

TOWN OF SIMSBURY
DRAFT Water Shortage Ordinance
Dated September 12, 2018

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 critical water shortage 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 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.

Sec. 157-2. Definitions.

(a) When used in this ordinance, unless the context otherwise requires:

(1) Authorized Enforcement Agency: Employees or designees of the town as designated by the Town Manager to enforce this ordinance.

(2) Person: 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.

(3) Town: Town means the Town of Simsbury.

(4) Water: Water means water from water companies, well water and water sources including but not limited to: community water systems, ponds, lakes, streams, rivers, and ground water. Water from rain barrels, cisterns or similar devices are excluded from this ordinance.

(5) Water Company: Water Company means the Aquarion Water Company, Connecticut Water Company or the Tariffville Fire District or their successors and assigns or any other public utility water company providing public water supply in the Town.

(6) Voluntary Conservation Measures: Voluntary Conservation Measures includes any measures recommended by the Board of Selectmen in an effort to reduce water consumption in Simsbury. These are recommendations offered without penalty.

(7) Threatened Water Shortage: Threatened water shortage shall exist whenever the Board of Selectmen, after there has been consultation with the Water Companies and other persons the Board deems appropriate, determines that the adequacy of the Town water supply to meet the demands of

the Town for health, sanitation and preservation of businesses is threatened. A threatened water shortage will also be referred to as a Stage 1 water shortage.

(8) Critical Water Shortage: Critical water shortage shall exist whenever the Board of Selectmen, after there has been consultation with the Water Companies and other persons the Board deems appropriate, determines 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. A critical water shortage will also be referred to as a Stage 2 water shortage.

Sec. 157-3. Stage 1, Threatened Water Shortage.

Upon its determination that there is a Stage 1 threatened water shortage, the Board of Selectmen may instruct the Town Manager to prepare and implement a water management plan, or, if such a plan already exists, to update it as the Town Manager deems necessary. Such water management plan shall address the staffing and processes by which Town staff will address needs occasioned by the threatened water shortage, and its implementation may include, among other activities, consultations with other parties and preparation of recommendations to the Board of Selectmen, including, among other matters, those concerning voluntary water conservation matters.

Sec. 157-4. Stage 2, Critical Water Shortage.

Upon its determination that a Stage 2 critical water shortage exists, and that voluntary conservation measures were implemented and have failed or are deemed inadequate to provide relief for the critical water shortage, the Board of Selectmen after consultation with the Water Companies and other persons the Board deems appropriate, shall have the power to declare to be unlawful some or all of the following acts, subject to such reasonable and necessary exceptions as determined by the Board of Selectmen to be in the public interest. Such action shall be effective upon publication pursuant to §157-5 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. 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, fire cisterns, dry hydrants, or fire ponds, other than for health or public safety needs.

(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) Such other uses and activities as the Board of Selectmen shall declare following public comment at a noticed meeting of the Board of Selectmen.

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

Sec. 157-5. Notice of Water Use Restrictions.

If the Board of Selectmen imposes restrictions under §157-4 or modifies existing restrictions to make them stricter or more inclusive, it shall notify the Connecticut Department of Public Health, the Connecticut Department of Energy and Environmental Protection, and the Farmington Valley Health District 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.

Sec. 157-6. Exceptions, Application for Waiver.

Any water users that consider the restrictions, as imposed, to adversely affect their livelihood, publicly or privately held capital assets, health or sanitation, may make written application for a waiver and filed with the Town Clerk's Office. Any such application shall be directed to the attention of the Town Manager, who shall approve or deny the waiver request. The Town Manager shall report to the Board of Selectmen at its next meeting on all waiver requests and their dispositions.

If the Town Manager makes an exception pursuant to this section he/she may attach reasonable conditions. If an applicant is dissatisfied with the decision of the Town Manager they may file an appeal as outlined in Section 157-8.

Sec. 157-7. Violations and Penalties.

Whenever the authorized enforcement agency determines that a person has violated an enacted prohibition as identified in 157-4 during a Stage 2 critical water shortage, the authorized enforcement agency is authorized to issue a fine to the violator in the amount of one hundred 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 Water Companies to ensure residents are not penalized by multiple entities for the same offenses.

Sec. 157-8. Appeals.

(a) Waiver Appeals. The notice of appeal must be received in writing and filed with the Town Clerk's Office within ten (10) business days from receipt of the notice of the written decision. For this purpose, notice shall be deemed received three (3) calendar days from the date of the written decision. Hearing on the appeal before the Board of Selectmen shall take place at its next meeting, but not to exceed fifteen (15) business days from the date of receipt of the notice of appeal. The decision of the Board of Selectmen shall be final.

(b) Citation Appeals. Any person receiving a fine may appeal the determination of the authorized enforcement agency. The notice of appeal must be received in writing and filed with the Town Clerk's Office within ten (10) business days from receipt of the notice of the fine. For this purpose, notice shall be deemed received three (3) calendar days from the date of the notice. 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. 157-9. Termination of Prohibitions.

Any actions of the Board of Selectmen taken under this Chapter shall continue in effect until the Board of Selectmen determines that there is no continuing need for restrictions. The Board of Selectmen shall review any finding of a water shortage 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.

Sec. 157-10. 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.