

GROUNDWATER PROTECTION REGULATION

WENHAM BOARD OF HEALTH

Effective date 3/8/2000

Section I. PURPOSE 3-8-2000

Whereas:

The siting of land uses that have the potential to release hazardous waste, including petroleum products, and other contaminants significantly increase the risk of contamination. Poor management practices, accidental discharges, and improper maintenance of these facilities may lead to the release of pollutants, and discharges of hazardous wastes, leachate, pathogens, and other pollutants have repeatedly threatened surface and ground water quality throughout Massachusetts. Surface and ground water resources in the Town of Wenham contribute to the town's drinking water supplies. Therefore, the Town of Wenham adopts the following regulation, under its authority as specified in Section II, as a preventative measure for the purposes of preserving and protecting the Town of Wenham drinking water resources from discharges of pollutants; and to minimize the risk to public health and the environment due to such discharges.

Section II. SCOPE OF AUTHORITY

The Town of Wenham Board of Health adopts the following regulation pursuant to authorization granted by M.G.L. c.111 s.31 and s.122. The regulation shall apply, as specified herein, to all applicable facilities within Zone II and/or the Interim Wellhead Protection Areas (IWPA), as designated on the "Wenham Priority Resources Map," dated May 30, 1997 by Massachusetts G.I.S. and to land within "the Aquifer Protection District" as referenced in Section XIX of the Wenham Zoning Bylaws. This regulation conforms with the requirements of the Massachusetts' Drinking Water Regulation 310 CMR 22.21(2) for source approval and with the Water Management Act, M.G.L. Ch 216 and 310 CMR 36.00

Section III. DEFINITIONS

For the purposes of this regulation, the following words and phrases shall have the following meanings:

Commercial fertilizers: Any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use, or claimed by its manufacturer to have value in promoting plant growth. Such substances do not include unmanipulated animal and vegetable manure, marl, lime, limestone, wood ash, and gypsum.

Commercial fertilizer, con't

Human waste which has been reconstituted, combined, altered, or mixed, shall comply with CFR-503B and State Law prior to use.

Department: The Massachusetts Department of Environmental Protection.

Discharge: The accidental or intentional disposal, deposit, injection, dumping, spilling, leaking, incineration, or placing of toxic or hazardous material or waste upon or into any land or water so that such hazardous waste or any constituent thereof may enter the land or waters of the Commonwealth. Discharge includes, without limitation, leakage of such materials from failed or discarded containers or storage systems, including the disposal of such materials into any on-site leaching structure or sewage disposal system.

Facility: Any real property (land) and any buildings thereon in which legal title is held or controlled by a person(s) or entity.

Hazardous Material: A product, waste or combination of substances which because of its quantity, concentration, or physical, chemical, toxic, radioactive, or infectious characteristics may reasonably pose a significant, actual, or potential hazard to human health, safety, welfare, or the environment when improperly treated, stored, transported, used, disposed of or otherwise managed. Hazardous material include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious materials, and all substances defined as "toxic" or "hazardous" under the existing Massachusetts codes of administrative regulations CMR 310:30.00, CMR 310:40000, 105 CMR-480.000.

Historical High Groundwater Table Elevations: A groundwater elevation which is determined from monitoring wells and historical water table fluctuation data compiled by the United State Geological Survey, or through soil evaluation in compliance with 310 CMR 15.000.

Injection Well: A shallow waste water disposal system using gravity to drain or "inject" waste to the ground.

Interim Wellhead Protection Areas (IWPA): For public supply wells or well fields that lack a Department approved Zone II, the Department will apply an interim wellhead protection area. This interim wellhead protection area shall be a one-half mile radius measured from the well or well field for sources whose approved pumping rate is 100,000 gpd or greater. For wells that pump less than 100,000 gpd. the IWPA is proportional to the well's approved daily volume following the IWPA Chart as referenced in the Division of Water Supply Policy 92-01.

Landfill: A facility established (in accordance with a valid site assignment) for the purposes of disposing solid waste into or on the land, pursuant to 310 CMR 19.006.

Non-sanitary wastewater: Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage, including, but not limited to activities specified in the Standard Industrial Classification (SIS) Codes set forth in 310 CMR 15.004 (6) of Title V.

Open Dump: A facility which is operated or maintained in violation of the Resource Conservation and Recovery Act (42 U.S.C. 4004(a)(b)), or the regulations and criteria for solid waste disposal, as promulgated in 310 CMR 19.000.

