declared, no person shall violate any provision, restriction, requirement or condition of the declaration. The Water Commissioners may designate the Water Department Superintendent, Town Manager or Utilities and Facilities Superintendent to declare a State of Water Supply Conservation at any time that conditions warrant.

Public notice of a State of Water Conservation shall be given under Section 8 of this by-law before it may be enforced.

Section 6. 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 Department of Environmental Protection, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department for the purpose of bringing about an end to the State of Water Supply Emergency.

Section 7. Restricted Water Uses

A declaration of a State of Water Supply Conservation and/or a State of Water Supply Emergency shall include one or more of the following restrictions, conditions, or requirements limiting nonessential outdoor water use by water customers and water users as necessary to control the volume of water pumped each day, except as provided as acceptable in Section 4. The applicable restrictions, conditions or requirements shall be included in the public notice required under Section 8.

- a) Nonessential outdoor water use days: Nonessential outdoor water use is permitted only on the days per week specified in the State of Water Supply Emergency or State of Water Supply Conservation and public notice thereof. During a State of Water Supply Emergency or State of Water Supply Conservation, nonessential outdoor water use is restricted to two days or fewer per week.

- b) Nonessential outdoor water use hours: nonessential outdoor water use is permitted only during the hourly periods specified in the declaration of a State of Water Supply Emergency or State of Water Supply Conservation and public notice thereof. At a minimum, nonessential outdoor water use is prohibited during the hours from 9AM to 5PM.
- c) Nonessential outdoor water use method restriction: nonessential outdoor water use is restricted to a watering can, bucket or hand-held hose controlled by a nozzle.
- d) Nonessential outdoor water use ban: Nonessential outdoor water use is prohibited at all times.
- e) Automatic sprinkler system ban: The use of automatic sprinkler systems is prohibited.

Section 8. Public Notification of a State of Water Supply Conservation or State of Water Supply Emergency; Notification of DEP

- a) Public Notification of a State of Water Supply Conservation – Notice to the public of all provisions, including all restrictions, requirements and conditions imposed by the Town of Spencer as part of a State of Water Supply Conservation shall be made as soon as possible, but no later than 48 hours following the declaration of a State Water Supply Conservation by publication in a newspaper of general circulation within the Town and by signage on one or more major roadways or intersections. The Town of Spencer may also notify the public using other means determined to be appropriate (cable TV, reverse 911, CTY Connect, email, etc.). Notification may also include email, Web sites, public service announcements on local media or other such means reasonably calculated to reach and inform all Water Users.
- 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 Massachusetts Department of Environmental Protection (hereafter referred to as “the Department” or “MassDEP”) shall be made by publication in a newspaper of general circulation with the Town and by signage on one or more major roadways or intersections. The Town of Spencer may also notify the public using other means determined to be appropriate (cable TV, reverse 911, CTY Connect, email, 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 Department’s declaration of a State of Water Supply Emergency. Notification may also include email, Web sites, public service announcements on local media or other such means reasonably calculated to reach and inform all Water Users of the State of Water Supply Emergency.
- c) Any restriction imposed under Section 5 or Section 6 or in the MassDEP’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 MassDEP within 14 days of the effective date of the restrictions, per MassDEP regulations (310 CMR 22.15(8)).

Section 9. 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 Water Commissioners or by decision of their designee upon a determination by either or both of them that the conditions requiring the State of Water Supply Conservation no longer exist. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner as is required in Section 8a) for notice of its imposition.

Section 10. Termination of a State of Water Supply Emergency; Notice

Upon notification to the Town of Spencer Water Commissioners or their designee that the declaration of a State of Water Supply Emergency has been terminated by the Department of Environmental Protection, the public will be notified of the termination in the same manner as is required in Section 8b) for notice of its imposition.

Section 11. Penalties

The Town of Spencer through its Water Commissioners or their designee including the water superintendent, building inspector 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:

- a) First violation: Warning
- b) Second violation: \$100.00 dollar fine
- c) Third violation: \$250.00 dollar fine

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.

