

Present: Vice Chair Jack Karcz, Jack Downing, Andy Kohlhofer, Tim Lavelle, Roger Barham, alternate member Mike Wason, Senior Planner Jenn Rowden, and Land Use Administrative Assistant Casey Wolfe

Also Present: Anders Ragnarsson, Mike Rislove, Gary Merrill, George Merrill, Rose Stevens, Joanne Passanisi, and Marty Ferwerda

Mr. Karcz started the meeting at 7:01 pm. He appointed Mr. Wason to vote on behalf of Mr. Hunter.

I. MINUTES

Mr. Braham made a motion to approve the minutes of September 5, 2018. Mr. Downing seconded the motion. The motion passed 4-0-2.

II. NEW BUSINESS

None

III. OTHER BUSINESS

2018 Earth Removal Permits - 2017 Earth Removal Permits Expire October 3, 2018

This discussion is a continuation from the August 15, 2018 Planning Board meeting. At the August meeting, town engineer Mr. Tatem was present to discuss his calculations for the estimated surety amount for each of the four gravel operations in town. The discussion was continued to this meeting to give the gravel operation owners time to review Mr. Tatem's material. Mr. Lavelle stated that every year the surety estimate for these gravel pits increases. Mr. Wason stated that he figures \$11,000 per acre should be enough for surety. He disagreed with Mr. Tatem's requirement for stabilization in the estimate because these active sites should already be stabilized. Mr. Barham commented that the town engineer only inspects the sites once a year. Mr. Kohlhofer asked if the Board can switch to reevaluating the surety to every five years. Ms. Rowden stated that their regulations require this to be done every year. Mr. Barham commented that the unit cost in the Auburn example was twice as much as what Mr. Tatem has estimated. There was some discussion about Mr. Tatem's estimates being higher in his August 2018 letter than they were in his June 2018 letter. Mr. Karcz stated that he agrees with Mr. Tatem's estimate.

Mr. Rislove stated that he looked through Mr. Tatem's materials from the last meeting and felt that the Auburn example has nothing to do with his operation. There was some discussion about the numbers that Mr. Tatem used to come up with the surety estimates. After playing with the numbers, Mr. Barham brought Mr. Tatem's estimate for a five acre gravel operation from \$87,256 to \$68,646. Mr. Rislove stated that they currently have \$60,000 of surety in place and they already think that number is too high. Mr. Kohlhofer stated that the Board does not want to burden the gravel operation owners, however, they do not want the Town to pay for unexpected costs. Ms. Wolfe stated that the three five-acre pits currently have \$59,895 in surety. Mr. Barham

made a motion to retain this surety amount for these three gravel operations. Mr. Lavelle seconded the motion. Ms. Rowden reminded the Board that the applicants have the option to reduce their permits to a smaller acreage. This would reduce their surety. The Board came to the conclusion that the pit owners are currently bonded at almost \$12,000 per acre. Mr. Barham withdrew his previous motion. There was some discussion about stock piles being excluded from surety requirements per the excavation regulations.

Mr. Kohlhofer made a motion to open the discussion to the public. Mr. Downing seconded the motion. The motion passed 6-0-0. Ms. Rose Stevens of 27 Tarah Way at Governor's Forest stated that there is a large pile of loam about 50 feet behind her house. She stated that because of this loam pile, she has not been able to open her windows in the two years that she has lived there. She said that all kinds of wildlife lives in this loam pile. She would like the pile of loam moved. Mr. Ferwerda stated that he hydro seeded the pile to keep it stabilized. He suggested having the building inspector go out to take a look at it. Ms. Wolfe stated that she called the town engineer who did not recall seeing any erosion issues, however, if there is a lot of dust blowing around, then it could mean the pile was not stabilized properly. The Board and Mr. Ferwerda agreed to have the building inspector take a look at the pile, and if he wants a second opinion, the town engineer will do an inspection as well. Mr. Ferwerda agreed to pay for the town engineer's inspection in this situation. **Mr. Kohlhofer made a motion to require \$25,200 of surety for Governor's Forest (Map 3 Lot 2) based on a 2.1 acre excavation area with the condition that the loam pile behind 27 Tarah Way gets inspected by the building inspector and, if necessary, gets inspected by the town engineer. Mr. Lavelle seconded the motion. The motion passed 6-0-0.**

