



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

**MUNICIPAL AND VILLAGE DISTRICT RESIDENTIAL LAWN WATERING RESTRICTIONS
DURING STATE OR FEDERALLY DECLARED DROUGHTS**

2016

In 2007, the legislature adopted RSA 41:11-d, authorizing municipalities, including village districts, to adopt regulations to restrict residential lawn watering. The statute allows municipalities to restrict residential lawn watering within its political boundaries if administrative agencies of the state or federal government declare a drought condition for that region of the state. Lawn watering restrictions may be established for residential homes on private wells, as well as for residential homes obtaining water from a public water system within the municipality's political boundaries. (Per RSA 38:26, municipalities and village districts who manage public water systems have broader authority to limit customer water use. See "Implementing Water Use Restrictions for Water Systems Owned or Operated by Municipalities or Village Districts".)

The legislation was adopted because of experiences during the 2001-2003 drought when municipalities and the state found there was no clear process to curtail residential lawn watering, even in neighborhoods where private residential wells were dewatered. During the drought, homeowners with dewatered or dry wells spent thousands of dollars to replace or deepen wells and experienced long waits due to the increased demand for water well contractor services. Many homeowners resorted to cross-connecting their home plumbing system via a garden hose to a neighbor's home or illegally dumping water hauled to their property into their dewatered well, both of which can result in contamination issues.

The steps to adopting a lawn water restriction pursuant to RSA 41:11-d include:

- Verify that a state or federal government agency has declared a drought for the region. NOAA and the USDA are federal agencies which manage the U.S. Drought Monitor and NHDES provides regional input as necessary; therefore, the easiest way to determine if a drought has been declared in your area is to go to the U.S. Drought Monitor at <http://droughtmonitor.unl.edu/> and zoom into New Hampshire. If the municipality is within an area of moderate to exceptional drought, then a lawn watering restriction may be adopted.
- The governing body drafts the regulation specifying how, where, when, and to what extent the lawn watering restrictions apply and what the penalty for violating the restriction will be. The governing body may enforce the lawn watering restrictions by imposing fines in accordance with RSA 625:9 and RSA 651:2. See model regulation, below.

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- The regulations or a summary of the regulations indicating where the full text of the regulation can be viewed is posted in a paper of general circulation in the municipality and in at least two public places. After three full calendar days after posting, not including the day of posting, the regulation may be implemented. (Ex. If the regulation is posted on Tuesday, it cannot be implemented until Saturday.)

Municipality: *City, town, unincorporated town, unorganized place, or village district within the state. (RSA 38:1(III))*

MODEL REGULATION FOR LAWN WATERING RESTRICTIONS

ARTICLE __: LAWN WATERING RESTRICTIONS

I. PURPOSE

To protect public health and safety by restricting the use of water from private wells or public water systems for residential outdoor lawn watering during a state or federally declared drought.

II. AUTHORITY

The provisions of this regulation are adopted pursuant to RSA 41:11-d, Choice and Duties of Town Officers. (See Appendix A, Relevant Sections of State Law)

III. APPLICABILITY

The requirements of this section shall apply immediately after the public notice period described in Section VII to all residential outdoor lawn watering within *Insert name of town, city, village district* when administrative agencies of the state or federal government have designated the region as being under a declared state or condition of drought.

IV. DEFINITIONS

- A. Drought:** A sustained and regionally extensive occurrence of appreciably below average natural water availability in the form of precipitation, stream flow or groundwater. The following resources are used by *Insert name of town, city, village district* to determine the declaration of a drought condition.
- i. The New Hampshire Drought Management Team as designated by the New Hampshire Drought Management Plan
 - ii. State of Emergency declaration by the Governor's Office
 - iii. United States Drought Monitor
- B. Residential Lawn Watering:** The application of water to decorative grass at a property that's primary use is to provide living accommodations for people.

