

# PROPOSED ARTICLE XX – 19 JAN 11

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## ARTICLE XX – WATER RESOURCE PROTECTION DISTRICTS

The purpose of the Water Resource Protection Districts is to protect public health by preventing contamination of both current and future ground and surface water resources capable of providing water to the Town of Ossipee, New Hampshire, in accordance with the authority of RSA 674:21.

### 20.1 ESTABLISHMENT OF DISTRICT

The Water Resource Protection Districts are herein established as overlay districts. The water resource protection districts include **all of the NH Department of Environmental Services-approved Wellhead Protection Areas for community Public Water Systems and all areas overlying Stratified Drift Aquifers as described in *Geohydrology and Water Quality of Stratified Drift Aquifers in the Saco and Ossipee River Basins, East-Central New Hampshire*, USGS Water Resources Investigations Report 95-4182, shown on the map** ~~the watershed recharge area of Dan Hole Ponds, the community water supplies and the stratified drift material as described in the U. S. Geological Survey Study by John E. Cotton, 1977. The water resource protection districts are described on an official map entitled “Water Resource Protection Districts, Town of Ossipee, New Hampshire” located in the Ossipee Town Hall and on file with the town clerk.~~

**The Planning Board, subject to a public hearing, may revise the maps of the Water Resource Protection Districts when, in the case of Wellhead Protection Areas, the NH Department of Environmental Services updates wellhead protection areas, or, in the case of the Stratified Drift Aquifers, when based on the recommendation of a professional geologist using 1:24,000 scale surficial geology maps prepared by the N. H. Geological Survey, if available, other existing data (including wells, borings, or other excavations of sufficient depth), or appropriate field testing methods.**

Where the bounds of the Water Resource Protection Districts are in doubt or dispute, as delineated on the Water Resource Protection Districts map, the burden of proof shall be upon the owner of the land in question to show where they should properly be located. At the request of that landowner(s), the Town may engage a professional hydro geologist to determine more accurately the location and extent of the recharge area, and may charge the owner for the cost of the investigation.

### 20.2 APPLICABILITY

**This Article applies to all uses in the Water Resource Protection District, except for those uses exempt under Section 20.3.4.**

### ~~20.2~~ 20.3 USE REGULATIONS

Within the Water Resource Protection Districts the permitted uses, **use restrictions, and prohibitions** in Table 1 and dimension requirements of Table 2 of the underlying districts continue to apply, except that uses are prohibited where indicated by a “N” in ~~this~~ **Section 20.3.1**, and require a Special Use Permit where indicated by a “SUP”, **in Section 20.3.2**, even

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where the underlying district requirements are more permissive. Where there is no entry to this section, the underlying district controls.

## ~~20.2.120.3.1~~ **PRINCIPAL PROHIBITED USES**

- a) Manufacture, storage, transport, use or disposal of hazardous materials as a principal activity.....N
- b) Sanitary landfill, septage lagoon, waste water treatment facility for municipal or industrial wastes .....N
- c) Junkyard, salvage yard.....N
- d) Road salt stockpile.....N
- e) Truck terminal with more than ten (10) trucks.....N
- f) Gasoline station, car wash, auto repair, auto body.....N
- g) Underground storage of hazardous material, fuel oil or gasoline.....N**
- h) The development or operation of a hazardous waste disposal facility as defined under RSA 147-A.....N**
- i) Dumping or disposal of snow transported from outside the Districts.....N**

## ~~20.2.2~~ **20.3.2 ACCESSORY USES USES REQUIRING A SPECIAL USE PERMIT**

- ~~a) Underground storage of hazardous material, fuel oil or gasoline.....N~~
- b) Hazardous material storage, above ground, in quantities greater than associated with normal household use.....SUP
- c) Any use generating hazardous wastes in quantities greater than associated with normal household use.....SUP
- d) Mining Operations, including sand and gravel operations.....SUP
- e) Animal feed lots, manure storage lots.....SUP
- f) Commercial spraying or spreading of chemical fertilizers or pesticides (See ~~Article Section 20.7.6~~ **20.9.6**) .....SUP
- g) Rendering impervious more than twenty percent (20%) of the total lot area, regardless of size.....SUP

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- h) Any use retaining less than thirty percent (30%) of total lot area in its natural vegetative state with not more than minor removal of the existing trees and vegetation.....SUP
  - i) Any use, other than a single family dwelling, having an estimated sewage flow greater than six hundred (600) gpd, regardless of lot size.....SUP
  - j) Seasonal home conversion (see ~~Article Section 20.7.7~~ **20.9.7**).....SUP
  - k) **Any activities that involve blasting of bedrock..... SUP**

**In granting such approval the Planning Board must first determine that the proposed use is not a prohibited use listed in 20.3.1 and will be in compliance with all applicable local, state and federal requirements.**