Mr. Kohlhofer made a motion to require \$48,000 of surety for the Fremont Park, LLC gravel operation (Map 4 Lot 15) based on a four acre excavation area and to renew their earth removal permit set to expire on June 30, 2019. Mr. Lavelle seconded the motion. The motion passed 6-0-0. Mr. Rislove asked if the Board had to do this every year. Ms. Rowden explained that this was required in their regulations but the Board could amend the regulations in the future. Mr. Rislove asked for his earth removal permit for Fremont Land, LLC to be reduced to two acres. **Mr. Kohlhofer made a motion to require \$24,000 of surety for Fremont Land, LLC (Map 2 Lot 151-2) based on a 2 acre excavation area and to renew their earth removal permit set to expire on June 30, 2019. Mr. Lavelle seconded the motion. The motion passed 6-0-0.** The Board then moved on to the Galloway Trucking operation. **Mr. Lavelle made a motion to require \$60,000 of surety for Galloway Trucking (at Map 5 Lot 35) based on a five acre excavation area and to renew their earth removal permit set to expire on June 30, 2019. Mr. Kohlhofer seconded the motion. The motion passed 6-0-0.** The gravel operation owners left at 7:28 pm.

IV. CIRCUIT RIDER BUSINESS

Ms. Rowden passed a draft of proposed changes to the Aquifer Protection Ordinance and a map of the aquifer protection district. She also passed out a map of the potential contamination sources in Town. Ms. Rowden explained that the Aquifer Protection Ordinance restricts certain uses on the route 107 corridor. She hopes to modify the uses that are allowed in this district, so that uses that are fairly low risk (by volume of potential contaminates) would be allowed to

occur, but under the condition that every three years the building inspector can do an inspection of these facilities. This inspection would allow the building inspector to promote best management practices to the business owner. The idea of this program is to allow more uses in the aquifer protection district. She explained that because the inspection would only be done every three years, only a third of the businesses need to be done each year. The business owner would be notified about a month ahead of time and the inspection would take about 45 minutes.

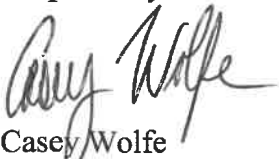
Mr. Kohlhofer asked if it can be called something different other than an “inspection.” Ms. Rowden felt that it truly is an inspection. Ms. Rowden explained this would affect new businesses in the aquifer protection district and existing businesses. Ms. Rowden also explained that she would like to host two workshops pertaining to the ordinance change, one for residents and one for business owners. This would help educated the public and to get feedback from the business owners who are not Fremont residents, and therefore, unable to vote on this ordinance change. Ms. Rowden then went through the Aquifer Protection Ordinance and discussed the proposed changes with the Board (see attached). There was some discussion about getting these proposed changes on the Warrant Article. Ms. Rowden mentioned that October 3rd will be a very busy meeting and October 17th will be the Planning Board’s Special Session for their other proposed zoning changes. After the Special Session, they can spend more time discussing the Aquifer Protection ordinance. She would like to the workshops scheduled for November.

Ms. Wolfe informed the Board that they will need to meet upstairs on November 7th because the Budget Committee needs the basement meeting room that evening. She also informed the Board that their November 21st meeting is the night before Thanksgiving Day. Unfortunately, the Board already scheduled a Public Hearing for that evening. **After some discussion, Mr. Kohlhofer made a motion to rescind the motion that scheduled the public hearing for November 21st and to reschedule the hearing for November 28th. Mr. Downing seconded the motion. The motion passed 6-0-0. Mr. Lavelle then made a motion to amend the meeting minutes to reflect this change. Mr. Kohlhofer seconded the motion. The motion passed 6-0-0.**

Ms. Wolfe passed around a map of Fremont from 1931 that Steve Bassett wanted the Board to see. On this map, he highlighted a right of way that leads to his property. There was some discussion about this map. Ms. Rowden felt that this was a range way.

Mr. Lavelle made a motion to adjourn at 8:47 pm. Mr. Kohlhofer seconded the motion. The motion passed 6-0-0.

