

Tamworth Groundwater Protection Ordinance Summary & FAQs

This document was originally created by the Groundwater Protection Ordinance Committee in December 2011. It has been revised in December 2022 to meet current needs.

1. Why should Tamworth adopt this ordinance?

Most Tamworth residents have private wells and do not get their water tested regularly. Ensuring that businesses handling larger quantities of regulated substances follow Best Management Practices is a direct health concern for the town. Groundwater is the one water resource in Tamworth that is not well protected.

There are many examples around New Hampshire of groundwater pollution that have cost landowners and towns a lot of money. Prevention is the best and cheapest way to go. So far, Tamworth's groundwater is of high quality. But the Ossipee stratified drift aquifer that underlies much of the southern and eastern parts of town recharges rapidly and is very permeable. This means that groundwater can become contaminated quickly if a spill occurs, and that pollution will travel quickly (within hours or days) to area wells, making clean-up difficult.

2. Where did this ordinance come from?

In the fall of 2021, the Tamworth Planning Board, in collaboration with the Tamworth Conservation Commission, formed a Groundwater Protection Ordinance (GPO) Committee for the purpose of creating an ordinance for adoption at the March 2023 town meeting. The committee sought input from individuals and businesses within our community, listened to their concerns, and answered their questions throughout the process. Educational and outreach events during this past summer informed the public of the committee's efforts to protect our drinking water.

The groundwater protection effort initially began in 2011 with the Lakes Region Planning Commission (LRPC), with assistance from Green Mountain Conservation Group and a grant from the NH Department of Environmental Services (DES), to encourage all towns in the Ossipee watershed to do what they can to protect the quality of the water in the stratified drift Ossipee aquifer – the largest such aquifer in the state. The proposed Tamworth ordinance closely follows the latest model ordinance with some deletions and additions based on public input from the three public hearings held this past fall.

3. What does the ordinance do?

This ordinance stresses Best Management Practices (by applying Performance Standards) for the handling of regulated substances – substances that are known to be potentially toxic and detrimental to groundwater such as gasoline, diesel fuel, oil, and other petroleum products and solvents. (See further details in item #9 below.)

4. Where does the ordinance apply?

The ordinance establishes a Groundwater Protection District that includes wellhead protection areas (for public or group drinking water systems) that are designated by DES and the land areas over the stratified drift aquifer (which is defined by U. S. Geological Society mapping). The ordinance only applies to those businesses within the wellhead protection areas or over the aquifer in Tamworth, which is mostly in the southeast part of town.

The ordinance applies to businesses of any sort that use and/or store regulated substances such as gasoline (see list, below) in containers of 5 gallons or more. Private residences are exempt, although commercial activities at them are not.

Specific Performance Standards (Best Management Practices) must be followed by any business in the Groundwater Protection District.

5. The state has regulations. Aren't they adequate?

The Department of Environmental Services (DES) administers Env-Wq 401, which requires Best Management Practices for the handling of regulated substances. DES can enforce these regulations. However, DES is in Concord and does not have enough staff. The proposed Tamworth ordinance requires essentially the same things as the state rules but enables town officials to conduct inspections if the Select Board chooses to create an education and inspection program and take enforcement actions. This creates more local control and sensitivity to local conditions.

6. How does this ordinance compare with requirements in other towns?

Over one hundred towns in New Hampshire have adopted some form of drinking water protection. Other towns around Tamworth in the Ossipee watershed have already adopted many of the same requirements as those being proposed for Tamworth.

7. Does the ordinance prohibit anything?

Yes. DES has learned from experience that there are particular land uses that have led to groundwater pollution and recommends that these uses (for example, hazardous waste facilities and new gasoline stations) not be allowed over the highest quality aquifers and in wellhead protection areas around key drinking water wells. Some activities, including some that involve more than 55 gallons of a regulated substance, would be possible with a Conditional Use Permit from the Planning Board.

8. What about inspections? Won't businesses object to them?

1. There are already several local inspection programs in Tamworth: The Fire Chief inspects buildings for compliance with state building and fire codes. This is for the protection of public health and safety. Protecting the groundwater on which almost all Tamworth residents depend is a significant public health and safety matter.
2. Inspections are an opportunity to educate and instruct business owners in how to meet Best Management Practices. Inspections help meet the requirements of business insurance, and sometimes insurance companies will charge a lower rate if they know that independent inspections occur regularly. Inspections could also help with the value of the property, if it were to be sold, by ensuring no groundwater pollution. For example, it may provide a prospective seller with a signed, official document that says "This property was inspected three times in the last five years; no violations of the local groundwater protection ordinance were found in any inspection." In other towns, businesses have welcomed the inspection program because it helps them prove to the public and their customers that they are acting responsibly.