Section 12. Severability

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

Section 13. Controls on In-Ground Automatic Sprinkler Systems

Subsection 13.1 Registration and Installation

- a) All new and existing in-ground Automatic Sprinkler systems shall be registered with the Town's Board of Water Commissioners in such form and manner as they shall determine. A fee may be charged for this registration. Registration fees shall be set by the Board of Water Commissioners. The Board may require inspection of the automatic sprinkler system.

- b) All in-ground automatic sprinkler systems shall be equipped with a timing device that can be set to make the system conform to the Town of Spencer's nonessential outdoor water use restrictions. During a State of Water Supply Emergency or State of Water Supply Conservation the timing device must be set to conform to the daily and hourly nonessential outdoor water use restrictions.
- c) All in-ground automatic sprinkler systems shall be plumbed so that a shutoff valve is located outside the building and situated so that it may be shut off if found to be in violation of this bylaw. For the purposes of this section only, Police Officers of the Town and/or Agents of the Board of Water Commissioners may enter upon any property to enforce this section.

Subsection 13.2 Soil Moisture-Sensor Devices

- a) All in-ground automatic sprinkler systems installed in the Town of Spencer after the date of effect of this bylaw shall be equipped with a soil moisture-sensor device, approved by the Board of Water Commissioners, to prevent the system from starting automatically when not needed. Proof of this installation shall be provided to the Board of Water Commissioners at the time of registration.
- b) Any service or repair to an existing in-ground automatic sprinkler system shall include the installation of an approved moisture-sensor device, if the same is not already installed and in good working condition. Proof of this installation shall be provided to the Board of Water Commissioners at the time of installation.
- c) The Board of Water Commissioners shall maintain a list, available to the public, of approved soil moisture-sensor devices.

Subsection 13.3 Backflow Prevention

- a) All in-ground automatic sprinkler systems connected to the municipal water system in the Town of Spencer shall be protected from backflow events by the installation of a backflow prevention device approved by the Board of Water Commissioners. Each backflow prevention device shall be registered with the Board of Water Commissioners. Testing of all backflow prevention devices connected to the municipal water system may also be required by the Board of Water Commissioners as they determine necessary.
- b) The Board of Water Commissioners shall maintain a list, available to the Public, of approved backflow prevention devices. Refer to Table 22-1 in 310 CMR 22.22 for the recommended backflow protection for irrigation systems.
- c) Each backflow prevention device shall be installed in accordance with 310 CMR 22.22 and the manufacturer's instructions. Each device shall be tested upon its installation and annually thereafter. A Massachusetts Certified Backflow Device Tester shall perform all testing. Copies of results of all testing shall be filed with the Board of Water Commissioners or Water Department.
- d) A fee may be charged for the above described registration and backflow testing. Registration and testing fees shall be set by the Board of Water Commissioners.

Section 14. Water Conservation Public Outreach Information, Tips and Useful Links

Water conservation is an important way to protect our drinking water by ensuring that we don't diminish our resource. As much as 97% of the world's water is saltwater, leaving 3% freshwater, two-thirds of which is stored as icecaps or glaciers. This leaves us 1% of the world's water for drinking. Needless to say, water conservation will help us sustain our precious 1%.

Town of Spencer water conservation public outreach information, tips, and useful links to other water conservation web sites will be published and updated on the following web page:

http://www.spencerma.gov/Pages/SpencerMA_Water/index

or www.spencerma.gov Home page and look under the *Water Department* page

Lawn watering water conservation tips:

1 ***Lawn watering:*** Water your lawn only when it needs it. Step on your grass. If the grass springs back, when you lift your foot, it doesn't need water. Saves 750-1,500 gallons per month. Turn off the water while brushing your teeth. Saves three gallons each day. Set lawn mower blades one notch higher. Longer grass means less evaporation. Saves 500 to 1,500 gallons each month. Put a layer of mulch around trees and plants. Saves 750 to 1500 gallons per month.

2 ***Automatic lawn sprinklers*** are very popular, and many people have installed underground automatic sprinkler systems. While this can be positive, it can also create serious problems if not installed properly. Any landscaping company will tell you that the best time to water your lawn is in the early morning or during the evening. Watering your lawn during the day wastes water due to the evaporation that occurs. Some experts say that as much as 50% of the water will evaporate before it soaks into the ground on a hot sunny day.