

Hillsborough Groundwater Protection District Draft 1/7/18 hearing

Definitions:

- **Aquifer** – See “Stratified-Drift Aquifer” in this Ordinance.
- **Bog:** A wetland distinguished by stunted evergreen trees and shrubs, peat deposits, poor drainage, and/or highly acidic soil or water conditions.
- **Buffer, Wetland:** The protected upland areas adjacent to wetlands and surface waters.
- **Drainage Area** – Means a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody.
- **Erosion** – The detachment and movement of soil, rock, or rock fragments by water, wind, ice or gravity.
- **Groundwater** – As defined in RSA 485-C.2.VIII, as amended and means subsurface water that occurs beneath the water table in soils and geologic formations.
- **Hydric Soils:** Soils that are saturated or flooded during a sufficient portion of the growing season to develop anaerobic conditions in the upper soil layers.
- **Infiltration** – The process by which water enters the soil profile (seeps into the soil).
- **Land Disturbance or Land Disturbing Activity** – For the purposes of this Article, refers to any exposed soil resulting from activities such as clearing of trees or vegetation, grading, blasting, and excavation.
- **Prime Wetlands:** Those areas designated Prime Wetlands in accordance with RSA 482-A:15, and the N.H. Code of Administrative Rules Env-Wt 700.
- **Recharge** – The amount of water from precipitation that infiltrates into the ground and is not evaporated or transpired.
- **Regulated Substance** – As defined in Env-Ws 421.03 (f) or successor rule, Env Wq 401.03 (h). Includes petroleum, petroleum products and substances listed under 40CFR 302, 7-1-05 edition, 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 gasses at normal atmospheric temperature and pressure.
- **Season High Water Table** – The depth from the mineral soil surface to the upper most soil horizon that contains 2% or more distinct or prominent redoximorphic features that increase in percentage with increasing depth as determined by a licensed Hydrogeologist, Soils Scientist, Wetlands Scientist, Engineer or other qualified professional approved by the Planning Board.
- **Sensitive Area** – Include lakes, ponds, perennial and intermittent streams, vernal pools, wetlands, and highly erodable soils.
- **Stratified-Drift Aquifer** – A geological formation of predominantly well-sorted sediment deposited by or in bodies of glacial meltwater, including gravel, sand, silt, or clay, which contains sufficient saturated permeable material to yield significant quantities of water to wells.

- **Vernal Pool:** A body of water, typically seasonal, that provides essential breeding habitat for certain amphibians and invertebrates, does not support viable fish population, and meets the criteria established by the New Hampshire Fish and Game Department, Nongame and Endangered Wildlife Program, Identification and Documentation of Vernal Pools in New Hampshire, rev 2004 and as amended.
- **Wellhead Protection Area/Sanitary Protective Radius** – As defined in RSA 485C:2, XVIII or the area around a public water supply well that must be maintained in its natural state as required by Env-Dw 301 or 302 (for community water systems); Env-Dw 373.12 and ENV-Dw 372.14 (for other public water systems).
- **Wetland:** Pursuant to RSA 482-A:2.X, an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
- **Undisturbed Cover** – A natural land surface whose permeability has not been altered by human activity.

Ordinance:

A. Authority

The Town of Hillsborough hereby adopts this ordinance pursuant to the authority granted under RSA 674:21 relative to innovative land use controls.

B. Purpose

(a) 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.

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

C. Groundwater Protection District

(a) The Groundwater Protection District shall be an overlay district as depicted on a map entitled “Hillsborough Groundwater Protection District” and as prepared by Central New Hampshire Regional Planning Commission (CNHRPC) and dated **March XXX, 2018**, as amended, and filed at the Hillsborough 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:

- 1) A two-foot interval topographic layout prepared by a registered land surveyor of the subdivision and/or area to be developed;
- 2) 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 inspections and test boring data;
- 3) The Groundwater Protection District boundary shall be overlaid on the plan and the newly proposed boundary location shall be indicated on the same plan by a broke line;
- 4) 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
- 5) Where the area in question is in a wellhead protection area for a public water system, 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 system that lies beneath the subject parcel.

Additional mapping, hydrogeological reports or information which becomes available as a result of recent or on-going scientific investigations of the locations and the extent of aquifers performed by the U.S. Geological Survey, relevant New Hampshire State agencies or boards, the Town of Hillsborough 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 Conservation District based upon any findings or reports submitted under this section.

- (c) Additional mapping, hydrogeological reports or information which becomes available as a result of recent or on-going scientific investigations of the locations and the extent of aquifers performed by the U.S. Geological Survey, relevant New Hampshire State agencies or boards, the Town of Hillsborough 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 Conservation District based upon any findings or reports submitted under this section.

D. Applicability

This Ordinance applies to all uses in the Groundwater Protection District, except for those uses exempt under the **Section K, Exemptions** discussed below.

E. Performance Standards

The following Performance Standards apply to all uses in the Groundwater Protection District unless specifically exempt under the **Section K, Exemptions**:

- (a) Fertilizer use within the District must be used in accordance with the New Hampshire Department of Agricultural standards.
- (b) Proper use, in accordance with the Town of Hillsborough Site Plan and Subdivision Regulations (as applicable) of erosion and sediment control measures shall be employed during construction.
- (c) Fuel transfer shall be over impervious surfaces (except for heating fuel to residential structures).
- (d) Stream and wetland crossings shall be minimized (i.e. as few crossings as needed at the narrowest location possible).
- (e) No discharge of stormwater to surface waters within the district is permitted without New Hampshire Department of Environmental Services water treatment measures being put in place (including but not limited to retention basins, treatment swales, etc.).
- (f) Requirements for regulated substances (less than 100 gallons wet or 800 pounds dry):
 - 1) Stored at all times (unless while being used) in sealed containers over impervious surfaces and under lock and key.
 - 2) If stored outdoors, shall be at least 50 feet from storm drains; 75 feet from private wells.
 - 3) Shall be stored in a container that has secondary containment.
 - 4) Shall be clearly marked.

