

June 1, 2005

CERTIFICATE OF A VOTE

This is to certify that at a duly called and posted Annual Town Meeting of the Town of Middleton held on May 10, 2005, at which many more than a quorum of qualified voters were present, the Town adopted the following addition to the General By-Laws as Article 23:

Part Two – Prudential Affairs and Internal Police

Chapter V - Water Conservation

Section 1: Water Use Restriction

Preamble: The Middleton Board of Selectmen proposes the following By-law to create a balance between the needs of the environment, the citizens of Middleton and the drinking water supply. The Town is aware of the concerns about lower ground water levels in the Ipswich River Watershed Basin and the potential demand on its water resources during the dry summer months. The Town also recognizes the therapeutic, esthetic, and environmental benefits that gardening, landscaping and greenery brings to the community. It is the intent of this By-law to permit residents to maintain their properties, while not overburdening Town water supplies, the water distribution system and to make a positive contribution to the environment. All Middleton residents that are either customers of the public water supply system or private well users shall be subject to this by-law in order to preserve and maintain the Ipswich Watershed Basin.

Subsection (a): Authority

This By-law is adopted by the Town of Middleton under its police powers to protect public health and welfare and its powers under M.G.L c.40. Sec.21 et seq. and implements the Town's authority to regulate water use pursuant to M.G.L. c.41, Sec.69B. This By-law also implements the Town's authority under M.G.L. c.40, Sec.41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

Subsection (b): Purpose

The purpose of this By-law is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency by providing for enforcement of any duly imposed restrictions,

requirements, provisions or conditions imposed by the Town or the Department of Environmental Protection.

Subsection (c): Definitions

Person shall mean any individual, corporation trust, partnership or association, or other entity.

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, Sec.15-17.

State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Middleton Board of Selectmen pursuant to subsection (d) of this By-law.

Water Users or Water Consumers shall mean all public and private users of the Town's public water system and Ipswich River Watershed, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

Subsection (d): Declaration of State of Water Supply Conservation

The Town of Middleton, through its Board of Selectmen, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Board that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Supply Conservation shall be given under section (f) of this By-law before it may be enforced.

Subsection (e): Restricted Water Uses

A declaration of a State of Water Supply Conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions shall be included in the public notice required under section (f).

- a). Restricted Days and Times for Outdoor Watering: Outdoor watering by water users is restricted to days and times as determined by the Town of Middleton's Board of Selectmen, except those business and commercial agricultural users exempted by the Selectmen.
- b). Outdoor Watering Ban: Outdoors watering is prohibited.
- c). Filling of Swimming Pools: Filling of swimming pools is prohibited except by commercial tankers.
- d). Washing of Cars: Washing of cars is prohibited.
- e). Automatic Sprinkler Use: The use of automatic sprinklers is prohibited.

Subsection (f): Public Notification of a State of Water Supply Conservation; Notification of DEP

Notification of any provision, restriction, requirement or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Any restriction imposed under section (e) shall not be effective until such notification is provided. Notification of a State of Water Supply Conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

Subsection (g): 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, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by section (f).

Subsection (h): State of Water Supply Emergency; Compliance with DEP Orders

Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, condition of any order approved or issued by the Department intended to bring about an end to the State of Emergency.

Exemptions: Exemptions from this By-law will be permitted if watering is done through drip irrigation hoses or other devices that use subsurface applications and prevent the water from being evaporated through direct contact with the atmosphere, through the use of water from cisterns and rain barrels, that derive their water directly from precipitation, recycled water, storm water run off, gray water or water not directly from ground or surface water supplies or the public water system.

Subsection (i): Penalties

Any person violating this By-law shall be liable to the Town of Middleton in the amount of \$50.00 for the first violation and \$100.00 for each subsequent violation. Fines shall be recovered by indictment, or on complaint before the Salem District Court, or by non-criminal disposition in accordance with Section 21D of Chapter 40 of the Massachusetts General Laws. Each day of violation shall constitute a separate offense.

Subsection (j): Severability

The invalidity of any portion or provision of this By-law shall not invalidate any other portion or provision thereof.

Attest, a True Copy,

Sarah B. George
Town Clerk