



Town of Simsbury

933 HOPMEADOW STREET

SIMSBURY, CONNECTICUT 06070

BOARD OF SELECTMEN
Water Shortage Ordinance Subcommittee
Monday, May 21, 2018
9:30AM
Main Meeting Room, Town Hall, 933 Hopmeadow Street

SPECIAL MEETING AGENDA

Call to Order

- 1) Public audience
- 2) Review and discussion regarding draft Water Shortage Ordinance
- 3) Next steps
- 4) Minutes
 - a) April 12, 2017
 - b) June 20, 2017
 - c) May 2, 2018
 - d) May 15, 2018

Adjourn



**TOWN OF SIMSBURY
DRAFT ORDINANCE
WATER SHORTAGES**

May 10, 2018 Draft
May 14, 2018 Draft

Comment [JS1]: Shea changes are in brown fonts.

Sec. 157-1. Authority and purpose.

The Town of Simsbury, under its powers pursuant to state law, has adopted this ordinance to protect public health and welfare. This ordinance implements the Town's authority to impose water use restrictions, conditioned upon a finding by the Board of Selectmen that a water shortage or state of ground water depletion exists, or 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.

The purpose of this ordinance is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a finding by the Simsbury Board of Selectmen of a **critical** water shortage ~~or state of ground water depletion or a declaration by the State of Connecticut of a State 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 Town or by the State of Connecticut.

Pursuant to the General Statutes of the State of Connecticut, it is hereby declared to be in the best interest of the public health and safety of the residents and citizens of the Town of Simsbury to **assist in** regulating and restricting the use of water during a **critical** water shortage ~~or state of ground water depletion~~.

Sec. 157-2. Definitions.

- (a) When used in this ordinance, unless the context otherwise requires:
- (1) *Person* shall be construed to mean and include an individual, a corporation, a partnership, a trust, an unincorporated organization, business organization of any kind or any other group or organization.
 - (2) *State of ground water depletion* shall exist whenever the Board of Selectmen, after consultation with the Water Companies, other government officials, the Farmington Valley Health District, and other persons the Board shall determine that the underground water supplies within the Town are at, or are in danger of reaching, levels insufficient to provide for the needs of the public health, preservation of human life, sanitation, safety, welfare, or economic needs of those served by wells within the **Town**.

Comment [JS2]: This last sentence implies that all wells are to be addressed under this regulation (both public and private wells). I am not sure this is the intent

- (3) *Threatened water shortage* shall exist whenever the Board of Selectmen, in consultation with industry experts that may include: the Water Companies, other government officials, the Farmington Valley Health District, ~~determines persons the Board shall determine~~ that the adequacy of the Town water supply to meet the demands of the Town for health, sanitation and preservation of businesses is threatened ~~after consideration of the following items to wit: amount of water available; water demands; time of year; weather forecast data; and any other relevant factors.~~
- (4) *Town* means the Town of Simsbury.
- (5) *Water* means potable water.
- (6) *Water Company* means the Aquarion Water Company, ~~the Avon Water Company Connecticut Water Company~~ or the Tariffville ~~Fire District Water Company~~ or their successors and assigns or any other public utility Water Company providing public water supply in the Town.
- (7) *Critical Water shortage* shall exist whenever the Board of Selectmen, after consultation with the Water Companies, other government officials, the Farmington Valley Health District, and other persons the Board shall deem appropriate, determines after considering the factors set forth in Subsection (2) or (3) above that the water supplies available to the Town are at, or are in danger of reaching levels insufficient to provide for the normal needs of the public health, preservation of human life, sanitation, safety, welfare and economy of the Town.

Comment [JS3]: We may want to clarify if non-potable sources are regulated under this ordinance. Possibly add definition of a well

Comment [GM4]: Should this Section deal with Community Wells? Such as Ethel Walker School?

Comment [JS5]: Also Latimer Farms

Sec. 157-3. Notice of water use restrictions.

If the Board of Selectmen imposes restrictions under §157-5 and/or §157-6 or modifies existing restrictions to make them stricter or more inclusive, it shall notify the Connecticut Department of Public Health and the Connecticut Department of Energy and Environmental Protection in writing within fourteen (14) days of the effective date of the restrictions or changes. The Board of Selectmen shall give public notice of such restrictions or changes before they become effective.

Comment [JS6]: Should we also notify the water companies and community water systems?

Sec. 157-4. Drought management plan.

Upon its determination that there is a threatened water shortage, the Board of Selectmen may adopt a drought management plan covering all matters of water conservation.

Comment [RT7]: If we are taking the time to implement this ordinance, why not develop a Drought Management Plan now that could be amended as necessary...

Sec. 157-5. Certain uses prohibited during shortage.