F. Performance Standards for Conditional Uses

The following Performance Standards apply to all Conditional Uses in the Groundwater Protection District:

- (a) Compliance with all of the standards listed in **Section E, Performance Standards**, listed above. This shall be met by all Conditional Uses.
- (b) Development of a Spill Prevention, Control and Countermeasure Plan (SPCC) approved by the Fire Chief if regulated substances will be present in 100 or more gallons liquid, 800 pounds or more of dry material. A SPCC will not be required if such quantities are not present, though the other requirements of this Section must be complied with. SPCC shall include, at a minimum, all of the following:
 - 1) Identification of potential pollutant sources.
 - 2) Description of methods to minimize exposure of pollutants.
 - 3) Schedule for the inspection of pollutant sources and once a quarter. Inspections shall be self-inspections with documentation signed by the property owner and/or facility

operator and submitted to the Building Inspector and Town Planner within thirty (30) days of completion.

- 4) List of the owner of the facility.
- 5) Employee training schedule.
- 6) A list of regulated substances exceeding 100 or more gallons liquid or 800 pounds dry (with Safety Data Sheets, per substances, from manufacturer(s)).
- 7) Location(s) and containment method(s) to be employed for storage of regulated substances.
- 8) Description of where regulated substances will be handled, including storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product, or waste product.
- 9) Depiction of snow storage areas.
- 10) Spill response provisions, including who will be called in the event of a spill (in addition to the Fire Department), how response will be managed, and what equipment will be used.
- 11) Location of the described spill response equipment shall be indicated.
- 12) Establish that floor drains and sinks shall not discharge onto the ground.
- 13) Industry-specific requirements listed, as applicable.

(c) A Stormwater Pollution Prevention Plan (SWPPP), in accordance with the most recent United States Environmental Protection Agency standards shall be developed for all Conditional Uses. Minimal components in the SWPPP shall include, at a minimum, all of the following:

- 1) Description of the facility.
- 2) Identification of stormwater controls.
- 3) Description of methods to minimize exposure of pollutants.
- 4) Preventative maintenance provisions.
- 5) Methods for erosion and sediment control.
- 6) Stormwater management runoff management methods (description of the stormwater management/drainage structures, etc.)
- 7) Employee training schedule and topics pertaining to stormwater management and pollution prevention.
- 8) Schedule for the maintenance of stormwater control measures.
- 9) Salt piles, if present, must be covered.
- 10) Schedule for the inspection of pollutant sources and stormwater controls once a quarter. Inspections shall be self-inspections with documentation signed by the property owner and/or facility operator and submitted to the Building Inspector and Town Planner within thirty (30) days of completion.

- 11) No sanitary sewers shall be connected to stormwater sewers or any stormwater control measure.
- 12) Meet minimum stormwater discharge setbacks between water supply wells and constructed stormwater practices as required by NHDES.

(d) SPCCs and SWPPPs shall be filed at the Merrimack County Registry of Deeds as a condition of approval for all Conditional Uses.

G. Permitted Uses

All uses permitted by right or by Special Exception in the underlying zoning district(s) are permitted in the Groundwater Protection District unless they are Prohibited Uses. Conditional Uses described in **Section I below** that are permitted in the underlying zoning district(s) are permitted only if they comply with all applicable provisions of this Ordinance with regard to the **Section F, Performance Standards for Conditional Uses**. Uses permitted by right or by Special Exception in the underlying zoning district(s) must comply with all of the provisions of **Section E, Performance Standards**.

H. Prohibited Uses

The following uses are prohibited in the Groundwater Protection District:

- (a) Landfill
- (b) Hazardous material/water disposal facility
- (c) Storage of road salt and other deicing chemicals
- (d) Junkyards
- (e) Snow dumps
- (f) Biosolid processing/disposal/mixing
- (g) Petroleum bulk plant/terminal
- (h) Dry cleaners
- (i) Floor drains without oil and water separators
- (j) Cemeteries

I. Conditional Uses

The Planning Board is authorized to grant a conditional use permit for a use which is otherwise permitted in the underlying district provided that it meets all applicable standards described in the **Section F, Performance Standards for Conditional Uses** within this Ordinance. The conditional uses for which these standards would be applicable include:

- (a) Excavation activities
- (b) Industry
- (c) Blasting of bedrock
- (d) Crematories
- (e) Livestock auction
- (f) Motor vehicle service stations
- (g) Motor vehicle repair garages

- (h) Campgrounds
- (i) Garden supply/garden nursery

J. Existing Non-Conforming Uses

Existing non-conforming uses may continue without expanding or changing to another non-conforming use.

K. Exemptions

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

- (a) Private residences
- (b) Any business or facility where regulated substances are stored in containers with a capacity of less than five gallons
- (c) Storage of heating fuels for on-site use or fuels for emergency electricity generation
- (d) Storage of fuel attached to vehicle tanks
- (e) Temporary storage of construction materials
- (f) Sale, transportation and use of pesticides as defined in RSA 430:29
- (g) Household hazardous waste projects

L. Relationship Between State and Local Requirements

Where both the State and the Town of Hillsborough have existing requirements the more stringent shall govern.

M. Enforcement Procedures and 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-a, as may be amended from time to time.

N. Saving Clause

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

O. Effective Date

This ordinance shall be effective upon adoption by the legislative body.