Used oil from 1 oil change can contaminate 1 million gallons of groundwater. -U.S. EPA

3. The ordinance offers residents protection from the rare occasion when a business is acting irresponsibly and may be threatening water quality. Businesses that are resistant to an inspection are most likely to be those that are out of compliance with the standards of the ordinance – which means they are likely out of compliance with current state regulations. The goal of the ordinance is to help change the actions of these businesses. To reduce risks to groundwater, the ordinance may only be effective with an inspection program.
4. The ordinance says that an inspection program “may” occur, so there will be public discussion of such a program before it is implemented. Affected business owners should be involved in setting up any inspection program and have input as to who will conduct the inspections.
5. Inspections are already authorized by state law; RSA 485-C states: **Investigation and Inspection.** – The department, any authorized representative, any authorized representative of any agency operating under a memorandum of agreement with the department, or any town or city health officer may enter any land or establishment for the purpose of administering the provisions of this chapter, and shall at reasonable times have access to any facility subject to this chapter. **Source.** 1991, 344:1. 1996, 228:106, eff. July 1, 1996. With this ordinance, there can be local discussion and input regarding a fair and effective inspection program.

9. What are the “regulated substances” that would be regulated by this ordinance?

The ordinance defines “regulated substances” as “petroleum, petroleum products, and substances listed under 40 CFR 302, as may be updated from time to time, excluding the following substances: (1) ammonia, (2) sodium hypochlorite, (3) sodium hydroxide, (4) acetic acid, (5) sulfuric acid, (6) potassium hydroxide, (7) potassium permanganate, and (8) propane and other liquefied fuels which exist as gases at normal atmospheric temperature and pressure.”

40 CFR 302 is the federal regulation of hazardous substances, and it includes a table of hundreds of chemicals and elements. The full list of these regulated substances, which would be covered by this ordinance, can be viewed at <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-J/part-302>.

10. Why does the ordinance apply to regulated substances in containers of 5 gallons or greater? Why not 6 gallons or 4 gallons?

1. A line must be drawn somewhere. Obviously, it makes no sense to try to regulate every little bit of regulated substance used at commercial operations in town. Small amounts of substances present a lower risk of groundwater contamination compared to larger amounts. This ordinance is intended to reduce the greatest risks, but it cannot eliminate all risks.
2. The state regulations, Env-Wq 401, applies to regulated containers “with a capacity of greater than or equal to 5 gallons” and the regulated substances in them. The proposed ordinance is written to be consistent with this existing state standard.

11. What about skid tanks and other large, mobile fuel tanks used in agricultural or forestry operations that can hold 55 gallons of fuel or more? How will they be affected by this proposed Ordinance?

Agricultural and timber harvesting activities are specifically exempted from most or all of the performance standards in the ordinance. Such activities are already encouraged (and, in some

cases, required) to follow best management practices under specific statewide guidance documents and regulations for forestry and agriculture.

12. Has the Planning Board considered the comments made by individuals at the public hearings and changed the ordinance to reflect some of those concerns?

Yes. The Planning board conducted three public hearing this past fall. The initial hearing in September was well attended by the public, offering a wide range of input. As a result, the GPO Committee removed several provisions of the performance standards pertaining to stormwater management and clarified the definition of what constitutes a business with an added definition of “Commercial.” Additionally, the effective date of the ordinance was changed to January 1, 2024. The delay in implementation will allow time for outreach and assistance in learning about the requirements before any official inspections take place. Similarly, after the October hearing, the proposed ordinance was modified to simplify the exemptions of the agriculture and timber harvesting industries.

13. Clean drinking water is good for economic development.

Tourism is an important industry for our region. Restaurants, hotels, the recreation industry, and many other businesses rely on our amazing natural resources to attract visitors. Clean water out of our taps protects our property values. A significant spill that threatens our water supply would be disastrous not only for this vital industry but for the health, safety, and general welfare of our citizenry.

Ordinance or not, here’s what YOU can do to protect groundwater:

- Minimize use of hazardous chemicals; use less-toxic alternatives.
- Bring leftover chemicals, oil paints, fuels, etc. to Household Hazardous Waste Day (late July/early August each year).
- Transfer fuels and other regulated substances over a drip pan or other impervious surface. There are portable spill containment systems for use when refueling skidders and farm machinery.
- Avoid spills. Keep absorbent materials (rags, speedee-dri, etc.) close by, and promptly clean up any spill that occurs.
- Store gas, oil, pesticides, and other regulated substances in labeled, closed, leak-proof containers on an impervious surface, under cover.
- Apply fertilizers at no more than the recommended rate, if at all.
- Encourage these Best Management Practices at home and at work.
- Take care of your septic system: don’t pour hazardous chemicals down the drain, and have the septic tank pumped out every 3-5 years.