Respectfully Submitted,



Casey Wolfe
Land Use Administrative Assistant

Section 1203 – Aquifer Protection District

Bold = to be added, Struckout= to be removed

1203.1 Pursuant to RSA 674:16-21, the Town of Fremont adopts an Aquifer Protection District and accompanying regulations in order to protect, preserve and maintain potential groundwater supplies and related groundwater recharge areas within a known aquifer identified by the Town. The objectives of the aquifer protection district are:

- To protect the public health and general welfare of the citizens of the Town of Fremont.
- To prevent development and land use practices that would contaminate or reduce the recharge of the identified aquifer.
- To promote future growth and development of the Town, in accordance with the Master Plan, by insuring the future availability of public and private water supplies.
- To encourage uses that can appropriately and safely be located in the aquifer recharge areas.

1203.2 General: The provision of the Aquifer Protection District shall be administered by the Planning Board. All development proposals, other than single or two-family residential construction not involving the subdivision of land, shall be subject to subdivision and/or site plan review and approval in accordance with Planning Board rules and regulations. Such review and approval shall precede the issuance of any building permit by the Town.

1203.3 Enforcement: The Board of Selectmen shall be responsible for the enforcement of the provisions and conditions of the Aquifer Protection District.

1203.4 Definitions

Animal Feedlot: A commercial agricultural establishment consisting of confined feeding areas and related structures used for the raising of livestock. An animal feedlot shall be considered one on which more than five (5) animals are raised simultaneously.

Aquifer: For the purpose of this Ordinance, aquifer means a geologic formation, group of formations, or part of a formation **of rock, sand, or gravel** that is capable of yielding quantities of groundwater usable for municipal or private water supplies.

Dwelling Unit: A building or that portion of a building consisting of one (1) or more rooms designed for living and sleeping purposes, including kitchen and sanitary facilities and intended for occupancy by not more than one family or household.

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.

Groundwater: All the water below the land surface in the zone of saturation or in rock fractures capable of yielding water to a well.

Groundwater Recharge: The infiltration of precipitation through surface soil materials into groundwater. Recharge may also occur from surface waters, including lakes, streams and wetlands.

Impervious: not readily permitting the infiltration of water.

Impervious surface: a surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. 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.

Junkyard: an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automotive recycling yard. The word does not include any motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126.

Leachable Wastes: Waste materials, including solid wastes, sludge and agricultural wastes that are capable of releasing contaminants to the surrounding environment.

Mining of Land: The removal of geologic materials such as topsoil, sand and gravel, metallic ores, or bedrock to be crushed or used as building stone.

Non-Conforming Use: Any lawful use of buildings, structures, premises, land or parts thereof existing as of the effective date of this Ordinance, or amendment thereto, and not in conformance with the provisions of this Ordinance, shall be considered to be a non-conforming use.

Non-Municipal Well: Any well not owned and operated by the Town of Fremont or its agent.

Outdoor storage: storage of materials where they are not protected from the elements by a roof, walls, and a floor with an impervious surface.

Public water system: a system for the provision to the public of piped water for human consumption as defined by RSA 485:1-a.

Recharge Area: The land surface area from which groundwater recharge occurs.

Regulated substance: petroleum, petroleum products, regulated contaminants for which an ambient groundwater quality standard has been established under RSA 485-C:6, and substances listed under 40 CFR 302, 7-1-05 edition, excluding substances used in the treatment of drinking water or waste water at department approved facilities.

Sanitary protective radius: The area around a public water supply well which must be maintained in its natural state as required by EnvDw 301 or 302 (for community water systems); Env-Dw 405.14 and 406.12 (for other public water systems).

Seasonal high water table: The depth from the mineral soil surface to the upper most soil horizon that contains 2 percent or more distinct or prominent redoximorphic features that increase in percentage with increasing depth as determined by a licensed Hydrogeologist, Soils Scientist, Wetlands Scientist, Civil or Environmental Engineer or other qualified professional approved by the Planning Board or the shallowest depth measured from ground surface to free water that stands in an unlined or screened borehole for at least a period of seven consecutive days.

Secondary containment: a structure such as a berm or dike with an impervious surface which is adequate to hold at least 110 percent of the volume of the largest regulated-substances container that will be stored there.

Septage: Liquid or solid waste generated by septic disposal systems. Septic waste containing wash water, gray waters, human feces, excrement, dregs, sediment, grease, oils and any other waste generated in a domestic septic disposal system.

Sludge: Residual materials produced by the sewage treatment process.