## ~~20.2.3 OTHER USES~~

### **20.3.3 PRE-EXISTING NONCONFORMING USES**

**Pre-existing nonconforming uses may continue subject to Article XXIII of this zoning ordinance but must be in compliance with all applicable state and federal requirements, including Env-Wq 401, Best Management Practices Rules.**

### **20.3.4 EXEMPT USES**

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

- a) **Any private residence;**
- b) **Any business or facility where regulated substances are stored in containers with a capacity of less than five (5) gallons;**
- 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.**
- 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;**
- e) **Storage and use of office supplies;**
- f) **The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI are exempt from all provisions of this ordinance;**
- g) **Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Wm 401.03(b)(1) and 501.01(b)**

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**h) Underground storage tank systems and aboveground storage tank systems that are in compliance with applicable state rules are exempt from inspections under Section 20.10 of this ordinance.**

**i) Timber harvesting**

### ~~20.3~~ **20.4** SPECIAL USE PERMIT GRANTING AUTHORITY

Pursuant to RSA 674.21 this innovative zoning shall be administered by the Planning Board which shall be the Special Use Permit Granting Authority (SUPGA). Such Special Use Permit shall be granted if the Planning Board determines that the intent of this regulation as well as the specific criteria of ~~20.5~~ **20.6** is met. In making such determination, the Planning Board shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to groundwater quality which would result if the control measures failed. The Planning Board shall explain any departures from the recommendations of other town agencies in its decision.

~~20.3.1~~ **20.4.1** The completed application for a Special Use Permit shall be submitted to the Planning Board at a regularly scheduled meeting and accompanied by a site plan drawn to an indicated scale and showing the location and dimensions of all significant structures and uses present and proposed. A ~~reasonable~~ fee established by the Planning Board ~~may~~ **shall** be required to accompany the application to cover processing costs. The Planning Board shall hold a public hearing within thirty (30) days of acceptance of a completed application, and shall cause notice of date, time, and place of such hearing to be given to the applicant, abutters, and all property owners within two hundred (200) feet of the boundaries and to be published in a newspaper of general circulation in the municipality, the date of the first publication to be at least ten (10) days prior to the hearing.

~~20.3.2~~ **20.4.2** The Planning Board shall, within thirty (30) days of a public hearing or within sixty (60) days of accepting a completed application, or within such other time limit as may be otherwise mutually agreed to issue an order denying or granting approval of the application. Both the approval and the denial of an application for a Special Use Permit by the Planning Board shall be in writing and shall state the reasons for that decision. The Planning Board may impose such additional permit conditions as it finds reasonably appropriate to serve the purpose of this Ordinance.

~~20.3.3~~ **20.4.3** Upon acceptance of the completed Special Use Permit application, the Planning Board shall transmit one copy each to the Board of Selectmen, Fire Department, Zoning Board of Adjustment, and Conservation Commission for their written recommendations.

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Failure to respond within thirty (30) days shall indicate approval of said agencies. The copies necessary to fulfill this requirement shall be furnished by the applicant.

~~20.3.4.~~ **20.4.4** The Planning Board may engage such professional assistance as it requires to assist in the evaluation of the Special Use Permit application prior to making a determination and may charge the owner(s) or agent for all or part of the evaluation.

### 20.4 20.5 PERMIT AMENDMENT

If adherence to the permit conditions cannot be maintained, the owner shall apply to the Planning Board for a permit amendment. An application shall be completed and submitted to the Planning Board in the manner provided in Article ~~20.3~~ **20.4** of this Ordinance.

### 20.5 20.6 SPECIAL USE PERMIT CRITERIA

Special Use Permits under ~~20.3~~ **20.4** shall be granted only if the Planning Board determines, in conjunction with comments and recommendations of the other agencies specified therein, that ground and surface water quality resulting from on-site wastewater disposal or other operations on-site shall not fall below federal or state standards for drinking water, or, if existing ground and surface water quality is already below those standards, on-site disposal or operations shall not be more deleterious to any existing, proposed or likely improvement programs or proposals.

~~20.5.1.~~ **20.6.1** In considering an application for a Special Use Permit, the Planning Board shall evaluate the immediate and long range impact of the proposed use on the ground and surface waters and the possible effects of the proposed use upon the maintenance of safe and healthful conditions. The Planning Board may request the Conservation Commission to review any proposal and make recommendations.

