

ARTICLE 18

That the Town amend its General Bylaws to add Chapter 255 “Outdoor Water Use By-law” exactly as printed on pages 41 to 45 of the warrant for this Annual Town Meeting.

To see if the Town will vote to amend its General Bylaws to add Chapter 255 “Outdoor Water Use By-law” by adopting the following:

CHAPTER 255: OUTDOOR WATER USE BY-LAW

Section 1: Authority

This By-law is adopted by the Town of Sharon 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”, a “State of Drought” or a “State of Water Supply Emergency”, thereby ensuring an adequate supply of water for drinking and fire protection while also protecting of the quality and quantity of water in local aquatic habitats such as ponds, rivers and wetlands, thereby maintaining the health and safety of both the public water supply and the citizens of Sharon. 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 and/or by the Department of Environmental Protection under its state law authorities.

Section 3: Applicability

All Town 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.

Maintenance shall mean any service of the system intended to cause the system to function properly or to extend and maintain the operating life of the system and/or system components.

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;
5. to meet the core functions of a business; or
6. to maintain the viability of public resources.

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

- irrigation of lawns via sprinklers or underground automatic irrigation systems;
- washing of vehicles, except in a commercial car wash or as necessary for operator safety or to prevent damage and/or maintain performance of agricultural or construction vehicles or equipment; and;

- 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:

1. irrigation of lawns, gardens, flowers and ornamental plants by means of a hand-held hose controlled by a nozzle or a drip-irrigation system; and
2. irrigation with harvested and stored stormwater runoff.

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

- irrigation of public parks and recreation fields outside the hours of 9 AM to 5 PM only;
- irrigation to establish replanted or resodded lawn or plantings during the months of May through September;
- irrigation of newly planted lawns (seeded or sodded) in the current calendar year for homes or businesses newly constructed in the previous twelve months;
- filling of privately owned outdoor pools; and
- other uses which the Town, through its Select Board or their designee determine appropriate.

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.

Service Provider shall mean a business or individual that supplies care or specialized services and/or products intended to maintain, install or expand an irrigation system. Services may include system installation and expansion, spring system start-up, watering zone realignments, clearing sprinkler head obstructions, leak detection, run time calibration, rain sensor testing, seasonal run time adjustments, rotor inspections and system winterizations.

State of Drought shall mean a Drought Advisory, Watch, Warning or Emergency declared by the Secretary of Energy and Environmental Affairs in consultation with the Massachusetts Drought Management Task Force.

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.

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

Underground automatic irrigation system shall mean any subsurface automated system for watering vegetation other than a hand-held hose or a bucket, herein referred to as the System or Systems. The System includes the pipes, valves, pumps, sprinkler heads, control system, electrical wiring and other associated components that collectively function to allow or force water to flow and irrigate vegetation.

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

Section 5: Declaration of a State of Drought, Water Supply Conservation or Water Supply Emergency

The Town, through its Select Board or their designee authorized to act as such:

- a. may declare a State of Drought, Water Supply Conservation or Water Supply Emergency upon a determination that conservation measures consistent with State and Federal regulations are appropriate and necessary 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
- b. may declare a State of Water Supply Conservation as necessary to ensure compliance with the Water Management Act.

Public notice of a State of Drought, Water Supply Conservation or Water Supply Emergency shall be given under Section 7 of this by-law before it may be enforced. Upon notification to the public that a State of Water Supply Conservation has been declared, no water customer shall violate any provision, restriction, requirement or condition of the declaration. The Water Commissioners may designate DPW Director to declare a State of Water Supply Conservation at any time that conditions warrant. The applicable restrictions, conditions or requirements shall be included in the public notice.

Section 6: Restricted Water Uses

A declaration of a State of Water Supply Conservation, State of Drought or State of Water Supply Emergency shall include restrictions, conditions, or requirements limiting nonessential outdoor water use by water customers 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 consistent with applicable Water Management Act Permit conditions imposed by the Commonwealth of Massachusetts on water withdrawals.