V. REQUIREMENTS UNDER DROUGHT CONDITIONS

The following limits to residential lawn watering will apply under drought conditions. The specified levels (Level 1 through 3) will be determined by the [local governing body] and will be included in the public notice required under Section VII of this regulation.

- A. If Insert name of town, city, village district issues a Level 1 restriction, then**
 - i. Residential lawn watering by odd numbered addresses is allowed on odd numbered days.
 - ii. Residential lawn watering by even numbered addresses is allowed on even numbered days.
 - iii. Residential lawn watering shall not occur between the hours of 8AM and 7PM
- B. If Insert name of town, city, village district issues a Level 2 restriction, then**
 - i. Residential lawn watering by odd numbered addresses is allowed on Mondays and Thursdays.
 - ii. Residential lawn watering by even numbered addresses is allowed on Tuesdays and Fridays.
 - iii. Residential lawn watering shall not occur between the hours of 8AM and 7PM
- C. If Insert name of town, city, village district issues a Level 3 restriction, then**
 - i. Residential lawn watering is prohibited.

VII. PUBLIC NOTIFICATION OF WATER USE RESTRICTION

Notification of any intention to restrict water use and the requirements associated with Section V shall be given at least three calendar days before implementation. Notice of the regulations shall be posted in a paper of general circulation and shall be posted in at least two public places. Residents are specifically requested to take notice of the markers at Insert location(s)

VIII. TERMINATION OF WATER USE RESTRICTION

Public notification and termination of water use restriction shall be given in accordance with Section VII.

IX. ENFORCEMENT

Any sworn officer of the Insert Town/City Name Police Department is hereby granted the authority to initiate any enforcement action against any violation of the provisions of this Regulation.

X. PENALTIES

Any person failing to comply with the restrictions imposed pursuant to this Regulation shall be deemed a violation and subject to penalties pursuant to RSA 651:2.

First violation: Warning
Second violation: \$Insert amount fine
Additional violations: \$ Insert amount to \$1,000 fine

APPENDIX A

RELEVANT SECTIONS OF STATE LAW

RSA 41:11-d Restricting the Watering of Lawns.

I. The local governing body may establish regulations restricting the use of water from private wells or public water systems for residential outdoor lawn watering when administrative agencies of the state or federal government have designated the region as being under a declared state or condition of drought.

II. The local governing body shall give notice prior to the implementation of the regulations in paragraph I. Notice shall be given at least 3 calendar days before the regulations are implemented. The notice required under this section shall not include the day notice is posted. Notice of the regulations shall be published in a paper of general circulation in the municipality and shall be posted in at least 2 public places.

III. The full text of the proposed regulations need not be included in the notice if an adequate statement describing the proposal and designating the place where the proposal is on file for public inspection is stated in the notice.

RSA 625:9 Classification of Crimes.

V-a. The violation of any requirement created by statute or by municipal regulation enacted pursuant to an enabling statute, where the statute neither specifies the penalty or offense classification, shall be deemed a violation, and the penalties to be imposed by the court shall be those provided for a violation under RSA 651:2.

RSA 651:2 Sentences and Limitations.

III-a. A person convicted of a violation may be sentenced to conditional or unconditional discharge, or a fine.

IV. A fine may be imposed in addition to any sentence of imprisonment, probation, or conditional discharge. The limitations on amounts of fines authorized in subparagraphs (a) and (b) shall not include the amount of any civil penalty, the imposition of which is authorized by statute or by a properly adopted local ordinance, code, or regulation. The amount of any fine imposed on:

(a) Any individual may not exceed \$4,000 for a felony, \$2,000 for a class A misdemeanor, \$1,200 for a class B misdemeanor, and \$1,000 for a violation.

(b) A corporation or unincorporated association may not exceed \$100,000 for a felony, \$20,000 for a misdemeanor and \$1,000 for a violation. A writ of execution may be issued by the court against the corporation or unincorporated association to compel payment of the fine, together with costs and interest.