

STATE OF CONNECTICUT MODEL WATER USE RESTRICTION ORDINANCE

Introduction

This is a model provided by the State of Connecticut for use in developing ordinances to restrict the use of water supplied by a water company. It is for communities wishing to establish enforceable limitations on the use of water during emergencies and temporary periods of high water demand. Proposed restrictions included in the ordinance should be consistent with the schedule of drought response measures indicated in the individual water supply plans of the water company and the Connecticut Drought Preparedness and Response Plan. Persons violating the ordinance's restrictions would be subject to civil fines. The State believes it is important for municipalities to consider exemption procedures for the restrictions included within their ordinance. These or other exemptions may be appropriate due to the economic or public health impact of water use restrictions on specific industry or population sectors. Municipalities should give careful consideration to the type of uses granted exemptions and should consider conditioning those exemptions to ensure that those granted exemptions are operating in a water efficient manner.

If a water company is experiencing issues affecting its ability to consistently provide an adequate supply of water, implementing the model ordinance may not address the problem. In severe cases, a declaration of public drinking water supply emergency under Connecticut General Statute (C.G.S.) 25-32b should be requested from the Department of Public Health. A water company operating under a declaration of public drinking water supply emergency would be expected to enter a formal agreement with the Department of Public Health to aggressively pursue measures to increase safe yield such as implementing new sources of supply, regional interconnections, increasing storage capacity, and/or improved treatment and conveyance methods.

Local requirements for adopting ordinances may vary according to the terms of individual municipal charters. Consultation with municipality counsel is encouraged before adopting any ordinance. It is essential that municipalities coordinate their activities with one another when water companies cross municipal borders and there is also a critical need to ensure consistency between water companies when municipalities are served by more than one water company. To promote such coordination and consistency, it is strongly recommended that a Memorandum of Understanding (MOU) be drafted by all involved parties. The State makes no representation concerning the legal effect or validity of this model.

1.0 Authority

The municipality, under its powers pursuant to state law, has adopted this ordinance to protect public health and welfare. This ordinance implements the municipality's authority to impose water use restrictions, conditioned upon a state of water use restrictions or a declaration of public drinking water supply emergency issued by the Department of Public Health pursuant to C.G.S. 25-32b.

2.0 Purpose

The purpose of this ordinance is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Use Restriction or State of Public Drinking Water Supply Emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the municipality or by the State of Connecticut.

3.0 Definitions

Agriculture shall mean farming in all its branches as defined in C.G.S. Section 1-1(q).

Municipality means any town, consolidated town and city, consolidated town and borough, city, borough, and village.

Outdoor Watering shall mean any watering of decorative lawns, trees or shrubbery by water users.

Person means any individual, partnership, association, firm, limited liability company, corporation or other entity, except a municipality, and includes the federal government, the state or any instrumentality of the state, and any officer or governing or managing body of any partnership, association, firm or corporation or any member or manager of a limited liability company.

State of Public Drinking Water Supply Emergency shall mean a State of Public Drinking Water Supply Emergency declared by the Department of Public Health in consultation with the Department of Environmental Protection, and the Department of Public Utility Control under C.G.S. 25-32b.

State of Water Use Restriction shall mean a State of Water Use Restriction declared by the municipality pursuant to Section 4 of this ordinance.

Water Company means any individual, partnership, association, corporation, municipality or other entity, or the lessee thereof, who or which owns, maintains, operates, manages, controls or employs any pond, lake, reservoir, well, stream or distributing plant or system that supplies water to two or more consumers or to twenty-five or more persons on a regular basis provided if any individual, partnership, association, corporation, municipality or other entity or lessee owns or controls eighty per cent of the equity value of more than one such system or company, the number of consumers or persons supplied by all such systems so controlled shall be considered as owned by one company for the purposes of this definition.

Water Users shall mean all persons or municipalities using water from any public water source irrespective of that person's responsibility for billing purposes for use of the water.

4.0 Declaration of a State of Water Use Restriction

The municipality, in consultation with the water company, or water companies, as may be appropriate, may declare a State of Water Use Restriction. Such a declaration should be, where appropriate, conditioned on the identification of an emergency or water shortage by the water company, the local health department, a state agency or the governor which could also include or be limited to the restrictions listed in Section 5. Public notice of a State of Water Use Restriction shall be given under Section 6 of this ordinance before it may be enforced. After implementation of any state of water use restrictions, the Department of Public Health and the Department of Environmental Protection should be notified in writing within 14 days of the implementation of restrictions. These restrictions can be phased-in to tailor them according to the severity and nature of the water supply emergency.

