

DRAFT
Stow Board of Health
Outdoor Water Use Restrictions for Private Wells

Section 1: Authority

This regulation is adopted by the Stow Board of Health pursuant to its authority to enact reasonable health regulations, to address nuisances, and to protect public health, safety and welfare during times of drought or water shortage. G.L. c. 111, §§ 31, 122 and 122A.

Section 2: Purpose

The purpose of this regulation is to protect, preserve and maintain the public health, safety, welfare whenever there is in force a “Drought Condition” as declared by the Executive Office of Energy and Environmental Agency (EEA), the Massachusetts Emergency Management Agency (MEMA), and the Drought Management Task Force (DMTF) collectively referred to as the “State Conservation Agencies,” by aligning local public and private water supply drought regulations with those of the DMTF by vesting such regulatory authority for private water supply in the local board of health.

Section 3: Applicability

This regulation applies to all private wells dug, driven, or drilled with a depth greater than its largest surface diameter developed to supply water not subject to regulation by 310 CMR 22.00, and includes private wells installed to supply water for drinking, irrigation, or any other purpose.

Section 4: Definitions

- A. Board or Board of Health: shall mean the Board of Health of the Town of Stow.

Drought: a deficiency of precipitation over an extended period of time (usually a season or more), resulting in a water shortage.

- B. Drought Condition: shall mean a period of time in which drought conditions exist as declared by the Secretary of the Massachusetts Office of Environmental Affairs and/or the Board of Health.

- C. Nonessential outdoor water use shall be as defined in 310 CMR 36.03, as may be amended from time to time, which currently reads as follows:

Nonessential Outdoor Water Use means a use that is not required:

(a) for health or safety reasons, including public facilities used for cooling such as splash pads and swimming pools, and for washing of boats, engines, or marine equipment to prevent negative saltwater impacts or the transfer of invasive aquatic species;

(b) by permit, license, statute or regulation;

(c) for the production of food, including vegetable gardens, and fiber;

(d) for the maintenance of livestock;

(e) to meet the core functions (those functions essential to the commercial operations) of a business, including but not limited to:

- 1. plant nurseries as necessary to maintain stock;*
- 2. golf courses as necessary to maintain greens and tees, and limited fairway watering per 310 CMR 36.07(2)(c)2.a. through c.;*
- 3. venues used for weddings or similar special events that limit watering to hand-held hose or drip irrigation as necessary to maintain gardens, flowers and ornamental plants;*
- 4. professional washing of exterior building surfaces, parking lots, driveways and/or sidewalks as necessary to apply surface treatments such as paint, preservatives, stucco, pavement, or cement in the course of construction, reconstruction or renovation work;*

(f) for irrigation of public parks before 9:00 A.M. and after 5:00 P.M.,

(g) for irrigation of public and private recreation fields, including those operated by schools, colleges, universities and athletic associations, before 9:00 A.M. and after 5:00 P.M.,

(h) for irrigation of publicly-funded shade trees and trees in the public right-of-way; or

(i) to establish a new lawn as necessary to stabilize soil in response to new construction or following the repair or replacement of a Title 5 system.

Nonessential outdoor water uses that are subject to mandatory restrictions during drought conditions include but are not limited to:

- a. irrigation of lawns via sprinklers or automatic irrigation systems;
- b. 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
- 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 water use are:

- a. Irrigation of lawns, gardens, flowers, and ornamental plants by means of hand-held hose controlled by a nozzle or a drip-irrigation system.
- b. Irrigation with harvested and stored stormwater runoff.
- c. Any exceptions contained in 310 CMR 36.00

D. Secretary: Shall mean the Secretary of the Massachusetts Office of Environmental Affairs;

Section 5: Limitation on Nonessential Water Use

- A. During a Drought Condition affecting any area or region of which the Town of Stow is a part, as declared the Secretary, nonessential water use shall be limited as set forth in the Table below.

- B. Notwithstanding any action or in-action by the Secretary, the Board of Health may declare a Drought Condition for the Town of Stow and establish limitations on nonessential water use; provided that any restrictions on nonessential water use declared by the Board shall be at least as restrictive (but may be more restrictive) as the restrictions mandated by the Secretary.
- C. During a Drought Condition, no person shall use water for nonessential water use unless said use is in compliance with this Regulation. This Regulation shall apply with equal force to wells installed for drinking water purposes and to wells installed solely for irrigation purposes.
- D. Prior to the effective date of a Drought Condition, the Board of Health will notify the public of the existence of the Drought Condition, the drought level and the effective date of non-essential water use restrictions. Such notice shall be published on the Town’s website, in a newspaper with general circulation in the Town and by posting signs at all Town-operated facilities that are open to the public (with the exception of school buildings and grounds). A new notice shall be posted in accordance herewith prior to changing the drought level or discontinuing the drought condition. Notification shall be published at least seven (7) days prior to the effective date of any nonessential water use restrictions or changes thereto.

Table 10: State Guidance on Nonessential Outdoor Water-Use Restrictions at Various Drought Levels

State Drought Condition (by Region)	Nonessential Outdoor Water-Use Restrictions
Level 1 (Mild Drought)	1 day per week watering, after 5 p.m. or before 9 a.m. (to minimize evaporative losses)
Level 2 (Significant Drought)	Limit outdoor watering to hand-held hoses or watering cans, to be used only after 5 p.m. or before 9 a.m.
Level 3 (Critical Drought)	Ban on all nonessential outdoor water use
Level 4 (Emergency Drought)	Ban on all nonessential outdoor water use

<https://www.mass.gov/doc/massachusetts-drought-management-plan/download>

Section 6: Penalties

It shall be the responsibility of the owner, occupant or resident of every property in the Town of Stow to ensure compliance with this regulation.

Whoever violates any provision of this regulation may be penalized by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D. If noncriminal disposition is elected, then the non-criminal fine for each such violation shall be:

- a. First violation: Warning Letter

- b. Second violation: \$100
- c. Third violation and subsequent violations: \$300.

Each day or portion thereof that a violation exists shall constitute a separate offense. Enforcement shall be by the Board of Health or its designated agents.

The Board of Health may enforce these regulations or enjoin violations thereof through any lawful process, and the election of one remedy by the Board of Health shall not preclude enforcement through any other lawful means.

Section 7: Severability

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

Section 8: Effective Date

This regulation shall take effect on _____, 2023.

Passed by the Stow Board of Health, this _____ day of _____, 2023, by a vote of _____ in favor, _____ opposed, and _____ abstentions.

Board of Health Member

Board of Health Member

Board of Health Member