

ARTICLE 7. AQUIFER AND GROUNDWATER PROTECTION DISTRICT**A. AUTHORITY**

The Town of Belmont 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.

B. PURPOSE

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

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

See Article 7.E for applicability to preexisting uses.

C. DEFINITIONS

1. **Aquifer:** a geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water.
2. **Gasoline station:** means that portion of a property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and distributed for the purposes of retail sale of gasoline.
3. **Groundwater:** subsurface water that occurs beneath the water table in soils and geologic formations.
4. **Impervious:** not readily permitting the infiltration of water.
5. **Impervious surface:** a surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Asphalt, earthen, wooden, or gravel surfaces, or other surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious surfaces.
6. **Junkyard:** Includes Junkyards as defined by RSA 236:112, including the definition of junk found in RSA 236:91,II, and Automotive Recycling Yards as defined by RSA 236:91.
7. **Outdoor storage:** storage of materials where they are not protected from the elements by a roof, walls, and a floor with an impervious surface.
8. **Petroleum bulk plant or terminal:** means that portion of the property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline tank car, tank vehicle, portable tank, or container.
9. **Public water system:** a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

10. **Regulated substance:** petroleum, petroleum products, and substances listed under 40 CFR 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 liquified fuels which exist as gases at normal atmospheric temperature and pressure.
11. **Sanitary protective radius:** The area around a public water supply well which must be maintained in its natural state as required by Env-Dw 301 or 302 (for community water systems); Env-Dw 372.14 and Env-Dw 373.12 (for other public water systems).
12. **Seasonal High Water Table (SHWT):** means 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 Hydrogeologist, Soils Scientist, Wetlands Scientist, Engineer or other professional approved by the Planning Board through the use of wells or test pits that extend to either the SHWT, ledge, or to a minimum of six feet below the maximum proposed excavation depth or other method approved by the Planning Board.
13. **Secondary containment:** a structure such as a berm or dike with an impervious surface which is adequate to hold at least 110% of the volume of the largest regulated-substances container that will be stored there. Secondary containment areas must be covered if regulated substances are stored outside.
14. **Snow dump:** For the purposes of this ordinance, a location where snow which is cleared from roadways and/or motor vehicle parking areas is placed for disposal.
15. **Stratified-drift aquifer:** A geologic 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.
16. **Surface water:** streams, lakes, ponds and tidal waters, including marshes, water-courses and other bodies of water, natural or artificial.
17. **Wellhead protection area:** The surface and subsurface area surrounding a water well or wellfield supplying a community public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield.

D. AQUIFER AND GROUNDWATER PROTECTION DISTRICT

The Aquifer and Groundwater Protection District is an overlay district which is superimposed over the existing underlying zoning and includes within its boundaries the Stratified Drift Aquifers and municipal well head protection areas shown on the map entitled "Town of Belmont Aquifer and Groundwater Protection District", adopted concurrent with this Ordinance.

E. APPLICABILITY

This Ordinance applies to all uses in the Aquifer and Groundwater Protection District, except for those uses exempt under Article 7.J (Exemptions) of this Ordinance.

Preexisting uses shall comply with Article 7.F, Performance Standards, 1 thru 7. In addition, preexisting Conditional Uses shall comply with Performance Standard 8.c. Preexisting uses shall otherwise be regulated under Articles 1 and 10 of the Zoning Ordinance.

F. PERFORMANCE STANDARDS

The following Performance Standards apply to all uses in the Aquifer and Groundwater Protection District unless exempt under Article 7.J:

1. 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, August 2005, and any subsequent revisions;
2. All regulated substances stored in containers with a capacity of 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;
3. 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. A copy of the inspection log will be submitted to the Planning Board with required periodic facility inspection reports.
4. Outdoor storage areas for regulated substances, associated material or waste must be protected from exposure to precipitation and must be located at least 50 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;
5. Secondary containment must be provided for outdoor storage of regulated substances if an aggregate of regulated substances exceeding 5 gallons are stored outdoors on any particular property;
6. 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;
7. 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.
8. In addition Conditional Uses shall:
 - a. Develop and submit a stormwater management and pollution prevention plan and shall include information consistent with Developing Your Stormwater Pollution Prevention Plan: A Guide for Industrial Operators (US EPA 2009). The plan shall demonstrate that the use will:
 1. Minimize the release of regulated substances into stormwater through a source control plan that identifies pollution prevention measures;
 2. Demonstrate that recharge to groundwater will not result in violation of Ambient Groundwater Quality Standards (Env-Ws 410.05) at the property boundary;
 3. Stipulate that expansion or redevelopment activities may, at the discretion of the Planning Board, require an amended stormwater plan;

4. Not infiltrate stormwater 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).
- b. For any use that will render impervious more than 15% or more than 2,500 square feet of any lot, whichever is greater, a stormwater management plan shall also be consistent with New Hampshire Stormwater Manual Volumes 1-3, December 2008, NH Department of Environmental Service, and Aquifer Protection Best Management Practices, Tri-Town Aquifer Project Protecting Shared Drinking Water Resources, Lakes Region Planning Commission, April 2007.
- c. For any use using regulated substances, a spill control and countermeasure (SPCC) plan shall be submitted 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 SPCC plan shall include:
 1. A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas;
 2. 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;
 3. A list of all regulated substances in use and locations of use and storage;
 4. 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;
 5. A description of containment and/or diversionary structures or equipment to prevent regulated substances from infiltrating into the ground.

