

## **AQUIFER PROTECTION REGULATIONS WESTPORT, CONNECTICUT**

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### **1.0 [I.] Purpose, Statement of Intent:**

The purpose of these regulations is to protect the sources of public potable groundwater underlying the Town of Westport by minimizing the risk of contamination from industrial, commercial, agricultural, and residential sources. THROUGH THESE REGULATIONS, WESTPORT SHALL ESTABLISH AQUIFER PROTECTION AREAS AND PROHIBITIONS OF REGULATED ACTIVITIES PROPOSED TO BE LOCATED ENTIRELY OR IN PART WITHIN AQUIFER PROTECTION AREAS, AND SHALL ESTABLISH BEST MANAGEMENT PRACTICES FOR NEW AND EXISTING ACTIVITIES IN AQUIFER PROTECTION AREAS.

IN ADDITION, THESE REGULATIONS SHALL PROVIDE PROCEDURES FOR EXEMPTING CERTAIN NEW REGULATED ACTIVITIES, AND FOR PERMIT REVIEWS AND APPROVALS OF \_\_\_\_\_.

### **2.0 [II.] Authority:**

These regulations are adopted pursuant to Connecticut General Statutes, [Sections 8-2 and 8-3] 22a-354n THROUGH 22a-354p, INCLUSIVE, which require municipal agencies to designate Aquifer Protection Areas and to develop comprehensive and coordinated systems of land-use regulations designed to protect sources of public drinking water within Aquifer Protection Area.

### **3.0 [III.] Definitions:**

The following definitions shall apply in the interpretation of these regulations:

- 3.1 AFFECTED WATER COMPANY MEANS ANY PUBLIC OR PRIVATE WATER COMPANY OWNING OR OPERATING A PUBLIC WATER SUPPLY WELL WITHIN AN AQUIFER PROTECTION AREA.
- 3.2 ANCILLARY ACTIVITY MEANS A REGULATED ACTIVITY, WHICH IS SUBORDINATE TO , OR SUPPORTIVE OF A NON-REGULATED ACTIVITY, AND WHICH INVOLVES THE USE OF STORAGE OR NO MORE THAN 55-GALLONS, OR ITS EQUIVALENT, OF HAZARDOUS MATERIAL ON-SITE AT ANY ONE TIME.
- 3.3 Aquifer means a geologic FORMATION, GROUP OF FORMATIONS OR PART OF A FORMATION THAT CONTAINS SUFFICIENT SATURATED, PERMEABLE MATERIALS TO YIELD SIGNIFICANT QUANTITIES OF WATER TO WELLS AND SPRINGS [unit capable of yielding useable amounts of water].
- 3.4 Aquifer Protection Area means, for the purpose of these regulations, ANY [the] area CONSISTING OF [surrounding the pumping] well-fields, AREAS OF CONTRIBUTION AND RECHARGE AREAS of Westport, as identified on the "LEVEL A MAPPING" ["Level B Mapping"] by the Bridgeport Hydraulic Company.
- 3.5 AREA OF CONTRIBUTION MEANS THE AREA WHERE THE WATER TABLE OR OTHER POTENTIOMETRIC SURFACE IS LOWERED DUE TO PUMPING OF A WELL AND GROUNDWATER FLOWS DIRECTLY TO THE WELL.
- 3.6 Best Management Practice means a practice, procedure or facility designed to prevent, minimize or control spills, leaks or other releases that pose a threat to groundwater.