Section 7: Public Notification and Notification of DEP

- a. Public Notification of a State of Water Supply Conservation, State of Drought or State of Water Supply Emergency – Notice to the public of all provisions, including all restrictions, requirements and conditions imposed by the Town as part of a State of Water Supply Conservation, State of Drought or State of Water Supply Emergency shall be made as soon as possible following the declaration of a State Water Supply Conservation, State of Drought or State of Water Supply Emergency by signage on major roadways or intersections email, Web sites, public service announcements on local media, reverse 911 calls or other such means reasonably calculated to reach and inform water customers to the extent reasonable.
- b. Any restriction imposed pursuant to Section 5 or Section 6 or in the Department’s State of Water Supply Emergency or Order shall not be effective until notification to the public is provided.
- c. Notification of DEP: Submittal of MassDEP’s form “Notification of Water Use Restriction” shall be provided to the Massachusetts Department of Environmental Protection within 14 days of the effective date of the restrictions, per MassDEP regulations (310 CMR 22.15(8)).

Section 8: Termination of a State of Water Supply Conservation, State of Drought or State of Water Supply Emergency; Notice

A State of Water Supply Conservation may be terminated by a majority vote of the Select Board, acting in their authority as 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, or in accordance with the Water Management Act permit conditions. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner as is required in Section 9a for notice of its imposition.

Section 9: Penalties

The Town through their designee including the water superintendent, building inspector and/or local police may enforce this by-law.

Any person violating this bylaw shall be subject to a warning for the first offense each calendar year and thereafter shall be liable to the Town in the amount of \$50.00 for the second violation each calendar year, and not more than \$500.00 for each subsequent violation per calendar year, in which every day of violation shall constitute a separate offense, which shall inure to the Town for such uses as the Select Board may direct. 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 provisions of the Massachusetts General Laws. For purposes of non-criminal disposition, the enforcing person(s) shall be the Select Board or their designee. Each day of violation shall constitute a separate offense.

Section 10: Severability

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

Section 11: Controls on Automatic In-Ground Irrigation Systems

Subsection 11.1 Registration and Installation

No person shall install or operate, or expand a new or existing System(s) which is connected to the public water supply unless an application is made pursuant to this bylaw, as outlined in section 11.4.

- a. All Systems connected to the municipal water system of the Town of Sharon shall be registered with the Sharon Water Department. No fee will be charged for this registration. Registration of any existing system shall occur prior to their operation or inspection.
- b. All Systems shall be operated in conformance with the Town's nonessential outdoor water use restrictions and regulations. Whenever outdoor water use restrictions are in force, the System must be set to conform to the daily and hourly nonessential outdoor water use restrictions and regulations.

Subsection 11.2 In-line System Water Meter

- A. All Systems connected to the municipal water system in the Town shall have a separate in-line Irrigation System Water Meter, hereby defined as: A town-supplied water meter, separate from the household or public building water meter used to record volume consumption for drinking water, kitchen, laundry, bathroom/lavatory, utility sink and outdoor hose use. The Irrigation System Water Meter shall be dedicated and exclusively used to record that volume of water used by the in-ground irrigation System. The Irrigation System Water Meter will be installed on the water pipe that leads directly to the System by and at the discretion of the Sharon Water Department or its authorized vendor.

Subsection 11.3 System requirements.

- a. All new Systems installed under this bylaw shall conform to all applicable state and local laws and regulations. All preexisting Systems shall be upgraded to conform to all applicable state and local laws and regulations when the System is otherwise upgraded or modified and if the System is not upgraded or modified, no later than 2 years from the effective date of this bylaw.

Subsection 11.4 Rules and regulations.

- a. The Sharon Department of Public Works shall have the authority and duty to adopt, issue and administer any rules and regulations (including restrictions) necessary for the administration, operation and enforcement of outdoor underground water sprinkler systems connected to the public water supply. Any such rules and regulations (including restrictions) shall be consistent with the provisions of this bylaw.