

ARTICLE VII: GROUND WATER PROTECTION REGULATIONS

7.1 Ground Water Protection District

Pursuant to RSA 674:16-21, the Town of Madison adopts a Groundwater Protection District and accompanying regulations in order to protect, preserve and maintain potential groundwater supplies, well head protection areas and related groundwater recharge areas within the Town.

7.2 District Boundaries

- A. Location: The Groundwater Protection District is an overlay district which is the existing underlying zoning and includes within its boundaries the Wellhead Protection Areas and Stratified Drift Aquifers shown on the map entitled "Drinking Water Resources and Potential Contamination Sources for the Town of Madison" dated April 8, 1999, by NHDES.
- B. Appeals: Where the bounds of an identified Groundwater or recharge area, as delineated, are in doubt or in dispute, any person aggrieved by such delineation may appeal the boundary location to the Planning Board. Upon receipt of a written appeal, the Planning Board shall suspend further action on development plans related to the area under appeal and shall engage, at the expense of the person aggrieved, a qualified hydrologist to prepare a report determining the proper location and extent of the Groundwater and recharge area relative to the property in question.

7.3 Applicability

This ordinance applies to all uses in the Groundwater Protection District, except for those uses exempt under sections 7.9 and 7.10 of this Ordinance.

7.4 Performance Standards

- A. The minimum lot size within the Groundwater Protection District for each newly created lot shall be the same as allowed in the underlying zoning district. Larger lot sizes may be required depending on the soil-based lot sizing standards found within the Madison Subdivision Regulation (Section VII.B).
- B. Within the Groundwater Protection District, a minimum of eighty-five percent (85%) of a single lot or building site must allow infiltration of precipitation. Recharge impoundments shall have vegetative cover for surface treatment and infiltration.
- C. For any use that will render impervious more than fifteen percent (15%) or more than 2,500 square feet of any lot, whichever is greater, a stormwater management plan shall be prepared which is consistent with New Hampshire Stormwater Manual Volumes 1-3, December 2008, NH Department of Environmental Services.

- D. The developer shall submit a storm water drainage plan prepared and stamped by a licensed engineer. Such a plan shall provide for the retention and percolation within the groundwater of all development generated storm water runoff from a twenty-five (25) year storm event, such that the post-development discharge volume to the groundwater is, at a minimum, equal to the pre-development discharge to the groundwater. Furthermore, the storm water drainage plan shall provide for the removal of oil and gasoline from parking lot runoff by the use of, oil/gas separators or other devices, prior to retention and percolation of the runoff.
- E. All State regulated substances stored in containers with a capacity of five (5) 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.
- F. Facilities where State regulated substances are stored must be secured against unauthorized entry by means of doors and/or gates which are locked when authorized personnel are not present and must be inspected weekly by the facility owner.
- G. Outdoor storage areas for State regulated substances must be protected from exposure to precipitation and must be located at least fifty (50) feet from surface water or storm drains, at least seventy five (75) feet from private wells, and outside the sanitary protective radius of wells used by public water systems.
- H. Secondary containment must be provided for outdoor storage of regulated substances if an aggregate of two hundred and seventy five (275) gallons or more of State regulated substances are stored outdoors on any particular property
- I. Containers in which State regulated substances (listed by NH DES) 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.
- J. Animal manures, fertilizer, 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, August 2005, and any subsequent revisions.
- K. 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 New Hampshire Water Well Board Rules.
- L. All 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.

7.5 Spill Prevention, Control and Countermeasure (SPCC) Plan

Conditional uses, as described under Section 7.7, using regulated substances shall submit a spill control and countermeasure (SPCC) plan to the Code Enforcement Officer, 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. It shall include:

- A. A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas.
- B. Contact list and phone numbers for the facility response coordinator, cleanup contractors, and all appropriate federal, state, and local agencies who must be contacted in case of a release to the environment.
- C. A list of all regulated substances in use and locations of use and storage.
- D. A prediction of the direction, rate of flow, and total quantity of regulated substance that could be released where experience indicates a potential for equipment failure.
- E. A description of containment and/or diversionary structures or equipment to prevent regulated substances from infiltrating into the ground.

7.6 Permitted Uses

The following activities may be permitted provided they are conducted in accordance with the intent of this Ordinance.

- A. Any use permitted by the underlying district of the Zoning Ordinance, except as prohibited in Section 7.8 or regulated by Section 7.4 of this Article.
- B. Maintenance *or* repair of any existing structure provided there is no *decrease* in precipitation infiltration above the limit established in Section 7.4 of this Article.
- C. Agricultural and forestry uses, provided that fertilizers, pesticides, manure and other leachables are used according to best management practices as prescribed by the Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Foods, August 2005, and any subsequent revisions. All said leachables must be stored under shelter.

7.7 Conditional Uses

- A. The following uses, if allowed in the underlying zoning district, are permitted only after approval is granted by the Planning Board:
 - 1. Industrial and commercial land uses not otherwise prohibited by Section 7.8 of this Ordinance.