Upon its determination that a critical water shortage exists, and that voluntary conservation measures were implemented and have failed or are deemed inadequate to provide relief for the

Comment [JS8]: There is no mention previously in the ordinance to voluntary measures

critical water shortage, the Board of Selectmen **in consultation with the Water Companies**, in addition to the powers set forth in §157-4 above, shall have the power to declare to be unlawful any or all of the following acts concerning water obtained from the Water Companies, or other public utility water **company** subject to such reasonable and necessary exceptions as are determined by the Board of Selectmen to be in the public interest. Such action shall be effective upon publication pursuant to §157-3 of this Chapter:

- (a) Using water to sprinkle, water or irrigate any plants, lawns, grass, ground covers, vines, flowers, shrubbery, trees or any other vegetation unless necessary to sustain food crops, crops for harvest or stocks of a business inventory;
- ~~(b)~~ Using water for private and/or **public recreational**, ornamental or decorative purposes, including but not limited to fountains, pools or ponds;
- (c) Using water to wash or clean motor vehicles or trailers unless done as a means of livelihood at a commercial facility, which use may be limited by the Board of Selectmen to facilities using a **completely recyclable water system** or those facilities using not more than three (3) gallons of water per vehicle. This restriction shall not apply to vehicles required by law to be washed or cleaned for sanitary, health or safety reasons;
- (d) Using water to wash or flush sidewalks, driveways, pavements, porches or other outdoor surfaces;
- (e) Using water to wash the outside of buildings or structures;
- (f) Using water to wash or clean windows unless done as means of livelihood and only then by washing or cleaning exclusively from a bucket or container of three (3) gallons capacity or less;
- (g) Using water from fire hydrants, other than for health or safety;
- (h) Permitting exterior water supply lines to remain in a state of disrepair, resulting in the escape of water;
- (i) **Operating an air-conditioning device or system using water as a coolant unless the same shall be of the water recirculating type;**
- ~~(j) — Serving water to eating facilities' customers, except on request; and~~
- (j) Such other uses and activities as the Board of Selectmen shall declare following a public hearing thereon.

Comment [RT9]: What happens if the BOS and the Water Companies don't agree?

Comment [JS10]: This does not include community water systems or individual private wells

Comment [RT11]: BOS should restrict water use by all residents regardless of the source

Comment [GM12]: How will golf courses be treated based on this section? Courses are already subject to use restrictions based on CTDEEP diversion permits.

Comment [RT13]: Public recreation should be exempt in all but the most critical droughts

Comment [RT14]: ?

Comment [RT15]: Where is this from? No car washes use 100% recycled water

Comment [GM16]: Why 3 gallons?

Comment [RT17]: I don't believe these are used locally?

The Board of Selectmen may phase in the restrictions to tailor them according to the severity and nature of the water supply emergency.

Sec. 157-6. State of ground water depletion.

Upon its determination that a state of ground water depletion exists and that voluntary conservation measures have failed or are deemed inadequate to provide relief for the water shortage, the Board of Selectmen shall have the authority to apply any or all of the prohibitions contained in §157-5 to the use of water from water wells within the Town, subject to such reasonable and necessary exceptions as are determined by the Board of Selectmen to be in the public interest.

Comment [JS18]: Both public and private wells?

Sec. 157-7. Exceptions, application for waiver.

Any 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 shall be directed to the attention of the Board of Selectmen, which shall refer the application, within three (3) business days, to the Farmington Valley Health District with the request that it make a recommendation, within three (3) business days if possible, as to whether a waiver should be granted. The Board of Selectmen may grant an interim waiver pending receipt of the recommendation. Thereafter, the Board of Selectmen may delegate to Town staff the decision whether to grant a waiver. Direct rain water storage systems shall be exempt from this ordinance.

Comment [GM19]: Staff is granting discretion for granting of waivers however it is unclear who is the responsible party for enforcement of this ordinance.

Whenever the Board of Selectmen, or Town staff exercising delegated authority, shall make an exception pursuant to §157-5, §157-6 or §157-7, it may attach reasonable conditions.

Comment [GM20]: would irrigation ponds for agriculture or similar uses then be exempt based on this language?

Sec. 157-8. Use of water to maintain health standards.

The Farmington Valley Health District shall have the authority to permit a reasonable use of water in any case necessary to maintain adequate health and sanitation standards.

Sec. 157-9. Violations and penalties.

Any person, business, or other entity who commits an unlawful act within the meaning of this Chapter shall be subject to a fine not to exceed fifty dollars (**\$100.00**) for each offense. Each violation of a separate section shall be considered a separate offense and shall not merge with a violation of any other section. Any violation continued more than one (1) day shall constitute a separate offense for each day such violation continues. The Town of Simsbury shall consult with local water companies providers to ensure residents are not penalized by multiple entities for the same offenses.

Comment [CME21]: We will need to add additional language regarding the authority to designate enforcement officers; would recommend language similar to stormwater ordinance in which the Town Manager has the authority to designate enforcement officers with the ability to issue citations and fines. Would likely be DPW, Engineering, and Planning staff.