- 3.7 BULK STORAGE FACILITY MEANS ANY PORTION OF PROPERTY WHERE OIL OR PETROLEUM LIQUIDS ARE RECEIVED BY TANK VESSEL, PIPELINE, RAILROAD CAR, OR TANK VEHICLE FOR THE PURPOSE OF STORAGE.
- 3.8 Designated Aquifer Map means the "LEVEL A MAPPING" ["Level B Mapping"] by the Bridgeport Hydraulic Company.
- 3.9 DOMESTIC SEWAGE MEANS DOMESTIC SEWAGE AS DEFINED IN SECTION 22a-430-3(a) OF THE REGULATIONS OF CONNECTICUT STATE AGENCIES.
- 3.10 EXISTING REGULATED ACTIVITY MEANS A REGULATED ACTIVITY WHICH SUBSTANTIALLY COMMENCED, OR WITH RESPECT TO WHICH A MUNICIPAL BUILDING PERMIT HAS BEEN ISSUED, ON OR BEFORE THE DATE AN APPLICABLE AQUIFER PROTECTION AREA IS DESIGNATED ON MUNICIPAL ZONING DISTRICT MAP OR INLAND WETLAND MAP, AND STATE AQUIFER REGULATIONS HAVE BEEN ADOPTED.
- 3.11 EXISTING WELL FIELD MEANS WELL FIELDS IN USE BY A PUBLIC WATER SUPPLY SYSTEM ON OR BEFORE JULY 1, 1990.
- 3.12 EXPAND AN EXISTING REGULATED ACTIVITY OR EXPANSION OF AN EXISTING REGULATED ACTIVITY MEANS TO INCREASE THE PHYSICAL SIZE OF THE FACILITY CONDUCTING THE REGULATED ACTIVITY BY 25% OR THE BULK STORAGE OF HAZARDOUS MATERIALS BY 10% OR MORE ON OR AFTER THE EFFECTIVE DATE OF THIS REGULATION.
- 3.13 FLOOR DRAIN MEANS ANY OPENING IN A FLOOR OR SURFACE WHICH OPENING OR SURFACE RECEIVES MATERIALS SPILLED OR DEPOSITED WITHIN.
- 3.14 Hazardous Material means any material that may pose a present or potential hazard to the public drinking water supply or to the environment when improperly treated, stored, transported, disposed of, or otherwise managed, or any substance described or regulated as hazardous and/or toxic by the Town, State or Federal governments.
- 3.15 Hazardous Waste means any waste material that may pose a present or potential hazard to HUMAN HEALTH [the public drinking water supply] or [to] the environment when improperly treated, stored, transported, disposed of, or otherwise managed, or any waste substance described or regulated as hazardous and/or toxic by the Town, State or Federal governments.
- 3.16 HAZARDOUS WASTE FACILITY MEANS...
- 3.17 High Water Table means the seasonally highest level of the water table.
- [3.18 Induced Infiltration means the process by which water in a stream or lake moves into an aquifer by establishing a hydraulic gradient from surface water body toward a pumping well or wells.]
- 3.18 INFILTRATION DEVICE MEANS ANY DISCHARGE DEVICES INSTALLED BELOW OR ABOVE THE GROUND SURFACE WHICH IS DESIGNED TO ALLOW LIQUID TO TRAVEL TO THE GROUND.
- 3.19 LEVEL A MAPPING BOUNDARY MEANS THE LINES AS SHOWN ON "LEVEL A" MAPS APPROVED OR PREPARED BY THE COMMISSIONER PURSUANT TO SECTION 22a-354c OF THE GENERAL STATUTES, ENCOMPASSING THE AREA OF THE CONTRIBUTION AND RECHARGE AREAS.
- 3.20 MODIFY A REGULATED ACTIVITY OR MODIFICATION OF A REGULATED ACTIVITY MEANS TO ALTER A REGULATED IN A MANNER WHICH MAY INCREASE RISK OF POLLUTION OF THE

AQUIFER AFTER AN EXEMPTION IS ISSUED PURSUANT OT SECTION 22a-354I-6 OR AFTER AN EXISTING REGULATED ACTIVITY HAS BEEN REGISTERED PURSUANT TO SECTION 22a-354I-7, OR AFTER A PERMIT TO EXPAND HAS BEEN ISSUED PURSUANT TO SECTION 22a-354I-8 OF THE REGULATIONS OF THE CONNECTICUT STATE AGENCIES.