2. Multi-family residential development.
 3. Sand and gravel excavation and other mining provided that such excavation or mining is not carried out within six (6) vertical feet of the seasonal high water table.
 4. Animal feedlots and manure storage facilities provided the applicant follows best management practices as prescribed by the Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Foods, August 2005, and any subsequent revisions.
 5. The development or operation of golf courses.
 6. The development or operation of vehicle race tracks or vehicle proving grounds.
- B. The Planning Board shall grant approval for those uses listed above only after it is determined that all of the following conditions have been met:
1. The use will not detrimentally affect groundwater quality, nor cause a significant long-term reduction in the volume of water contained in the groundwater or in the storage capacity of the groundwater.
 2. The use will discharge no wastewater on-site other than that typically discharged by domestic wastewater disposal systems.
 3. The proposed use complies with all other applicable provisions of this Section.
- C. Conditional uses shall develop storm water management and pollution prevention plans and include information consistent with Stormwater Management For Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices, (US EPA 992). The plan shall demonstrate the use will:
1. Minimize, through a source control plan that identifies pollution prevention measures, the release of regulated substances into storm water;
 2. Demonstrate that recharge to groundwater will not result in violation of Ambient Groundwater Standards (Env-Ws 410.05) at the property boundary.
 3. Stipulate that expansion or redevelopment activities shall require an amended storm water plan and may not infiltrate storm water through areas containing contaminated soils without completing a Phase I Assessment in conformance with ASTM E 1527-05, also referred to as All Appropriate Inquiry (AAI).
- D. All conditional uses shall be subject to inspections by the Code Enforcement

Officer or other agent designated by the Selectmen. The purpose of these inspections is to ensure continued compliance with the conditions under which approvals were granted.

7.8 Prohibited Uses

The following uses are prohibited within the Groundwater Protection District:

- A. On-site disposal, bulk storage, processing or recycling of toxic or hazardous materials or wastes as defined under RSA 147-A.
- B. Underground storage tanks except as regulated by the NH Water Supply and Pollution Control Commission (WM 1401). Storage tanks if contained within basements with floors and walls of impervious surfaces are permitted.
- C. The development or operation of a snow dump.
- D. Automotive uses including: car washes, service and repair shops.
- E. Laundry and dry cleaning establishments.
- F. The development or siting or operation of a solid waste landfill.
- G. The outdoor storage of road salt or other de-icing chemicals in bulk.
- H. The development or siting of a wastewater or septage lagoon.
- I. The spreading of septage or sludge.
- J. Commercial fuel stations either as a separate establishment or as part of a commercial enterprise.
- K. The development or operation of a junk and/or salvage yard.
- L. The development or operation of a petroleum bulk plant or terminal.
- M. The development or operation of gasoline stations.

7.9 Special Exception for Lots of Record.

Upon application to the Zoning Board of Adjustment, a special exception shall be granted to permit the erection of a structure within the Groundwater Protection District on an existing lot provided that all the following conditions are found to exist:

- A. The lot upon which the exception is sought was an official lot of record, as recorded with the Carroll County Registry of Deeds, prior to the date on which this Section was posted and published in the Town.
- B. The use for which the exception is sought cannot feasibly be carried out on a portion or portions of the lot which are outside of the Groundwater Protection

District.

- C. The design and construction of the proposed use will be consistent with the purpose and intent of this Section.

7.10 Existing Non-Conforming Uses

Existing non-conforming uses may continue, may not change to another non-conforming use, and may expand only within the limits allowed under New Hampshire law as expressed in cases such as *New London Land Use Association v. New London Zoning Board*, 130 N.H. 510 (1988). Further, any such non-conforming uses shall comply with all applicable State and Federal requirements, including NH Administrative Rule Env-Ws 421, Best Management Practices.

7.11 Administration

The provisions of the Groundwater Protection District shall be applied and interpreted by the Planning Board.

7.12 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 not stored in containers with a capacity of five (5) gallons or more is exempt from Section 7.4, E through I.
- 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 7.4 F.
- 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 Section 7.4 F through I.
- E. Storage and use of office supplies is exempt from Section 7.4 F through I.
- F. Temporary storage of construction materials on a site where they are to be used is exempt from Section 7.4 F through I.
- G. The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI are exempt from all provisions of 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

Section 7.4 F through I.

I. Underground storage tank systems and aboveground storage tank systems that are in compliance with applicable state rules are exempt from inspections under Section 14 of this ordinance.

7.13 Relationship Between State and Local Requirements

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

7.14 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 Section 7.4 shall be recorded at the Carroll County Registry of Deeds so as to run with the land on which such structures are located. The description so prepared shall comply with the requirements of RSA 478:4-a.

B. Inspections may be required to verify compliance with Section 7.4. Such inspections shall be performed by the Code Enforcement Officer at reasonable times with prior notice to the landowner.

C. All properties within the Groundwater Protection District known to the Code Enforcement Officer as using or storing regulated substances in containers with a capacity of five (5) gallons or more, except for facilities where all regulated substances storage is exempt from this Ordinance under Section 7.12, shall be subject to inspections under this Section.

D. The Town of Madison 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.

7.15 Enforcement Procedures and Penalties

Any violation of the requirements of this ordinance shall be subject to the enforcement procedures and penalties detailed in RSA 676.

7.16 Saving Clause

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