~~Fines shall be subject to appeal pursuant to the citation hearing process authorized by General Statutes §7-152e.~~

Sec. 157-10. Appeals

Any person receiving a fine may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within ten (10) business days from the date of the fine. Hearing on the appeal before the Hearing Officer shall take place within thirty (30) business days from the date of receipt of the notice of appeal. The decision of the Hearing Officer shall be final.

Sec. 157-11. Termination of prohibitions.

Any actions of the Board of Selectmen taken under this Chapter shall continue in effect until the Board of Selectmen ~~after such consultations as it deems appropriate,~~ determines that there is no continuing need for restrictions. The Board of Selectmen shall review any finding of a water shortage or state of ground water depletion at least every thirty (30) days from the date of the initial finding. The Board of Selectmen shall cause notice of the various terminations to be published in the manner provided for in §157-3.

Comment [CME22]: This language gives the impression that the BOS is compelled to take action. We would recommend language that indicates these are guidelines, or an option.

Sec. 157-12. Invalidity.

If any part, subsection, sentence, clause, phrase or other portion of this Chapter is, for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed to be a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

1 **BOARD OF SELECTMEN**
2 **Water Shortage Ordinance Subcommittee**
3 **Wednesday, May 2, 2018**
4 **5:00 PM -Tariffville Fire Station - 7 Church Street**
5 **SPECIAL MEETING**
6

7 **PRESENT:** Chris Kelly, Mike Paine
8

9 **ALSO PRESENT:** Assistant Town Planner Michael Glidden, Tom Roy Director of Public Works,
10 Margery Winters, Donald Rieger, Tariffville Village Water Company Members: Brian O'Donnell,
11 Mike Tanca, and Kevin Donahue
12

13 **Call to Order**
14

15 Mr. Kelly called the meeting to order at 5:00pm.
16

17 **1) Public Audience**
18

19 Mr. Kelly asked if there any members of the Public that wished to speak. No one came forward.
20

21 **2) Tariffville Village Water Company's feedback regarding draft Water Shortage**
22 **Ordinance**

23 Mr. Kelly thanked members of the Tariffville Village Water Company, Conservation Commission,
24 and Town staff present at the meeting. Mr. Kelly discussed the status of the current proposal
25 and how the changes were made. Copies of the state model, statute, and November 2017
26 version of the water shortage ordinance were distributed to those present.
27

28 Brian O'Connell of Tariffville Water Company addressed the group concerning the double
29 penalty effect that would result by adopting the current ordinance. Mr. O'Connell explained the
30 current regulations Tariffville has in place which deal with conservation. He stated that
31 individuals whom ignore conservation measures are subject to shut off of water service and
32 require to pay \$150.00 for re-connection.
33

34 Mr. Rieger commented on the how ground water and water levels of the Farmington River are
35 directly connected.
36

37 Mr. O'Connell discussed the conservation rules which Tariffville already has in place. He
38 provided a suggested change to the ordinance which would address the potential of double
39 penalty to customers in Tariffville.
40

41 Mr. Paine commented that he wanted to avoid a situation where people were subject to double
42 penalties.
43

44 Mr. O'Connell explained how better communication between Tariffville and the Town of
45 Simsbury could help the situation and avoid such situations.
46

47 Mr. Rieger suggested adding to 157-2a that the Town of Simsbury is required to coordinate with
48 Tariffville.
49

50 Mr. Kelly noted that the intent of the ordinance was not to create a double penalty to citizens
51 and therefore would need to be addressed to avoid that.

52 Mr. O'Connell discussed the statutory powers granted to Tariffville Water Company. He did not
53 want to see an ordinance that would dilute their powers.

54
55 Mr. Rieger commented how the state acts on a larger scale and water planning really needs to
56 be locally focused.

57
58 Mr. Paine explained how the Board of Selectmen needs to be the policy maker and there needs
59 to be balance between policy and the needs of utility companies.

60
61 Mr. Rieger felt the penalties of the proposed language by members of Tariffville Water Company
62 were too broad and soft.

63
64 Mr. Kelly liked the wording presented by Tariffville Water Company as it relates to the consulting
65 with the parties.

66
67 Mr. Roy proposed a change to the language which would read, "The Town of Simsbury shall
68 consult with local water providers to ensure residents are not penalized by multiple entities for
69 the same offenses."

70
71 Mr. Roy also noted there are other providers such as operators of community wells which
72 should be included in the future conversations.

73
74 **3) Next Steps**

75
76 Mr. Kelly thanked everyone in attendance. He explained that the draft will be revised to
77 incorporate some of the changes discussed tonight. After the revisions are made, a second
78 meeting will be held of the working group to discuss the ordinance.

79
80 Mr. Paine expressed his concern of the importance of public outreach regarding the matter. The
81 Town will need to work on getting the message out to the target population.

82
83 Ms. Winters suggested the town look into contacting interested parties such as the operators of
84 the local golf courses or larger agricultural operations.

85
86 **Adjourn**

87
88 The meeting adjourned at 5:45 pm.

89
90 Respectfully submitted,

91
92
93
94
95
96 **Michael Glidden CFM CZEO**
97 **Assistant Town Planner**