Septage: The liquid, solid, and semi-solid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. Septage does not include any material which is a hazardous waste, pursuant to 310 CMR 30.000.

Sludge: The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment. Sludge does not include grit, screening, or grease and oil which are removed at the head works of a treatment works or facility.

Treatment Works: Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off site for the purpose of treatment, storage, or disposal.

Use of Toxic or Hazardous Material: The handling, generation, treatment, storage, or management of toxic or hazardous materials.

Very Small Quantity Generator: Any public or private entity, other than residential, which produces less than 27 gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136.

Waste Oil Retention Facility: A waste oil collection facility for automobile service stations, retail outlets, and marinas which is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with M.G.L. c. 21 s. 52A.

Sections IV. PROHIBITIONS

- A. Notwithstanding any land uses which are otherwise permitted by local, state, and/or other federal laws, the siting of any of the following is prohibited in the Zone II, IWPA and the Aquifer Protection District.
1. landfills
 2. open dumps

3. sludge and septage monofils, animal manure.
4. stockpiles (disposal) of chemically treated snow and ice that have been removed from highways, parking lots, and roadways outside the Zone II, IWPA and Aquifer Protection District.
5. Septic systems which have a combined flow from all buildings of greater than 10,000 GPD.
6. Automotive service and repair shops, trucking, bus terminals, fuel terminals, bulk fuel (petroleum) storage, junk and salvage yards.
7. Disposal of Solid Wastes other than brush, stumps and other organic material generated onsite.
8. Injection wells. (Class V)
9. All *storage* underground tanks

B. Facilities for the treatment or disposal of non-sanitary wastewater are prohibited, with the following exceptions:

1. Treatment works approved and in compliance with M.G.L. Sec. 21E and 310 CMR 40.0000 of the Mass Contingency Plan designed for the treatment of contaminated ground or surface waters.

C. Facilities that generate, treat, store, or dispose of hazardous waste are prohibited, with the following exceptions:

1. Very small quantity generators.
2. Household hazardous waste collection events.

D. Permanent removal of soil, loam, sand, gravel, or any other mineral substances within 4 feet of historic high ground water table elevation is prohibited. Temporary removal is permitted during construction (e.g. excavation of foundations) provided mitigation measures are in place to protect the ground water.

E. Land uses that result in impervious cover of more than 15% or 2500 square feet of any lot, whichever are greater are prohibited, unless a system of artificial recharge of precipitation is provided that will not result in the degradation of groundwater quality. Post construction shall provide for 80% recharge of preconstruction recharge. Roof runoff shall be recharged to impervious surfaces or drywells.

F. Each bedroom as defined in Title 5 for new construction and renovations to existing buildings shall have 10,000 sq.ft. of contiguous buildable upland servicing the lot.

Section V CONDITIONAL PROHIBITIONS

- A. The storage and use of certain waste materials, chemicals, and petroleum products is prohibited except if contained in accordance with the following requirements:
1. Storage of roadway deicing chemicals (road salt) is prohibited, unless the storage is in a structure that prevents the generation or release of contaminated runoff.
 2. Storage of commercial fertilizer is prohibited unless such storage is within a structure designed to prevent the generation, discharge, and escape of contaminated Run-off.
 3. Storage of liquid sludge and septic is prohibited except in compliance with 310 CMR 15:000.
 4. Storage of liquid and leachable hazardous materials is prohibited unless:
 - a. The products are incidental to normal household use, including outdoor maintenance, or for the heating of a structure.
 - b. They are associated with treatment works in compliance with M.G.L. Sec. 21E and 310 CMR 40.000 designed for the restoration of contaminated ground or surface waters.
 - c. Storage of the exempted material shall be:
 1. Above ground level **and**
 2. On an impervious surface **and**
 3. In containers (or above ground tanks) within a building, or, outdoors in covered containers (or above ground tanks) designed and operated to hold either 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is greater.
- B. Compliance with all provisions of this regulation must be accomplished in a manner consistent with Massachusetts Plumbing, Building, and Fire Code requirements. Copies of said permits or certifications are to be provided by the applicant to the Board.

Section VI. EFFECTIVE DATES FOR ALL FACILITIES

- A. The effective date of this regulation is the date posted on the front page of the regulation.
 - 1. As of the effective date of the regulation, all new construction, renovation and/or applicable changes of use within the Town of Wenham shall comply with the provisions of this regulation.