Solid Waste: Any discarded or abandoned material including refuse, putrescible material, septage, or sludge, as defined by New Hampshire Solid Waste Rules He-P 1901.03. Solid waste includes solid, liquid, semi-solid, or contain gaseous

waste material resulting from residential, industrial, commercial, mining, and agricultural operations and from community activities.

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.

Structure: Anything constructed or erected, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground. For the purposes of this Ordinance, buildings are structures.

Toxic or Hazardous Materials: Any substance or mixture of such physical, chemical, or infectious characteristics as to pose a significant, actual or potential hazard to water supplies, or other hazard to human health, if such substance or mixture were discharged to land or waters of this Town. Toxic or hazardous materials include, without limitation, volatile organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalies, and include products such as pesticides, herbicides, solvents and thinners, and such other substances as defined in New Hampshire Water Supply and Pollution Control Rules, Section Dw902 in New Hampshire Solid Waste Rules Env-Sw 103.12), and in the Code of Federal Regulations 40 CFR 261. Wastes generated by the following commercial activities are presumed to be toxic or hazardous, unless and except to the extent that anyone engaging in such an activity can demonstrate the contrary to the satisfaction of the Planning Board:

- Airplane, boat and motor vehicle service and repair;
- Chemical and bacteriological laboratory operation;
- Dry cleaning;
- Electronic circuit manufacturing;
- Metal plating, finishing and polishing;
- Motor and machinery service and assembly;
- Painting, wood preserving and furniture stripping;
- Pesticide and herbicide application;
- Photographic processing;
- Printing.

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.

1203.5 District Boundaries

- A. Location: The Aquifer Protection District is defined as the area shown on the map entitled Fremont New Hampshire – Surface Water Resources, Aquifer

Protection, Flood Zone and Zoning District Map: March 2013 and any updates located in the Planning Office.

The Aquifer Protection District is a zoning overlay district which imposes additional requirements and restrictions to those of the current ordinances. In all cases, the more restrictive requirement(s) shall apply.

- B. Recharge Areas: For the purpose of this Ordinance, the primary recharge area for the identified aquifer is considered to be co-terminus with the Aquifer and the High Potential to Yield Groundwater areas. No secondary recharge area has been identified at the time of enactment.
- C. Appeals: Where the bounds of the identified aquifer or recharge area, as delineated, are in doubt or in dispute, any landowner aggrieved by such delineation may appeal the boundary location to the Planning Board. Upon receipt of such appeal, the Planning Board shall suspend further action on development plans related to the area under appeal and shall engage, at the landowner's expense, a qualified hydrogeologist to prepare a report determining the proper location and extent of the aquifer and recharge area relative to the property in question. The aquifer delineation shall be modified by such determination subject to review and approval by the Planning Board.

1203.?? Performance Standards

The following Performance Standards apply to all uses in the Aquifer Protection District unless exempt under Article 1206.3.D:

- A. **For any new or expanded uses that will render impervious more than 10 percent or more than 2,500 square feet of any lot, whichever is greater, a stormwater management plan shall be prepared which the planning board determines is consistent with New Hampshire Stormwater Manual Volumes 1-3, December 2008, NH Department of Environmental Services.**
- B. **Conditional uses, as defined under Article 1206.3.F shall develop stormwater management and pollution prevention plans and include information consistent with Developing Your Stormwater Pollution Prevention Plan: A Guide for Industrial Operators (US EPA, Feb 2009) The plan shall demonstrate that the use will:**
 - 1. **Meet minimum stormwater discharge setbacks between water supply wells and constructed stormwater practices as found within the Innovative Land Use Planning Techniques: A Handbook for Sustainable Development, Section 2.1 Permanent (Post Construction) Stormwater Management,(NHDES, 2008 or later edition)**

