

Article XXIV- Groundwater Protection Overlay District

I. Authority

The Town of Allenstown hereby adopts this ordinance pursuant to the authority granted under RSA 674:16, in particular RSA 674:16, II relative to innovative land use controls.

II. Purpose

The purpose of this ordinance is, in the interest of the public health, safety, and general welfare, to preserve, maintain, and protect from contamination existing and potential groundwater supply areas and to protect surface waters that are fed by groundwater.

The purpose is to be accomplished by regulating land uses which could contribute pollutants to designated wells and/or aquifers identified as being needed for present and/or future public water supply.

III. Groundwater Protection District

A. The Groundwater Protection District shall be an overlay district as depicted on a map entitled Allenstown Groundwater Protection District as prepared by Central New Hampshire Regional Planning Commission (CNHRPC) and dated March 8, 2011 and filed at the Allenstown Town Clerk's Office.

B. Disputed Boundary Zones

When the actual boundary of the Groundwater Protection District is in dispute by any landowner or abutter affected by said boundary, the Planning Board, at the landowner/abutter's expense and request, may engage the services of a professional geologist, hydrologist or hydrogeologist to prepare a report addressing the location and extent of the aquifer and recharge area relative to the property in question. Geology testing required by the Planning Board for review of boundary disputes shall be conducted at the owner/abutter's expense in accordance with a scope of work determined by a consultant hired by the Town, but paid for by the owner/abutter. This report shall include but not be limited to the following:

- (a) A two-foot interval topographic layout prepared by a registered land surveyor of the subdivision and/or area to be developed;
- (b) A site specific soils map of the subdivision and/or area to be developed prepared by a soils scientist qualified in hydrologic studies including a written report of his/her on-site field inspection and test boring data;
- (c) The Groundwater Protection District boundary shall be overlaid on the plat and the newly proposed boundary location shall be indicated on the same plat by a broken line;
- (d) Evidence derived from a pumping test(s) or a sufficient number of test borings, test pits, observation wells and groundwater elevations to clearly

demonstrate that the area in question does not meet the definition of aquifer or recharge area; and

- (e) Where the area in question is the Wellhead Protection Area, evidence shall also comply with guidelines published by NHDES for Phase II delineations of public water systems in order to determine the contribution zone of any portion of a municipal water supply that lies beneath the subject parcel.

Additional mapping, hydrogeologic reports or information which becomes available as a result of recent or on-going scientific investigations of the locations and extent of aquifers performed by the U.S. Geological Survey, New Hampshire State agencies or boards, the Town of Allenstown or agents of any of the above. The Planning Board, under the advisement of the Conservation Commission, shall have the authority to adjust the boundary or area designation of the Groundwater Resource Conservation District based upon any findings or reports submitted under this section.

IV. **Applicability**

This ordinance applies to all the uses in the Groundwater Protection District, except for those uses exempt under Section XI (Exemptions) of this Chapter

V. **Performance Standards**

The following Performance Standards apply to all the uses in the Groundwater Protection District unless exempt under Section XI.

- A. For any use that will render impervious more than 15% or more than ~~2,500~~ 5,000 square feet of any lot, whichever is greater, a storm water management plan shall be prepared in accordance with the ~~Allenstown Permanent (Post-Construction) Stormwater Management Ordinance Article XXV, Allenstown MS4 Post-Construction Stormwater Management Ordinance.~~
- B. Conditional uses, as defined under Section IX shall develop a stormwater management plan prepared in accordance with the ~~Article XXV, Allenstown MS4 Post-Construction Stormwater Management Ordinance~~ Allenstown Permanent (Post-Construction) Stormwater Management Ordinance and a pollution prevention plan including information consistent with Developing Your Stormwater Pollution Prevention Plan: A Guide for Industrial Operators (USEPA, Feb 2009). The plan shall demonstrate that the use will:
 - 1) Meet minimum ~~stormwater discharge setbacks between water supply wells and constructed stormwater practices requirements~~ as found within ~~the Sections III.C.1, III.C.3, IV.B.1, IV.C.5, and IV.C.7 of Article XXV, Allenstown MS4 Post-Construction~~