Section VII. PERMITS

- A. Application shall be made to the Board of Health for any activity which is covered under this regulation. Application forms shall be supplied by the Board of Health. Proponent must complete all relevant sections of the application for the proposed use and attach any supportive document. Incomplete applications shall be returned to the applicant. Applications shall be reviewed for completeness within 60 days of receipt by the Board of Health.
 - 1. Applications made under the provisions of this regulation shall be reviewed by the Fire Department, Water Department, Building Inspector, Planning, and Conservation. One copy of plans and documents shall be submitted to each department. No permit shall be granted until all departments have commented in writing within 30 days of their receipt of the application.
 - 2. The Board of Health may impose additional restrictions and conditions on the permit, which are specific to the applicants project.
 - 3. All conditions of approval shall be forwarded to the Building Inspector and be effective for one year from the date of the approval. Building construction shall commence within one year of application approval and total build-out of the project shall be completed by the date specified in the permit.
 - 4. An initial review fee of \$100.00 payable to the Board of Health shall accompany the application for the permit. A fee of \$100.00 shall accompany any request for variances. A charge of \$50.00 per inspection by the Board or it's agent shall be prepaid prior to inspection. The permit fee for construction under this regulation is \$200.00.
 - 5. No building permit shall be issue by the Building Inspector for subject to this regulation until the Board of Health has issued a Permit under this regulation. Upon completion of work authorized by a Permit under this regulation, the applicant shall request in writing a Certificate of Completion from the Board of Health stating that the work has been satisfactorily completed. Within 21 days of receipt of such request, the Board of Health shall inspect the project site in the presence of the applicant or applicant's representative. Should the Board find that the

work has been completed in compliance with the Permit, it shall issue a Certificate of Completion.

Should the permit contain conditions which continue past the completion of the work, such as maintenance or monitoring, the certificate shall specify which conditions shall continue and for how long. If the board finds that the work has not been completed, it shall issue a written denial for Certificate setting forth the reasons for the denial. No occupancy permit shall be issued by the Building Inspector for work subject to this regulation until the Board of Health has issued a Certificate of Completion.

SECTION VIII VARIANCES

- A. Variances to these regulations may be granted provided a written request for said variance is submitted to the board of health. A public hearing shall be held by the Board of Health on all variance requests. Notice of said meeting shall be sent to the abutters ten days prior to the hearing at the expense of the applicant. The abutters list shall reflect the most recent conveyances of all properties which directly abut the property lines of the applicants project. Said list shall be certified by the Town Assessor with a copy accompanying the variance request. Proof of mailing shall be submitted to the Board at the time of the hearing. All approvals or denials shall be made in writing by the Board within twenty one (21) days of the hearing. The applicant must notify Town Departments of the variance request as specified *in section VII (2)* of the regulation at their own expense. Failure to notify abutters and/or Town boards shall constitute grounds for filing an incomplete submission.
- B. The Board of Health may grant variance requests only if they meet the following requirements:
 - a. Owing to the specific circumstances relating to the soil conditions, shape, or topography of said lot (s), the literal enforcement of the provisions of this regulation would involve substantial hardship, financial or otherwise, to the petitioner and that the desired relief would not conflict with the public good or public health, and
 - b. The Board may issue variances subject to such conditions, including, but not limited to, monitoring and reporting requirements, deed recording requirements, financial assurances or other qualifications on the uses of the property, as it deems necessary to protect *public health and safety*.

Section IX. PENALTIES

Failure to comply with any provision of this regulation shall result in an administrative hearing before the Board of Health. All parties with standing in the application process shall be required to attend. Failure to attend the hearing may result in the revocation of any permit, which has been granted by the Board of Health.

Section X. SEVERABILITY

Each provision of this regulation shall be construed as separate to the end that, if any provision, or sentence, clause or phrase thereof, shall be held invalid for any reason, the remainder of that section and all other sections shall continue in full force and effect.

Section IX REFERENCES Referenced Codes of Administrative Regulations

527 CMR 9.00	Tanks and Containers
105 CMR 480.000	Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Wastes, Chapter VIII
310 CMR 30.00	Hazardous Waste Regulations
310 CMR 22.00	Drinking Water Regulations
310 CMR 40.0000	Massachusetts Contingency Plan
310 CMR 15.000	Title V

SIGNED THIS 12TH OF APRIL, 2000

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