~~20.5.2.~~ **20.6.2** In making such a determination, the Planning Board shall consider the following: the amount and type of waste to be generated by the proposed use and the adequacy of the proposed disposal system, the capability of the land and water to sustain use without degradation, the topography and drainage of the proposed site, susceptibility to flooding, and evaluation of information submitted in accordance with the provisions of Articles ~~20.6~~ **20.7** and ~~20.7~~ **20.9**

~~20.5.3.~~ **20.6.3** The Planning Board in approving an application for a Special Use Permit, may impose such reasonable conditions concerning the location and site of waste disposal area, the quantity of potential pollutants to be permitted on site within a Water Resource Protection District, and like matters, as it deems advisable in order to protect the quality of the groundwater.

**20.6.4** Any person aggrieved by a decision of the Planning Board regarding a Special Use Permit application may appeal the decision to the superior court as provided by RSA 677:15 or as otherwise provided by law.

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### 20.6 20.7 SUBMITTALS

**20.7.1** An application for a Special Use Permit shall include a site plan indicating the following information:

~~20.6.1.~~ **a)** All proposed subsurface disposal of waste materials.

~~20.6.2.~~ **b)** Proposed excavations and/or earth moving operations which alter the slope or composition of the soil.

~~20.6.3.~~ **c)** Proposed methods of conveying water from roads, and paved surfaces.

~~20.6.4.~~ **d)** Any proposed diversion of ground or surface waters on or adjacent to the site.

~~20.6.5.~~ **e)** A surface drainage plan which considers the kind and extent of contaminants that may be carried off in surface runoff. The plan should also specify the methods, such as holding basins, oil and grease skimmers and filters, that will be used to protect the groundwater from surface runoff. The plan should show evidence that runoff will be recharged on site by diversion towards areas covered with vegetation for surface infiltration to the maximum extent possible. Dry wells shall be used only where other methods are not feasible and shall be preceded by oil, grease and sediment traps to facilitate removal of contaminants.

### 20.8 PERMANENT RECORD OF SPECIAL USE PERMIT

**For uses requiring a Special Use Permit or Planning Board approval for any reason, a narrative description of maintenance requirements for structures and facilities deemed necessary shall be recorded in the notice of decision, and noted on the appropriate tax card on file with the Town of Ossipee.**

### 20.7 20.9 OTHER INFORMATION

In addition to the site plan and stormwater management and pollution prevention plan, the Planning Board may require all or some of the information listed below, at its discretion, to be submitted as per Section ~~20.3~~ **20.5**:

~~20.7.1.~~ **20.9.1** A complete list of all chemicals, pesticides, fuels, or other potentially ~~hazardous materials~~ **regulated substances** to be used or stored on the premises in quantities greater than associated with normal household use, accompanied by a description of the measures proposed to protect all storage containers or facilities from vandalism, corrosion, and leakage, and to provide for the control of spills.

~~20.7.2.~~ **20.9.2** A description of all ~~potentially~~ hazardous wastes to be generated, including provisions for storage and disposal methods as described in subsection 20.9.1 above.

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~~20.7.3.~~ **20.9.3** For above ground storage of hazardous materials and wastes, evidence of qualified professional supervision of design and installation of such storage facilities or containers.

~~20.7.4.~~ **20.9.4** For on site waste disposal systems, other than a single family dwelling, all plans less than twenty- five hundred (2500) gpd must be prepared by a professional licensed designer. Plans for systems greater then twenty-five hundred (2500) gpd must be designed by and bear the stamp of a Civil or Sanitary Engineer, licensed in the State of New Hampshire. All design plans shall include capacity, daily flow volume, minimum distances and narratives assessment of nitrate, coliform, and types of wastes impact on the ground water quality.

~~20.7.5.~~ **20.9.5** For mining operations, including sand and gravel operations, such excavation or mining activity shall be in compliance with the Town of Ossipee Earth Excavation and Restorations Regulations.

~~20.7.6.~~ **20.9.6** Commercial use of pesticides, herbicides, fertilizers, manure and other potentially dangerous leachables shall be in compliance with RSA 430:222 and PES 100-900 of the New Hampshire Code of Administrative Rules as regulated by the New Hampshire Department of Agriculture.

~~20.7.7.~~ **20.9.7** For seasonal home conversion served by on-site sewage disposal systems, evidence that such system will support year round use by approval of the Water Supply and Pollution Control Commission that the system design has met the requirements as outlined in WS1000.

~~20.7.8.~~ **20.9.8** For manure storage, evidence of qualified professional supervision of design and installation of such storage facilities and a description of the measures proposed to prevent leaching and vandalism.

### **20.10 MAINTENANCE AND INSPECTION**

**Inspections may be required to verify compliance with the terms and conditions of a Special Use Permit. Such inspections, if required, shall be performed by the Zoning Enforcement Officer at any time during normal business hours.**

### **20.11 ENFORCEMENT PROCEDURES AND PENALTIES**

**Any violation of the requirements of this ordinance shall be subject to the enforcement procedures and penalties detailed in RSA 676:17, RSA 485:16, 485:17, and 485-C.**

[END]