- 3.21 MUNICIPAL AQUIFER PROTECTION AGENCY MEANS THE BOARD OR COMMISSION AUTHORIZED BY MUNICIPAL ORDINANCE UNDER SECTION 22a-354o OF THE GENERAL STATUTES.
- 3.22 NEW REGULATED ACTIVITY MEANS A REGULATED ACTIVITY, WHICH COMMENCES AFTER THE DATE AN APPLICABLE AQUIFER PROTECTION AREA, IS DESIGNATED ON MUNICIPAL ZONING DISTRICT AND INLAND WETLAND MAPS AND SECTION 22a-354I-1 THROUGH 10 OF THE REGULATIONS OF CT STATE AGENCIES HAVE BEEN ADOPTED.
- 3.23 OWNER OR OPERATOR MEANS THE PERSON WHO EITHER OWNS OR IS RESPONSIBLE FOR THE OPERATION OF A REGULATED ACTIVITY.
- 3.24 PERSON MEANS ANY INDIVIDUAL, PARTNERSHIP, ASSOCIATION, FIRM, CORPORATION OR OTHER ENTITY, EXCEPT A MUNICIPALITY, AND INCLUDES A FEDERAL AGENCY AS PERMITTED BY LAW, THE STATE OR ANY INSTRUMENTALITY OF THE STATE, AND ANY OFFICER OF GOVERNING OR MANAGING BODY OF ANY PARTNERSHIP, ASSOCIATION, FIRM OR CORPORATION.
- 3.25 POTENTIAL WELL FIELD MEANS THOSE WELL FIELDS IDENTIFIED AS FUTURE SOURCES OF SUPPLY IN THE WATER SUPPLY PLAN OF THE PUBLIC WATER SUPPLY SYSTEM APPROVED PURSUANT TO SECTION 25-32d OF THE CGS.
- 3.26 Primary Activity means any functions, actions, and/or purposes that are characterized as being first, foremost or essential.
- 3.27 RECHARGE AREA MEANS THE AREA FROM WHICH THE GROUNDWATER FLOWS DIRECTLY TO THE AREA OF CONTRIBUTION.
- 3.28 REGULATED ACTIVITY MEANS AN ACTIVITY, STRUCTURE OR APPURTENANCE THERETO LISTED IN SECTION \_\_\_\_\_ OF THESE REGULATIONS AND SECTION 22a-354i-4 OF THE REGULATIONS OF Connecticut STATE AGENCIES, IF SUCH ACTIVITY, STRUCTURE, OR APPURTENANCE IS LOCATED OR CONDUCTED WHOLLY OR PARTIALLY IN AN AQUIFER PROTECTION AREA.
- 3.29 Secondary Activity means any functions, actions and/or purposes that are characterized as incidental, accessory or less than first, foremost or essential.
- 3.30 Stratified Drift means unconsolidated, sorted sediment composed of layers of sand, gravel, silt and/or clay.
- 3.31 UNDERGROUND WHEN REFERRING TO A TANK OR TANK COMPONENT MEANS TEN PERCENT OR MORE OF THE VOLUMETRIC CAPACITY OF THE TANK OR COMPONENT IS BELOW THE SURFACE OF THE GROUND AND THAT PORTION WHICH IS BELOW THE SURFACE OF THE GROUND IS NOT FULLY VISIBLE FOR INSPECTION.
- 3.32 Waste Materials means the industrial, commercial, residential, and /or recreational products or byproducts that are no longer efficient at or no longer desired for their original purposes, use or function.
- 3.33 Wellfield means the immediate area surrounding a public drinking water supply well or group of wells.