G. PERMITTED USES

All uses permitted by right or allowed by special exception in the underlying district that are also located within the Aquifer and Groundwater Protection District remain permitted by right or still require a special exception, as applicable, unless they are Prohibited Uses under this Ordinance.

Uses identified as Conditional Uses under this Ordinance also require a Conditional Use Permit. In the instance that both a Special Exception and a Conditional Use Permit are required, the Special Exception shall be approved prior to the Conditional Use Permit.

All uses must comply with the Performance Standards unless specifically exempt under Article 7.J.

See Article 7.E for applicability to preexisting uses.

H. PROHIBITED USES

The following uses are prohibited in the Aquifer and Groundwater Protection District:

1. The development or operation of a hazardous waste disposal facility as defined under RSA 147-A;
2. The development or operation of a solid waste landfill;
3. The outdoor storage of road salt or other deicing chemicals in bulk;
4. The development or operation of a junkyard;
5. The development or operation of a snow dump;
6. The development or operation of a wastewater or septage lagoon;
7. The development or operation of a petroleum bulk plant or terminal;
8. The development or operation of gasoline stations.
9. Sludge monofills;
10. Storage of animal manure unless covered or contained in accordance with the specifications of the Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, August 2005, and any subsequent revisions;
11. Facilities that generate, treat, store, or dispose of hazardous waste subject to Env-Hw 500-900 except for:
 - a. household hazardous waste centers and events regulated under Env-Hw 401.03(b)(1) and Env-Hw 501.01(b); and
 - b. water remediation treatment works approved by NH DES for the treatment of contaminated ground or surface waters;
12. Non-sanitary treatment works which discharge to the ground and that are subject to Env-Wq 402, except the following:
 - a. the replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
 - b. treatment works approved by NH DES designed for the treatment of contaminated groundwater.
13. Storage of regulated substances in greater than household quantities (i.e., 5-gallons), unless in a free-standing container within a building or above ground with secondary containment adequate to contain 110% of the container's total storage capacity;
14. Storage of fertilizers, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or lechate.
15. Excavation or Mining within four feet of Seasonal High Water Table. This prohibition applies to future excavation of existing sites as well as future excavation sites.

I. 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:

1. Storage, handling, and use of regulated substances in quantities exceeding 100 gallons or 800 pounds dry weight at any one time, provided that an adequate spill prevention, control and countermeasure (SPCC) plan, in accordance with Article

- 7.F,8(c), is approved by the Code Enforcement Officer;
2. Any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater.

In granting a Conditional Use Permit:

- a. The Planning Board must determine that the proposed use is not a prohibited use;
- b. Conditional Uses shall also be in compliance with the Performance Standards in Article 7.F as well as all applicable local, state and federal requirements;
- c. The Planning Board may, at its discretion, require a performance or other surety bond, in an amount and with conditions satisfactory to the Board, to ensure completion of construction of any facilities required for compliance with the Performance Standards.

J. EXEMPTIONS

The following uses are exempt from the specified provisions of this ordinance provided they comply with all other applicable local, state, and federal requirements:

1. Any private residence is exempt from all Performance Standards;
2. A mobile fuel tank specifically manufactured for the purpose of being transported from site to site for the purpose of fueling motor vehicles and/or equipment provided fuel transfers are conducted over an impervious area and utilize portable spill containment equipment with trained personnel present during transfers. Said tank, transportation and fueling shall comply with all other applicable Regulations.
3. 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 3;
4. 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 Standards 3 through 6.
5. Storage and use of office supplies is exempt from Performance Standards 3 through 6;
6. Temporary storage of construction materials on a site where they are to be used is exempt from Performance Standards 3 through 6 if incorporated within the site development project within six months of their deposit on the site;
7. The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI are exempt from all provisions of this ordinance;
8. Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Hw 401.03(b)(1) and 501.01(b) are exempt from Performance Standards 3 through 6;
9. Underground storage tank systems and aboveground storage tank systems that are in compliance with applicable state rules are exempt from inspections under Article 7.L of this ordinance.

K. RELATIONSHIP BETWEEN STATE AND LOCAL REQUIREMENTS

Whenever a provision of this ordinance differs from the requirements imposed by the State of New Hampshire, or by some other town ordinance, the provision which imposes the greater restriction or higher standard shall govern.

L. NOTICE OF DECISION AND INSPECTION

1. For uses or structures requiring planning board approval under this ordinance, a Notice of Decision including the construction, operational, and inspection conditions and minimum standards applied to said approval, shall be recorded at the Registry of Deeds for Belknap County so as to run with the land on which such uses or structures are located.
2. Inspections of all regulated uses may be required to verify compliance with Performance Standards. Such inspections shall be performed by the Planning Board's designated agent and shall be at the cost of the business owner.