5.0 Restricted Water Uses

A declaration of a State of Water Use Restriction shall include restrictions consistent with the response measures indicated in the individual water supply plans of the water company and the Connecticut Drought Preparedness and Response Plan, as appropriate. These may include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply except as provided in Section 11. The applicable restrictions, conditions or requirements shall be included in the public notice required under Section 6. Please note, the following restrictions are listed to serve as examples of the types of water use restrictions that may be implemented:

- a) Automatic Sprinkler Use: The use of automatic sprinkler systems is prohibited, except lawn watering is permitted in order to establish and maintain newly laid sod or newly seeded grass associated with new construction, and the testing of a customer's newly installed or newly repaired sprinkler system by a commercial enterprise engaged in the installation or repair of lawn irrigation systems is permitted.
- b) Car washing: Car or vehicle washing is prohibited, except for the washing of vehicles performed by a commercial enterprise engaged in car washing.
- c) Loss of water from customer's service line: The loss of water through breaks or leaks within the customer's service line, private distribution system or plumbing for any substantial period of time within which such break or leak should reasonably have been discovered and corrected. It shall be presumed that a period of seventy-two (72) hours after the customer discovers such a break or leak or receives notice from the water company of a break or leak is a reasonable time within which to correct such break or leak or, as a minimum, to stop the flow of water from such break or leak.

- d) Off-Peak Outdoor Watering: Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a State of Water Use Restriction and public notice thereof. For example, limit outdoor watering to between 8:00 p.m. and 6:00 a.m. on ____ days (specify days). *(In general, restricting outdoor water use to between sunset and early morning is best for turf needs and coincides with off peak hours. Municipalities may choose to restrict water use to one or two days per week during specified hours.)*
- e) Other outdoor uses. The use of private wells or other outdoor uses not addressed in this ordinance that are, in the determination of the Director of Health, wasteful, are prohibited.
- f) Outdoor Watering Ban: Outdoor watering is prohibited, except the watering of agricultural products, sod at commercial sod farms, and the watering of nursery stock at nurseries or retail outlets is permitted.
- g) Outdoor Watering Method Restriction: Outdoor watering is restricted to bucket, can or hand held hose watering with automatic shutoff nozzle.
- h) Swimming Pools, Wading Pools, Hot Tubs, Spas, and Jacuzzis: Filling and topping off of swimming pools, wading pools, hot tubs, spas, and jacuzzis are prohibited, unless newly constructed or installed swimming pools, wading pools, hot tubs, spas, and jacuzzis that may be filled once upon completion of construction or installation
- i) Use of water for firefighting, health, sanitation, & medical purposes. The use of water for firefighting, health, sanitation, or medical purposes shall not be restricted. However, domestic water use conservation practices should be implemented wherever possible.
- j) Washing impervious surfaces. The washing or cleaning of streets, driveways, sidewalks or other impervious areas is prohibited.

6.0 Notification

6.1 State of Water Use Restriction

Notification of any provision, including any restriction, requirement or condition imposed by the municipality as part of a State of Water Use Restriction shall be published by the municipality in a newspaper of general circulation within the municipality, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Use Restriction. Notification of the State of Water Use Restriction shall also be provided to the Connecticut Department of Public Health, Department of Public Utility Control, and Department of Environmental Protection at the same time that notification is given.

6.2 State of Public Drinking Water Supply Emergency

When a State of Public Drinking Water Supply Emergency is declared by the Department of Public Health, the water company shall follow those procedures outlined in its approved Emergency Contingency Plan. In the event water use restrictions are necessary, the water company shall contact and consult with the affected municipality(s), in accordance with their Memorandum of Understanding (MOU). The municipality(s) would then declare a State of Water Use Restriction in accordance with Section 4.0 of this document. Appropriate notice to the public shall be provided in accordance with Section 6.0 of this document.

7.0 Termination of a State of Water Use Restriction; Notice

A State of Water Use Restriction may be terminated by a municipality upon a determination, in consultation with the water company, that the water supply shortage no longer exists. Public notification of the termination of a State of Water Use Restriction shall be given in the same manner as is required for notice of the municipality's declaration of its State of Water Use Restriction pursuant to Section 6.

8.0 State of Public Drinking Water Supply Emergency; Compliance with DPH or DEP Orders

Upon notification to the public that a declaration of a State of Public Drinking Water Supply Emergency has been declared by the Department of Public Health in consultation with the Department of Environmental Protection and the Department of Public Utility Control, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the DPH for the purpose of bringing about an end to the State of Public Drinking Water Supply Emergency.

9.0 Enforcement and Penalties

The municipality, [through its Water Commissioner, water superintendent, building inspector, local police or water company police] may enforce this ordinance. Any person violating this ordinance shall be liable to the municipality in the amount of up to \$100.00 for the first violation and up to \$200.00 for the second violation. Third and subsequent violations shall require a mandatory court appearance in addition to a fine assessment of up to \$500.00. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition. In extreme cases, the municipality may order the water company to curtail water service. When enforcing water curtailment, consideration should be given to customers that have multiple tenants or at risk individuals.

10.0 Severability

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

11.0 Exemptions; Application for a waiver

Any such water users that consider the restrictions, as imposed, to adversely affect their livelihood, health or sanitation, may make written application for a waiver. Any such application should be directed to the attention of the municipality. The municipality, in conjunction with the water company, will verify that the applicant is a user within the system and then forward the application, within three days, to the Director of Public Health who then makes the determination whether a waiver should be granted. This decision shall be made within three days of receipt of the application by the Director of Public Health.