**4 [IV.] REGULATED AND PROHIBITED ACTIVITIES [Potentially Hazardous Uses]:**

- 4.19 Within the Aquifer Protection Area, the [following] uses and activities LISTED WITHIN SECTION 4.4 are PROHIBITED [specifically regulated] UNLESS SUCH ACTIVITY CAN BE DETERMINED TO BE REGULATED, AND THEREBY LICENSED, BY THE CONSERVATION COMMISSION OR DEPARTMENT [and require licensure from the Conservation Commission, since they potentially pose a threat to groundwater]. AN ACTIVITY MAY BE DEEMED REGULATED IF SUCH ACTIVITY IS:
- A. IDENTIFIED AS A CERTAIN ACTIVITY ALLOWED IF CONNECTED TO A MUNICIPAL SEWER IN ACCORDANCE TO SUBSECTION (C) OF THIS SECTION;
  - B. IDENTIFIED AS A CERTAIN TYPE OF ANCILLARY ACTIVITY ALLOWED IN ACCORDANCE WITH SECTION 4.2; OR
  - C. REGISTERED AS AN EXISTING ACTIVITY IN ACCORDANCE TO SECTION 7 OF THIS REGULATION.
- 4.20 AN ANCILLARY ACTIVITY AS DEFINED IN SECTION 22A-354I-1 OF THE CGS IS NOT REGULATED PROVIDED THAT ALL OF THE FOLLOWING CONDITIONS ARE MET:
- A. THE ANCILLARY ACTIVITY INVOLVES NO MORE THAN 10% OF THE FLOOR AREA IN THE BUILDING WHERE THE ANCILLARY ACTIVITY TAKES PLACE;
  - B. THERE ARE NO FLOOR DRAINS IN THE AREA WHERE THE ANCILLARY ACTIVITY TAKES PLACE;
  - C. HAZARDOUS MATERIAL USED IN THE ANCILLARY ACTIVITY MUST BE STORED INSIDE AT ALL TIMES;
  - D. ALL WASTEWATERS GENERATED ON-SITE ARE DISPOSED OF THROUGH A CONNECTION TO THE MUNICIPAL SEWERAGE SYSTEM;
  - E. THE ACTIVITY IS LISTED IN THE TABLE DESCRIBED IN SUBPARAGRAPH 5(A) UNDER THE COLUMN IDENTIFYING ANCILLARY USES NOT REGULATED; AND
  - F. THE ACTIVITY SHALL NOT INCLUDE THE REPAIR AND MAINTENANCE OF VEHICLES, VEHICLE EQUIPMENT, OR THE REPAIR AND MAINTENANCE OF INTERNAL COMBUSTION ENGINES, THE OPERATION OF A MACHINE SHOP EXCEPT FOR PROTOTYPING MODELING, OR THE UNDERGROUND STORAGE OF FUEL OR HAZARDOUS MATERIALS.
- 4.21 THE FOLLOWING IS NOT A REGULATED ACTIVITY PROVIDED ALL WASTEWATERS FROM SUCH ACTIVITY ARE DISPOSED OF THROUGH A CONNECTION TO A MUNICIPAL SEWERAGE SYSTEM, AND THE ACTIVITY IS LISTED IN SECTION 5.0, INCLUSIVE, AS NOT REGULATED IF CONNECTED TO A MUNICIPAL SEWER: A HIGH SCHOOL OR UNIVERSITY; A MEDICAL LABORATORY; AMBULATORY PATIENT CARE FACILITY; A COMMERCIAL LAUNDRY PROVIDED THERE IS NO DRY-CLEANING ACTIVITY ON-SITE; COMMERCIAL PHOTOGRAPHIC PROCESSING SYSTEM; CAR WASH; OR A FUNERAL HOME CONDUCTING EMBALMING OR CREMATORY SERVICES ON-SITE.
- 4.3 EACH REGULATED ACTIVITY LISTED WITHIN THIS SECTION IS PROHIBITED IN AN AQUIFER PROTECTION AREA UNLESS IT IS DETERMINED UNDER SECTION 4.1 THAT THEY ARE REGULATED AND MAY BE LICENSED.
- a. LEACHATE GENERATION FROM WASTE DISPOSAL. MAY BE ASSOCIATED WITH sanitary landfills, state or municipal composting sites, septage lagoons and disposal of solid wastes, AND

INCLUDING RESOURCES RECOVERY FACILITY AND ANY INTERMEDIATE PROCESSING FACILITY AS REGULATED UNDER CGS 22a-207, 208a AND 260.

