

Chapter 190

WATER

ARTICLE I Restrictions on Use

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[HISTORY: Adopted by the Town of Wayland as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Swimming pools — See Ch. 163.

Water Department Regulations — See Division 4.

Aquifer Protection District — See Ch. 300.

ARTICLE I Restrictions on Use

[Adopted 5-6-1998 ATM by Art. 14]

§ 190-1. Statutory authority. [Amended 4-10-2008 ATM by Art. 5]

This article is adopted by the Town of Wayland under its police powers to protect public health and welfare and its powers under MGL c. 40, § 21 et seq. and under the Town of Wayland's authority to regulate water use through its Board of Public Works pursuant to Chapter 80 of the Acts of 1878. This article also implements the Town of Wayland's authority under MGL c. 40, § 41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection (DEP).

§ 190-2. Purpose.

The purpose of this article 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 by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town of Wayland or by the DEP.

§ 190-3. Definitions.

As used in this article, the following terms shall have the meanings indicated:

PERSON — Any individual, corporation, trust, partnership or association or other entity.

STATE OF WATER SUPPLY CONSERVATION — A state of water supply conservation declared by the town pursuant to § 190-4 of this article.

STATE OF WATER SUPPLY EMERGENCY — A state of water supply emergency declared by the DEP under MGL c. 21G, §§ 15 through 17.

WATER USERS or WATER CONSUMERS — All public and private users of the town public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

§ 190-4. Declaration of state of water supply conservation. [Amended 4-10-2008 ATM by Art. 5]

The town, through its Board of Public Works, may declare a state of water supply conservation upon a determination by a majority vote of the Board that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a state of water conservation shall be given under § 190-6 of this article before it may be enforced.

§ 190-5. Restricted water uses.

A declaration of a state of water supply conservation shall include 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 under § 190-6.

- A. Odd/even day outdoor watering: Outdoor watering by water users with odd-numbered addresses is restricted to odd-numbered days. Outdoor watering by water users with even-numbered addresses is restricted to even-numbered days.
- B. Outdoor water ban: Outdoor watering is prohibited.
- C. Outdoor watering hours: Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a state of water supply conservation and public notice thereof.
- D. Filling swimming pools: Filling of swimming pools is prohibited.
- E. Hand watering only: Outdoor watering is limited to watering by hand only. The use of an outdoor sprinkler device is prohibited.

§ 190-6. Public notification of state of water supply conservation; notification to DEP.

Notification of any provision, restriction, requirement 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 other means reasonably calculated to reach and inform all users of water of the state of water supply conservation. Any restriction imposed under § 190-5 shall not be effective until such notification is provided. Notification of the state of water supply conservation shall also be simultaneously provided to the DEP.

§ 190-6.1. Exemptions. [Added 11-17-1999 STM by Art. 6; amended 4-10-2008 ATM by Art. 5]

After a declaration of a state of water supply conservation, the town, through its Board of Public Works, may fully or partially exempt certain water users from the restrictions imposed. Exemptions shall only be granted after a determination by a majority vote of the Board of Public Works that the following conditions exist:

- A. That the water restriction imposes a hardship, financial or otherwise, on the water user seeking an exemption which is more severe than the hardship imposed upon water customers in general; and
- B. The exemption may be granted without a substantial detriment to the water system.

§ 190-7. Termination of state of water supply conservation. [Amended 4-10-2008 ATM by Art. 5]

A state of water supply conservation may be terminated by a majority vote of the Board of Public Works, upon a determination that 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 § 190-6.

§ 190-8. 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, no person shall violate any provision, restriction, requirement or condition of any order approved or issued by the DEP intended to bring about an end to the state of emergency.

§ 190-9. Violations and penalties. [Amended 11-17-1999 STM by Art. 6]

- A. Any person violating this article shall be subject to the following:
 - (1) First offense: written reprimand by Director of Public Works or other person(s) designated in writing by the Director of Public Works. Written reprimand shall include a copy of this article, Chapter 190. **[Amended 4-10-2008 ATM by Art. 5; 5-13-2010 ATM by Art. 18]**

- (2) Second offense: a fine in the amount of \$100 and written notification by certified and regular mail that an additional violation may result in a termination of water service and a charge to reconnect water service as set forth below. Actual proof of receipt of this notice is not required.
 - (3) Third and each subsequent offense: notice of termination of water services in no less than seven days shall be served upon the water customer by a duly appointed constable for the Town of Wayland. The notice shall be served to the water customer in hand or left at the address given for billing purposes and mailed to that address. Notice shall include a statement that the water customer may appeal a decision to terminate water services by requesting a hearing before the Board of Public Works. Water service may be terminated seven days after receipt of the notice to terminate or after a majority vote of the Board of Public Works if the water customer has requested a hearing. Receipt of the notice shall be presumed to be three days after the notice is mailed or the day of in hand service. After water service has been terminated, a reconnection fee of \$275 during normal business hours, or reconnection fee of \$275 plus overtime fee of \$200 after normal working hours, will be charged prior to renewing water service. Payment of the above must be made before reconnection. In lieu of terminating water services, the Board of Public Works by a majority vote may assess a fine in the amount of \$200 for the third offense and each subsequent offense. **[Amended 4-10-2008 ATM by Art. 5]**
- B. Fines shall be recovered by indictment or on complaint before the District Court or by noncriminal disposition in accordance with Massachusetts General Laws Chapter 40, Section 21D. After favorable disposition to the Town of Wayland, any outstanding unpaid fines shall be placed on the water customer's water bill. The enforcing person shall be the Director of Public Works or his/her designee. Each day of violation during the same calendar year shall constitute a separate offense. **[Amended 5-13-2010 ATM by Art. 18]**

§ 190-10. Severability.

The invalidity of any portion or provision of this article shall not invalidate any other portion or provision thereof.