2. **Minimize, through a source control plan that identifies pollution prevention measures, the release of regulated substances into stormwater;**
 3. **Stipulate that expansion or redevelopment activities shall require an amended stormwater plan and may 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);**
 4. **Maintain a minimum of four feet vertical separation between the bottom of a stormwater practice that infiltrates or filters stormwater and the average seasonal high water table as determined by a licensed hydrogeologist, soil scientist, engineer or other qualified professional as determined by the Planning Board.**
- C. 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, (June 2011) and any subsequent revisions; NH Department of Agriculture, Markets and Food (DAMF) may be consulted to help determine whether a particular facility is in compliance with the agriculture BMPs. NH DAMF may order property owners to develop a nutrient management plan when state BMPs related to manure or fertilizers are not followed and RSA 431:35 authorizes local health authorities and NHDES to enforce the plan.**
- D. All regulated substances stored in containers with a capacity of five 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;**
- E. 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;**
- F. Outdoor storage areas for regulated substances, associated material or waste must be protected from exposure to precipitation and must be located at least 100 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;**
- G. Secondary containment must be provided for outdoor storage of regulated substances in regulated containers and the containment structure must include a cover to minimize accumulation of water in the containment area and contact between precipitation and storage container(s);**

- H. 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;**
- I. 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.**
- J. Blasting activities shall be planned and conducted to minimize groundwater contamination. Excavation activities should be planned and conducted to minimize adverse impacts to hydrology and the dewatering of nearby drinking water supply wells**
- K. All transfers of petroleum from delivery trucks and storage containers over five gallons in capacity shall be conducted over an impervious surface having a positive limiting barrier at its perimeter.**

L.

1203.?? Spill Prevention, Control and Countermeasure (SPCC) Plan

Conditional uses, as described under Article 1206.3.D, using regulated substances shall submit a spill control and countermeasure (SPCC) plan to the Health Office 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. It shall include:

- A. A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas.**
- B. Contact list and phone numbers for the current facility response coordinator(s), cleanup contractors, and all appropriate federal, state, and local agencies who must be contacted in case of a release to the environment.**
- C. A list of all regulated substances in use and locations of use and storage;**
- D. 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.**
- E. A description of containment and/or diversionary structures or equipment to prevent regulated substances from infiltrating into the ground. 6) List of positions within the facility that require training to respond to spills of regulated substances.**
- F. Prevention protocols that are to be followed after an event to limit future large releases of any regulated substance.**

1203.6 Use Regulations

- A. Minimum Lot Size: Minimum lot size within the Aquifer Protection District shall be three (3) acres. Lots containing up to four (4) units shall contain an additional eighteen thousand (18,000) square feet per unit. Lots containing five (5) or more units shall contain an additional thirty thousand (30,000)**

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square feet per unit. No lot shall have more than one (1) residential structure regardless of the number of dwelling units.

- B. Hydrogeologic Study: For development proposals within the Aquifer Protection District, a hydrogeologic study shall be performed, by an engineer registered in the State of New Hampshire or a registered hydrologist. This study shall evaluate the development's impacts to groundwater within both the parcel to be developed and the surrounding land. The groundwater quality beyond the property lines of said site shall not be degraded by polluting substances such as nitrates, phosphates, bacteria, etc. Larger lots may be required based on the findings of said study.

This information will be required for proposed subdivisions of four (4) lots or greater. For subdivisions of three (3) lots or less the Planning Board will determine, on a case-by-case basis, the need for a hydrogeologic study. Particularly sensitive sites may include areas that have septic systems in close proximity to wells, or may contain excessively drained soils or steep slopes.

- C. Maximum Lot Coverage: Within the Aquifer Protection District, no more than fifteen percent (15%) of a single lot, or more than 2,500 square feet of impervious surface may be rendered impervious to groundwater infiltration.
- D. Prohibited Uses: The following uses are prohibited in the Aquifer Protection Zone except where permitted to continue as a non-conforming use:
1. Disposal of solid waste including brush or stumps.
 2. Storage and disposal of hazardous waste.
 3. Disposal of liquid, septage or leachable wastes except that from one or two-family residential subsurface disposal systems, or as otherwise permitted as a conditional use.
 4. Subsurface storage of petroleum and other refined petroleum products except for propane and natural gas.
 5. **The development or operation of gasoline stations.**
 6. Industrial uses which discharge contact type process waters on-site. Non-contact cooling water is permitted.
 7. Outdoor unenclosed storage or use of road salt or other de-icing chemicals.
 8. Dumping of snow containing de-icing chemicals brought from outside the district.
 9. Animal feedlots. (*see definitions = five (5) or more animals*)
 10. **The development or operation of a junkyard**
 - ~~11. Automotive service and repair shops, junk and salvage yards.~~
 12. All on site handling, disposal, storage, processing or recycling of hazardous or toxic materials.
 - ~~13. Drycleaning or Laundry facilities.~~