- b. [2.] Burial of brush, stumps, yard waste, and construction debris, including asphalt, concrete or other hazardous waste or waste materials.
- c. [3.] Junkyards or motor vehicle salvage operations.
- d. [4.] STOCKPILING [Stockpiles] of road salt or other ice control chemicals. FOR DE-ICING OF ROADS AND PARKING AREAS. STORAGE OF MORE THAN 200 LBS. OF PAVEMENT DE-ICING CHEMICALS, EXCEPT IF SUCH STORAGE OCCUR S WITHIN A WEATHER TIGHT WATERPROOF STRUCTURE FOR THE PURPOSE OF RETAIL SALE. THIS USE MAY BE ASSOCIATED WITH SALT STORAGE FACILITY.
- e. DE-ICING, MAINTENANCE OF AIRCRAFT AND EQUIPMENT, FUEL STORAGE AND DISTRIBUTION. THIS USE MAY BE ASSOCIATED WITH PUBLIC AIRPORTS.
- f. [5.] USE OF DRY-CLEANING SOLVENTS, STORAGE, USE & DISPOSAL OF INDUSTRIAL STRENGTH CLEANING SOLVENTS AGENTS ASSOCIATED WITH PERSONAL OR BUSINESS SERVICES FOR Dry cleaning establishments, INDUSTRIAL OR COMMERCIAL LAUNDERERS, OR POWER LAUNDRIES [and/or self-service laundries].
- g. A COMMERCIAL LAUNDRY THAT IS CONNECTED TO A MUNICIPAL SEWER AND DOES NOT INCLUDE ON-SITE DRY CLEANING IS NOT A REGULATED ACTIVITY.
- h. [6.] REPAIR AND MAINTENANCE OF VEHICLES, DISPENSING OF FOSSIL FUEL PRODUCTS, REPAIR AND MAINTENANCE OF INTERNAL COMBUSTION ENGINES OF VEHICLES WHICH USE SOLVENTS, LUBRICANTS, PAINTS, BRAKE AND TRANSMISSION FLUIDS; GENERATION OF WASTE OILS HAZARDOUS WASTES; THIS ACTIVITY IS CAN BE ASSOCIATED WITH NEW OR USED CAR DEALERS, GASOLINE STATIONS, SERVICE STATIONS, MUNICIPAL GARAGES, COMPANY FLEET MAINTENANCE GARAGES, AUTOMOBILE BODY REPAIR AND PAIN SHOPS, AUTOMOBILE RADIATOR, TIRE, EXHAUST, OR TRANSMISSION REPAIR, TIRE RETREADING, BOAT DEALERS, RECREATIONAL VEHICLE DEALERS, MOTORCYCLE DEALERS, AND FUEL OIL DEALERS.[Commercial establishments, state or municipal facilities for fueling, washing, servicing, painting or repair of airplanes, boats or motor vehicles.]
- i. [7.] Businesses for painting, wood preservation, metal plating, refinishing or furniture-stripping.
- j. [8.] Industrial business uses and related activities.
- k. [9.] ACTIVITIES INVOLVING BIOLOGICAL, CHEMICAL OR PRODUCT TESTING. MAY BE ASSOCIATED WITH Medical, chemical or bacteriological BIOLOGICAL, CLINICAL, EDUCATIONAL, OR PRODUCT TESTING OR RESEARCH laboratories.
  - (1) THIS DOES NOT INCLUDE A LABORATORY THAT IS SOLELY ENGAGED IN THE TESTING OF A PUBLIC WATER SUPPLY OR PHOTOGRAPHIC PROCESSING FROM RADIOLOGICAL EXAMINATION.
  - (2) THE FOLLOWING ARE NOT REGULATED IF CONNECTED OT A MUNICIPAL SEWER: HIGH SCHOOLS, UNIVERSITIES MEDICAL FACILITIES, DOCTOR'S OFFICE, DENTIST OFFICE, VETERINARIAN OFFICE, AND AMBULATORY PATIENT CARE.
- l. [10.] Commercial establishments for printing, photocopying or photographic processing.

