

Guidance on Nonessential Outdoor Water Use
Amended Water Resources Management Program Regulations 310 CMR 36.00
January 20, 2023

The Water Management Program regulations, effective January 20, 2023, define nonessential outdoor water use as every use that is not required for essential purposes (310 CMR 36.02).

The following is a list of outdoor water uses identified in the regulations that will not be restricted under the new condition in Massachusetts Water Management Act Registration Statements issued on April 8, 2023. Many of these essential uses are well-established and do not generally need further explanation, but some were identified by commenters during the public comment periods as the regulations were developed. Additional information on the newly identified uses (shown in bold type) is provided below.

- (a) health or safety - includes outdoor uses like fire-fighting and municipal pipe flushing to prevent contaminants in water supply pipes, as well as

public facilities used for cooling such as splash pads and swimming pools

- This applies to publicly owned facilities and will be particularly relevant in urban areas for cooling during hot weather.
- This is becoming more urgent as summer heat waves become longer and more frequent, and as our understanding of the health impacts of urban heat islands increases.

for washing of boats, engines, or marine equipment to prevent negative saltwater impacts or the transfer of invasive aquatic species

- Applies to rinsing of boats and equipment to prevent fouling from salt.
- Many communities require or encourage boat-owners to wash their boats before putting in to a new pond to prevent the spread of invasive plants.
- Control and eradication of invasive aquatic species in Massachusetts ponds is costly for municipalities, can require the use of herbicides that have adverse impacts to other aquatic plants and animals, and frequently provides an incomplete solution that must be repeated periodically.

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

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

- Applies to privately-owned home vegetable gardens.
- Vegetable gardens can be watered with a hose or sprinkler and should be watered before 9:00 a.m. and after 5:00 p.m. to ensure irrigation takes place when it is most effective, and the least water is lost to evaporation and evapotranspiration.

- (d) for 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.,**
- Similar to public swimming pools and splashpads, parks provide a place for people to cool down as summer heat waves become longer and more frequent, and as our understanding of the health impacts of urban heat islands increases.
 - Public parks are a significant municipal resource and investment that can be costly to restore or replace if the grass and plantings die off during drought.
 - Irrigation is limited to before 9:00 a.m. and after 5:00 p.m. to ensure irrigation takes place when it is most effective, and the least water is lost to evaporation and evapotranspiration.
- (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.,**
- Injuries are more likely, and more likely to be serious, on recreational fields that have become stressed or damaged during a drought.
 - Recreational fields are a significant investment that can be costly to restore or replace if turf is damaged during drought.
 - Irrigation is limited to before 9:00 a.m. and after 5:00 p.m. to ensure irrigation takes place when it is most effective, and the least water is lost to evaporation and evapotranspiration.
- (h) **for irrigation of publicly funded shade trees and trees in the public right-of-way; or**
- Trees have been shown to mitigate urban heat islands. Protection of these trees is becoming more important as summer heat waves become longer and more frequent, and as our understanding of the health impacts of urban heat islands increases.
 - Irrigation methods for trees have become more efficient with the use of slow-release watering bags that provide continuous water with little or no run-off and evaporative loss.
 - Publicly funded trees are a significant investment that can be costly and difficult to replace if the trees die due to drought stress.
- (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.