~~Stormwater Management Ordinance~~~~Allenstown Permanent (Post-Construction) Stormwater Management Ordinance;~~

- 2) Minimize, through a source control plan that identifies pollution prevention measures, the release of regulated substances into stormwater;
 - 3) Stipulate that expansion or redevelopment activities shall require an amended stormwater plan and may not infiltrate stormwater through areas containing contaminated soils without completing a Phase 1 Assessment in conformance with ASTM E 1527-05, also referred to as All Appropriate Inquiry (AAI);
 - 4) Maintain a minimum of four feet vertical separation between the bottom of a stormwater practice that infiltrates or filters stormwater and the average seasonal high water table as determined by a licensed hydrogeologist, soil scientist, engineer or other qualified professional as determined by the Planning Board.
- C. Animal manures, fertilizers, and compost must be stored in accordance with Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets and Food, July 2008 and any subsequent revisions.
- D. All regulated substances stored in containers with a capacity of five gallons or more must be stored in product tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains;
- E. Facilities where regulated substances are stored must be secured against unauthorized entry by means of a door and/or gate that is locked when authorized personnel are not present and must be inspected weekly by the facility owner;
- F. Outdoor storage areas for regulated substances, associated material or waste must be protected from exposure to precipitation and must be located at least fifty feet from surface water or storm drains, at least 75 feet from private wells, and outside the sanitary protective radius of wells used by public water systems;
- G. Secondary containment must be provided for storage of regulated substances. The outdoor storage of regulated substances must include a cover to minimize accumulation of water in the containment area and contact between precipitation and storage container(s);.

- H. Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another;
- I. Prior to any land disturbing activities, all inactive wells on the property, not in use or properly maintained at the time the plan is submitted, shall be considered abandoned and must be sealed in accordance with WE 604 of The NH Water Well Board Rules;
- J. Blasting activities shall be planned in accordance with any Town of Allenstown blasting regulations and shall be conducted in a manner to minimize groundwater contamination.
- K. With the exception of delivery of heating fuel to residences, transfers of petroleum from delivery trucks and storage containers over five gallons in capacity shall be conducted over an impervious surface having a positive limiting barrier at its perimeter.
- L. Stored regulated substances shall be inspected quarterly. Inspections shall be self-inspections with documentation signed by the property owner and/or facility operator and submitted to the Fire Chief within thirty (30) days of completion. For Town facilities, the document shall be signed by the Board of Selectmen. Facilities are subject to random spot-check by the Fire Chief during normal business hours excluding holidays, nights and weekends.
- M. Fertilizer shall be used and disposed of in accordance with manufacturer's standards. Fertilizer shall be stored in a manner wherein it cannot leak into storm drains or surface water. Spills shall be cleaned up immediately and shall be done so according to manufacturer's standards.

VI. Spill Prevention, Control, and Countermeasure Plan (SPCC).

Conditional uses, as described under Section IX part (A) below, using regulated substances shall submit a SPCC plan to the Fire Chief who shall determine whether the plan will prevent, contain, and minimize releases from ordinary or catastrophic events such as spills, floods, or fires that may cause large releases of regulated substances. The Town may consult third party entities at the expense of the applicant to ensure compliance.

VII. Permitted Uses.

All uses permitted by right or allowed by special exceptions in the underlying district are permitted in Groundwater Protection District unless they are Prohibited Uses or Conditional Uses. All uses must comply with the Performance Standards unless specifically exempt under Article V.

VIII. Prohibited Uses.

The following uses are prohibited in the groundwater Protection District.

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- A. The development or operation of hazardous water disposal facility as defined under RSA 147-A;
- B. The development or operation of a solid waste landfill;
- C. The outdoor storage of road salt or other deicing chemicals in bulk;
- D. The development or operation of a junkyard;
- E. The development or operation of a snow dump;
- F. Biosolids processing/disposal/mixing;
- G. The development or operation of a petroleum bulk plant or terminal;
- H. The development or operation of gas stations.
- I. Floor drains without oil and water separation.