E. Permitted Uses: The following activities may be permitted provided they are conducted in accordance with the purposes and intent of this Ordinance:

1. Land development, per the Fremont Zoning Ordinance, except as prohibited in Article 12, Section 1203.6.D
2. Activities designed for conservation of soil, water, plants and wildlife.
3. Outdoor recreation, nature study, boating, fishing and hunting where otherwise legally permitted.
4. Normal operation and maintenance of existing water bodies and dams, splash boards and other water control, supply and conservation devices.
5. Foot, bicycle, and/or horse paths and bridges.
6. Maintenance, repair of any existing structure, provided there is no increase in impermeable surface above the limit established in Article 12,1203.6.C
7. Farming, gardening, nursery, forestry, harvesting and grazing, provided that fertilizers, herbicides, pesticides, manure and other leachables are used appropriately at levels that will not cause groundwater contamination and are stored under shelter.

F. Conditional Use Permit

1. The following uses are permitted with a Conditional Use Permit (in compliance with Town Zoning Ordinance):
 - a. Industrial and commercial uses not otherwise prohibited in Article 12,Section 1203.6
 - b. Multi-family residential development. (Minimum lot size to be determined by using Article 9 and substituting three (3) acres instead of two (2) acres).
 - c. Sand and gravel excavation and other mining provided that such excavation or mining is not carried out within eight (8) vertical feet of the seasonal high water table and that periodic inspections are made by the Planning Board or its agent to determine compliance.
 - d. **Storage, handling, and use of regulated substances in quantities exceeding 55 gallons or 660 pounds dry weight at any one time, provided that an adequate spill prevention, control and countermeasure (SPCC) plan, in accordance with Article VII, is approved by the [local Fire Department, Health officer or Emergency Management officer]**
 - e. **Any use that will render impervious more than 15 percent or 2,500 square feet of any lot, whichever is greater.**

2. The Planning Board may grant a Conditional Use Permit for those uses listed above only after written findings of fact are made that all of the following are true:
 - a. The proposed use will not detrimentally affect the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long-term susceptibility of the aquifer to potential pollutants;
 - b. The proposed use will not cause a significant reduction in the long-term volume of water contained in the aquifer or in the storage capacity of the aquifer;
 - c. The proposed use will discharge no waste water on site other than that typically discharged by domestic waste water disposal systems and will not involve on-site storage or disposal of toxic or hazardous wastes as herein defined;
 - d. The proposed use complies with all other applicable sections of this Article 12, ~~Section 1203~~.
3. The Planning Board may require that the applicant provide data or reports prepared by a professional engineer or hydrologist to assess any potential damage to the aquifer that may result from the proposed use. The Planning Board shall engage such professional assistance as it requires to adequately evaluate such reports and to evaluate, in general, the proposed use in light of the above criteria. Costs incurred shall be the responsibility of the applicant.
4. **In granting such approval the Planning Board must first determine that the proposed use is not a prohibited use (as listed in Article IX of this Ordinance) and will be in compliance with the Performance Standards in Article VI as well as all applicable local, state and federal requirements. The Planning Board may, at its discretion, require a performance guarantee or bond, in an amount and with surety conditions satisfactory to the Board, to be posted to ensure completion of construction of any facilities required for compliance with the Performance Standards.**

G. Septic System Design and Installation {CONSIDER MOVING TO NEW SECTION}

In addition to meeting all local and state septic system siting requirements, all new on-lot waste water disposal systems installed in the District shall be designed by a Sanitary Engineer licensed in New Hampshire. These systems shall be installed under the supervision of said engineer. The Planning Board or its agent shall inspect the installation of each new system prior to covering, and shall certify that the system has been installed as designed.

Septic systems are to be constructed in accordance with the most recent edition of the "The State of New Hampshire Subdivision and Individual Sewage Disposal System

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Design Rules" as published by the New Hampshire Water Supply and Pollution Control Division.

