

Article 26:

To see if the Town will vote to amend the Dover General Bylaws to adopt new Chapter 182 “Water Use Restrictions”, and other actions hereto as follows:

## **CHAPTER 182: Water Use Restrictions**

### **182-1 Authority.**

This bylaw is adopted by the Town Dover under its police powers pursuant to the Home Rule Amendment of the Massachusetts Constitution, Article LXXXIX and Home Rule Procedures Act, G.L. c. 42B, and implements the Town’s authority to regulate public water use pursuant to M.G.L. c. 41, §69B. This bylaw also implements the Town’s authority under M.G.L. c. 40, §41A, conditioned upon a declaration of State of Water Supply Emergency issued by the Department of Environmental Protection. This bylaw 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.

### **182-2 Purpose.**

The purpose of this bylaw 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”, “State of Drought”, or a “State of Water Supply Emergency”, by ensuring an adequate supply of water safe 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 bylaw and/or by the Department of Environmental Protection under its state law authorities.

### **182-3 Applicability.**

All public water users of the Town of Dover’s public water system, and all private water users of the groundwater within the borders of the Town of Dover, and users of water extracted from the Charles River or Neponset River watersheds shall be subject to this bylaw. For avoidance of doubt, the restrictions contained herein shall apply to all water used in the Town of Dover, including town water, water supplied by a public water utility, or by private wells, irrespective of any persons’ responsibility for billing purposes for water used at any particular facility.

### **182-4 Definitions.**

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

Automatic irrigation system shall mean any system for watering vegetation other than a hand-held hose or a bucket, including sprinklers.

Department or DEP shall mean the Department of Environmental Protection of the Commonwealth of Massachusetts.

Nonessential outdoor water use shall mean:

1) those uses that are not required:

- for health or safety reasons;
- by regulation;
- for the production of food and fiber;

- for the maintenance of livestock;
- or to meet the core functions of a business.

2) Notwithstanding the definition above, the following uses are deemed nonessential:

- irrigation of domestic landscaping via sprinklers or 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:

- irrigation of lawns, gardens, flowers and ornamental plants by means of a hand-held hose controlled by a nozzle or a drip-irrigation system;
- irrigation with water harvested via rain barrel, dry well, cistern, or other stored stormwater runoff device; or
- as otherwise defined by DEP. Where there is conflict, the DEP definition shall control.

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.

Public Water Supplier shall refer to any operator of a Public Water System, as defined by 310 CMR 22 and is governed by, and subject to the Mass DEP Drinking Water Regulations.

Public Water System shall have the same meaning as in 310 CMR 22.02.

State of Drought shall mean a Drought Advisory, Watch, Warning or Emergency declared by the Secretary of Energy and Environmental Affairs.

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 § 182-5 of this Bylaw.

Water Users shall mean all persons using the public water supply or using privately-owned wells within the Town boundaries and subject to bylaw applicability under § 182-3 of this Bylaw.

**182-5 Declaration of a State of Water Supply Conservation.**

The Board of Selectmen may declare a State of Water Supply Conservation at any time that conditions warrant. The Board of Selectmen:

- a) 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
- b) shall declare a State of Water Supply Conservation as necessary to ensure compliance with the Water Management Act.

Public notice of a State of Water Conservation shall be given under § 182-9 of this Bylaw before a State of Water Conservation may be enforced. Upon such notification to the public, no water user shall violate any provision, restriction, requirement, or condition of the declaration.

**182-6 Declaration of a State of Water Supply Emergency.**

DEP may issue a Declaration of a State of Water Supply Emergency, pursuant to G.L. c. 21G. Upon such Declaration, the Town shall issue public notice of the State of Water Supply Emergency as required by § 182-9 of this Bylaw. The Board of Selectmen may impose water use restrictions during a State of Water Emergency if publicly noticed. If DEP water use restrictions under the State of Water Supply Emergency conflict with those imposed by the Board of Selectmen, DEP restrictions govern pursuant to G.L. c. 21G, § 17. Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the DEP, no water user shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department or the Board of Selectmen for the purpose of bringing about an end to the State of Water Supply Emergency. The specific applicable restrictions, conditions, or requirements shall be publicly noticed in the manner of § 182-9 of this Bylaw.

**182-7 Declaration of a State of Drought**

Public notice of a State of Drought shall be given under § 182-9 of this bylaw before it may be enforced. Upon notification to the public that a State of Drought has been declared by EEA, no water user shall violate any provision, restriction, requirement or condition of the Town’s water use restrictions.

**182-8 Restricted Water Uses**

A declaration of a State of Water Supply Conservation, State of Drought, or a State of Water Supply Emergency may include any of the following restrictions, conditions, or requirements limiting nonessential outdoor water use by water users as necessary to control the volume of water pumped each day, except as provided as acceptable in 182-4;

- 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 Conservation, State of Drought, or a State of Water Supply Emergency and public notice thereof. During a State of Water Supply Conservation, nonessential outdoor water use is restricted as necessary to one day per week, unless otherwise exempted.
- b) Nonessential outdoor water use hours: Nonessential outdoor water use is permitted only during the hourly periods specified in the State of Water Supply Conservation, State of Drought, or State of Water Supply Emergency 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 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 irrigation systems, including sprinklers: The use of automatic irrigation systems is prohibited.

**182-9 Public Notification and Notification of DEP.**

- a) Public Notification of a State of Water Supply Conservation or State of Drought – The Town will provide notice to the public of all provisions, including all restrictions, requirements and conditions imposed by

the Board of Selectmen as part of a State of Water Supply Conservation or State of Drought as soon as possible, but no later than 48 hours following the declaration of a State Water Supply Conservation or State of Drought by publication in a newspaper of general circulation within the Town and by signage on major roadways or intersections. Notification may also include electronic notifications via text, email, or web or other such means reasonably calculated to reach and inform all water users.

- b) Public Notification of a State of Water Supply Emergency – The Town will provide notice to the public of all provisions, including all restrictions, requirements and conditions imposed by a State of Water Supply Emergency declared by the Department as soon as possible, but not later than 48 hours after the public water system receives notice of the Department’s declaration of a State of Water Supply Emergency, by publication in a newspaper of general circulation with the Town and by signage on major roadways or intersections. Notification may also include outdoor signage and electronic notifications via text, email, or web, or other such means reasonably calculated to reach and inform all water users of the State of Water Supply Emergency.
- c) Any restriction imposed pursuant to 182-5 or 182-7 or in the Department’s State of Water Supply Emergency or Order shall not be effective until notification to the public is provided by the Town via any of the methods of communications identified in subsection 182-9(a) and/or (b).
- d) 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)).

**182-10 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 Selectmen 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 § 182-9 for notice of its imposition.

**182-11 Termination of State of Drought Notice**

Upon notification to the Town that the declaration of a State of Drought has been terminated by the Secretary of Energy and Environmental Affairs, the public will be notified of the termination in the same manner as is required in Section 182-9 for notice of its imposition.]

**182-12 Termination of a State of Water Supply Emergency; Notice.**

Upon notice to the Board of Selectmen 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 182-9 for notice of its imposition.

**182-13 Penalties.**

Any person violating this bylaw shall be liable to the Town in the amounts listed below:

- 1) First violation: Written Warning
- 2) Second violation: \$50
- 3) Every violation thereafter: \$200

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 the Board of Selectmen, or their designee(s).

**182-14 Enforcement Authority.**

The Board of Selectmen, or their designee(s), which may include: the Director of Public Works, Dover Police Department or the Building Commissioner, shall each have authority to enforce the provisions of this Bylaw.

**182-15 Severability.**

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