IX. Conditional Uses

The Planning Board may grant a conditional use permit for a use which is otherwise permitted within the underlying district, if the permitted use is involved in one or more of the following:

- A. Storage, handling, and use of regulated substances in quantities exceeding 100 gallons or 800 pounds dry weight at any one time provided that the appropriate Spill Prevention Control and Countermeasure (SPCC) plan is approved, in accordance with Article VII of this chapter, by the Fire Chief.
- B. Any use that will render impervious more than 15% or 2,500 SQ feet of any lot, whichever is greater.
- C. Any activities that involve blasting of bedrock

In granting such approval, the Planning Board must first determine that the proposed use is not a prohibited use (as listed in Section VIII of this Article) and will comply with The Performance Standards and Article V as well as all applicable local, state, and federal requirements. The Planning Board will require a performance guarantee or bond, in an amount and with surety conditions satisfactory to the Board, to be posted to ensure completion of construction of any facilities required for compliance with The Performance Standards.

X. Existing Non-Conforming Uses.

Existing Non-Conforming Uses may continue without expanding or changing to another non-conforming use.

XI. Exemptions.

The following uses are exempt from the specified provisions of this ordinance as long as they are in compliance with all applicable local, state, and federal requirements.

- a. Any private residence is exempt from all Performance Standards;
- b. Any business or facility where regulated substances are stored in containers with a capacity of less than five gallons is exempt from Article V, Performance Standards, sections E through H;
- c. Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detection and secondary containment in place, is exempt from Performance Standard E;
- d. Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Performance Standard E-H;
- e. Temporary storage of construction materials on a site where they are to be used is exempt from Performance Standards E-H if incorporated within the site development project within six months of their deposit on site;
- f. Storage/use of office supplies is exempt from Performance Standards E-H;
- g. The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI are exempt from all provisions in this ordinance;
- h. Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Wm 401.03 (b)(1) and 501.01(b) are exempt from Standards E-H;
- i. Underground storage tank systems and aboveground systems that are in compliance with applicable state rules are exempt from inspections under Article XIV of this ordinance.

XII. Relationship Between State and local requirements.

Where both the State and municipality have existing requirements the more stringent shall govern.

XIII. Maintenance and Inspection:

- a. For uses requiring planning board approval for any reason, a narrative description of maintenance requirements for structures required to comply with Performance Standards shall be recorded so as to run with the land on which such structures are located, at the Registry of Deeds for Merrimack County. The description shall comply with requirements of RSA 478:4-a. Said narrative shall contain a list of all

structures put in place to comply with Performance Standards as well as a brief description of the required maintenance of each.

- b. Inspections may be required to verify compliance with Performance Standards. Such inspections shall be performed by the Building Inspector or other agent designated by the Board Selectmen at reasonable times with prior notice to landowner.
- c. All properties within the Groundwater Protection District known to the Building Inspector or other agent designated by the Board Selectmen as using or storing regulated substances in containers with a capacity of five gallons or more, except facilities already exempt under Article XI shall be subject to inspection under this article. Such uses in existence before March 8, 2011 (the effective date of this Article) shall not be subject to the provisions of this subparagraph.
- d. The Board of Selectmen may require a fee for compliance inspections. The fee shall be paid by the property owner. A fee schedule shall be established by the Board of Selectmen as provided for in RSA 41-9:a.

XIV. Enforcement Procedures/ Penalties.

Any violation of the requirements of this ordinance shall be subject to enforcement penalties detailed in RSA 485-C:16 and RSA 676:17 and RSA 676:17-a.

XV. Saving Clause

If any of the provisions of this ordinance is found to be unenforceable, such provision shall be considered separable and should not be construed to invalidate the remainder of the ordinance.

XVI. Effective Date: This ordinance shall be effective upon adoption by the legislative body.