- m. [11.] [Commercial or significant private] Storage, MIXING AND LOADING of herbicides, pesticides, fertilizers, manure, EQUIPMENT CLEANING AND HEAVY EQUIPMENT FUELING AND MAINTENANCE, or other hazardous materials or hazardous wastes. THIS USE MAY BE ASSOCIATED WITH PERSONAL OR BUSINESS SERVICES FOR LAWN CARE, CONSTRUCTION EQUIPMENT RENTAL, EMBALMING SERVICES, CREMATORIES, PHOTO FINISHING LABORATORIES, FURNITURE STRIPPING OR FINISHING.
- n. [12.] Hotels, motels or other lodging facilities unless connected to public sanitary sewers and water supplies.
- o. [13.] INSTALLATION OR USE OF ANY EQUIPMENT FOR THE UNDERGROUND STORAGE OR TRANSMISSION OF OIL OR PETROLEUM OR HAZARDOUS MATERIALS, EXCEPT FOR FEDERALLY REGULATED INTERSTATE PIPELINE [Underground fuel tanks, except those contained in a concrete vault or with double-walled construction and leak monitoring and alarm devices, designed to eliminate the risk of potential spills, leaks or other releases that pose a threat to groundwater.]
- p. [14.] INSTALLATION, USE OR MAINTENANCE OF FLOOR DRAINS, dry wells or other INFILTRATION DEVICES OR APPURTENANCE DESIGNED TO ALLOW PROCESS WASTE WATER OR HAZARDOUS MATERIAL TO TRAVEL TO THE GROUND [similar drainage appurtenances that may discharge hazardous waster or waste materials from roads and parking areas].
- q. [15.] Discharge into the surface or groundwater, wetlands or watercourses, of water emanating from swimming pools, hot tubs, spas, or water softening devices.
- r. [16.] Sewage discharges in excess of 350 gallons per acre per day.
- s. [17.] Any other use that involves as a principal activity the manufacture, storage, use, transportation or disposal of toxic or hazardous waste or waste materials.
- t. GENERATION OF ELECTRICAL POWER BY MEANS OF FOSSIL FUEL, OTHER THAN NATURAL GAS OR PROPANE, OR NUCLEAR POWER EXCEPT WHEN NEEDED FOR EMERGENCY WELL POWER. THIS USE MAY BE ASSOCIATED WITH FOSSIL FUEL POWER PLANTS, OTHER THAN NATURAL GAS AND PROPANE, OTHER UTILITY SERVICES, OR NUCLEAR POWER EXCEPT DURING AN EMERGENCY.
- u. TO CONDUCT ANY HOME OCCUPATION INVOLVING ANY ACTIVITY LISTED ABOVE. A PRIVATE PHOTO LAB IS NOT REGULATED IF CONNECTED TO A MUNICIPAL SEWER. ALL NEW ACTIVITIES SHALL BE PROHIBITED; EXISTING ACTIVITIES SHALL BE REGULATED.

**6.0 [V.] Pre-existing Nonconforming Uses:**

"Potentially Hazardous Uses" in existence at the effective date of these regulations shall be considered nonconforming. Any repair, replacement or modification of the "Potentially Hazardous Use" must be licensed by the Westport Conservation Commission or its duly authorized agent as set forth in Section VII of these regulations.

**7.0 Regulated AND PROHIBITED Activities:**

EACH [Any] operation or use within the Aquifer Protection Area, including but not limited to, construction, deposition or material, discharge, installation, pollution, or other activity, shall require approval by the Westport Conservation Commission or its duly authorized agent.

**8.0 Determination:**

If, upon review of the application, the Conservation Department determines that the activity does not involve a "Potentially Hazardous Use," it shall issue an administrative approval.

If, upon review of the application, the Conservation Department determines that the activity involves a "Potentially Hazardous Use", the application shall be scheduled for a meeting agenda for consideration by the Conservation Commission.

Any application that involves a "Potentially Hazardous Use" shall be considered by the Commission and either approved as proposed, approved with conditions, limitations or modifications imposed, or denied. Decision shall be rendered upon the basis of the application's impact upon the Aquifer Protection Area and a showing of mitigative, rehabilitative, or beneficial groundwater impact through use of "Best Management Practices" designed to prevent a threat to groundwater.

**9.0 EXEMPTIONS FROM PROHIBITION:**

**9.0 Enforcement:**

The Westport Conservation Commission or its duly authorized agent shall be responsible for the enforcement of these regulations in conformance with the Connecticut General Statutes.

**10.0Merger Clause:**

If any section, paragraph, subdivision, clause or provision of these regulations is adjudged invalid or unconstitutional for any reason, such adjudication shall apply solely to that section, paragraph, subdivision, clause or provision so adjudged, and the remainder of the ordinance shall be deemed to be, and shall continue to be, valid and in full force and effect.

**11.0Effective Date:**

These regulations, as promulgated, shall become effective on January 1, 1994.