However, the following more stringent requirements shall apply to all septic system construction:

1. There will be no filling of wetlands allowed to provide the minimum distance of septic to wetlands. (Ws 1007.04)
2. The seasonal high water table will be at least two (2) feet below the original ground surface during all seasons of the year (instead of six (6) inches). (Ws 1015.01(a)).
3. There will be at least three (3) feet of natural permeable soil (instead of two (2) feet) above any impermeable subsoil. (Ws 1015.01(b)).
4. There will be at least four (4) feet of natural soil (instead of three (3) feet) above bedrock. (Ws 1015.01(b)).
5. Standards for fill material: Fill material consisting of organic soils or other organic materials such as tree stumps, sawdust, wood chips and bark, even with a soil matrix shall not be used. The in place fill should have less than fifteen (15%) percent organic soil by volume. The in place fill should not contain more than twenty five (25%) percent by volume of cobbles six (6) inch in diameter). The in place fill should not have more than fifteen percent (15%) by weight of clay size (.002 mm and smaller) particles. The fill should be essentially homogeneous. If bedding planes and other discontinuities are present, detailed analysis is necessary.

H. Design and Operations Guidelines. Where applicable the following design and operation guidelines shall be observed within the Aquifer Protection District:

1. Safeguards. Provision shall be made to protect against toxic or hazardous materials discharge or loss resulting from corrosion, accidental damage, spillage, or vandalism through measures such as: spill control provisions in the vicinity of chemical or fuel delivery points; secured storage areas for toxic or hazardous materials; and indoor storage provisions for corrodible or dissolvable materials. For operations which allow the evaporation of toxic or hazardous materials into the interiors of any structures, a closed vapor recovery system shall be provided for each such structure to prevent discharge of contaminated condensate into the groundwater.
2. Location. Where the premises are partially outside of the Aquifer Protection Overlay Zone, potential pollution sources such as on-site waste disposal systems shall be located outside the Zone to the extent feasible.

3. Drainage. All runoff from impervious surfaces shall be recharged on the site, and diverted toward areas covered with vegetation for surface infiltration to the 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.

5. Inspection. All special exceptions granted under Section 5.h. of this Article shall be subject to twice-annual (2) inspections by the Building Inspector or other agent designated by the Selectmen. The purpose of these inspections is to ensure continued compliance with the conditions under which approvals were granted. A fee for inspection shall be charged to the owner according to a fee schedule determined by the Selectmen.

I. Non-Conforming Uses

- ~~1. Any non-conforming use may continue and may be maintained, repaired and improved, unless such use is determined to be an imminent hazard to public health and safety. No non-conforming use may be expanded, changed to another non-conforming use, or renewed after it has been discontinued for a period of twelve (12) months or more.~~
- ~~2. Any non-conforming lot of record existing before the effective date of this Article may be used in accordance with Article 12, Section 1203.6 B-F.~~
- 3. Existing non-conforming uses may continue without expanding or changing to another non-conforming use, but must be in compliance with all applicable state and federal requirements, including Env-Wq 401, Best Management Practices Rules.**

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

- 1. Any private residence is exempt from all Performance Standards**
- 2. Any business or facility where regulated substances are stored in containers with a capacity of less than five gallons is exempt from Article VI, Performance Standards, sections E through H;**
- 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 E;**
- 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 E through H;**

5. **Storage and use of office supplies is exempt from Performance Standards E through H;**
6. **Temporary storage of construction materials on a site where they are to be used is exempt from Performance Standards E through H 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 E through H;**
9. **Underground storage tank systems and aboveground storage tank systems that are in compliance with applicable state rules are exempt from inspections under Article XIV of this ordinance.**

~~K. **Effective Date:** This Article shall become effective upon passage at Town Meeting March 1988.~~

L. Maintenance and Inspections

- A. **For uses requiring planning board approval for any reason, a narrative description of maintenance requirements for structures required to comply with Performance Standards shall be recorded so as to run with the land on which such structures are located, at the Registry of Deeds for Rockingham County. The description so prepared shall comply with the requirements of RSA 478:4-a.**
- B. **Inspections may be required to verify compliance with Performance Standards. Such inspections shall be performed by t**
- C. **The Code Enforcement Officer at reasonable times with prior notice to the landowner.**
- D. **All properties in the Groundwater Protection District known to the Code Enforcement Officer as using or storing regulated substances in containers with a capacity of five gallons or more, except for facilities where all regulated substances storage is exempt from this Ordinance under Article 1206.3.D, shall be subject to inspections under this Article.**
- E. **The Board of Selectmen may require a fee for compliance inspections. The fee shall be paid by the property owner. A fee schedule shall be established by the Board of Selectmen as provided for in RSA 41-9:a.**