

Topic: Aquifer Protection; Overlay District
Drinking Water Protection & Conservation;
Zoning; Wetlands & Watercourse
Protection
Resource Type: Regulations
State: New York
Jurisdiction Type: Municipal
Municipality: Town of Big Flats
Year (adopted, written, etc.): 2003
Community Type – applicable to: Suburban; Rural
Title: Town of Big Flats Aquifer Protection
Overlay District Ordinance
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Abstract

This ordinance is designed to protect the local drinking water in the interest of public health and safety. The town is creating an Aquifer Protection Overlay District (APOD) to create districts in which certain uses of water are permitted. There are also various uses of water that are and are not permitted which vary by the districts that are set forth in the ordinance.

Resource

Town of Big Flats NY Aquifer Protection Overlay District (APOD)
Town of Big Flats Municipal Code
Chapter 17.24 Overlay Districts
http://www.bigflatsny.gov/_code/frame.html

Section 17.24.020 Aquifer Protection Overlay District (APOD)

A. Intent. The intent of the aquifer protection overlay (APOD) district is, in the interest of public health, safety and general welfare, to preserve the quality and quantity of the town's groundwater resources in order to ensure a safe and healthy drinking water supply. This purpose will be accomplished by regulating certain uses that have been determined to be potentially damaging to groundwater quality, and by establishing minimum documentation and submittal requirements to ensure that other uses will not adversely affect the groundwater quality and quantity.

B. The aquifer protection overlay districts are named and described as follows:

1. Area I District. Zone of contribution type of aquifer which is a highly permeable area that primarily serves as a public water supply for a municipal water system, private water company, water district and water authority.

2. Area II District. Primary aquifer type of aquifer which is a potentially productive area not yet intensively used as sources of public water supply, but that is composed of moderately permeable material that may have the potential to be a source of public water supply and that serves as a significant source of water for individual wells and/or has an area extent greater than one square mile in size.

3. Area III District. That upland area of the town tributary to the aquifer protection overlay district.

C. Applicable Area. The aquifer protection overlay district shall have three areas that are considered as overlaying other districts as defined in subsection B of this section and as indicated on the zoning map as Area I, Area II and Area III. Any use permitted in the portions of the district so overlaid shall be permitted subject to all the provisions of this subsection. In any cases where conflicts arise between these supplemental requirements and any other existing requirement, the more restrictive shall apply.

D. Permitted Use. All uses permitted under this title and listed in Section 17.12.010 for the various districts are permitted in the aquifer protection overlay district except as follows:

1. Prohibited uses and activities in all areas of the APO:

a. The discharge, land application or disposal of any hazardous material, toxic substance or radioactive material;

b. Any principal use that is the production or processing of any hazardous material or toxic substance;

c. The dumping or disposal of snow or ice collected off site from roadways or parking areas into any watercourse;

d. Any form of underground injection of hazardous materials or toxic substances is prohibited;

e. The use of septic system cleaners which contain toxic substances or hazardous materials;

f. The disposal of toxic substances or hazardous materials by means of discharge to a septic system;

g. Land spreading of septic waste.

2. Prohibited use in aquifer Areas I and II:

a. The open storage of pesticides, herbicides or fungicides. All other storage of such material is prohibited unless authorization has been obtained from the New York State Department of Environmental Conservation as provided in the New York Environmental Conservation Law;

b. Solid waster disposal facility;

c. The bulk storage of coal or salts, except in a water-tight structure, or cover constructed on an impervious material;

d. One-unit dwelling using septic tanks on a lot of less than thirty-five thousand (35,000) square feet, except as otherwise permitted by the Chemung County Health Department;

e. Two-unit dwelling using septic tanks on a lot of less than fifty thousand (50,000) square feet, except as otherwise permitted by the Chemung County Health Department.

3. Prohibited uses in aquifer Area III:

a. The open storage of pesticides, herbicides, fungicides and artificial fertilizers within fifty (50) feet linear distance of any watercourse;

b. The open storage of coal or salt within fifty (50) feet linear distance of any watercourse.

E. Supplemental Requirement in Areas I, II and III.

1. All commercial, industrial and home occupation, and cottage industry uses shall comply with all local, state and federal requirement concerning storage, use and disposal of toxic substances, hazardous materials and hazardous wastes.

2. Petroleum bulk storage facilities installed above or below ground shall comply with New York State Department of Environmental Conservation requirement.

3. Commercial, industrial, home occupation and cottage industry use shall provide to the code enforcement officer lists of all toxic substances, hazardous materials or hazardous wastes known to be used or stored on a lot together with sufficient detail to apprise the town of the method of storage and the amount of toxic substances, hazardous materials or hazardous wastes on the lots. In the case of existing uses, this information shall be supplied within six months of enactment of the local law codified in this title. In the case of proposed use, this information will be supplied as part of the plans prepared for site plan approval.

4. When the existing or proposed use includes the bulk storage of toxic substances, hazardous materials or hazardous waste and it is determined to have a potential negative impact on groundwater quality, the town planning board, as part of site plan review and approval procedure, may require plans showing all features of a system necessary for proper storage and monitoring in the event of leak or spill of these substances and such plans be prepared by a design engineer.

5. When a proposed use includes the use of toxic substances or hazardous materials and it is determined to have a potential negative impact on groundwater quality, the town planning board may require, as part of their site plan review and approval procedures, plans prepared by a licensed architect or engineer showing all features of the systems necessary for satisfactory conveyance, distribution and use of the materials, operating plans and monitoring in the event of leak or spill of these substances.

6. The planning board may require that certain commercial and industrial uses provide on-going groundwater monitoring as follows:

a. A commercial or industrial use, for which the planning board requires groundwater monitoring, which commence on or after the effective date of the local law codified in this title shall install and maintain a minimum of one groundwater monitoring well in a direction up gradient from on-site activities and one groundwater monitoring well in a direction down gradient from on-site activities. The specific location of these groundwater monitoring wells shall be determined by a professional geologist, hydrologist, engineer or other qualified expert trained and experienced in hydrogeology.

b. Frequency of required water quality sampling from monitoring wells shall be determined on a site-specific basis.

c. Access to monitoring wells shall be provided to the town for purposes of inspecting and monitoring water quality sampling deemed as appropriate.

d. The sampling analysis shall include, as a minimum, pH, total dissolved solids, total carbon and total organic carbon.

7. Vehicle filling station, vehicle repair, vehicle sales or lease and/or repair, heavy equipment and salvage yard including but not limited to, vehicle repair, body repair, disassembly and rust proofing operations:

a. Floor drains shall be connected to a holding tank or sanitary sewer equipped with an oil and grit separating tank.

b. Wastes collected in a holding tank shall be disposed of through a licensed waste hauler.

c. Waste degreasing solvents shall be stored in drums or a holding tank and disposed of through a licensed waste hauler.

d. Waste oil shall be stored in tanks or drums for disposal by a licensed waste hauler.

e. Storage facilities for tanks and/or drums shall require coated, sealed concrete floors, and containment areas to retain accidental spills or leaks; a permanent roof to protect tanks or drums and that prevents precipitation from entering dikes. Drums shall be sealed, and shall be located away from floor drains.

f. Large drip pans shall be kept beneath drums which have spigots and are stored in horizontal position on racks.

g. Potentially contaminated scrap, including but not limited to scrap parts, batteries and used filters shall be stored in proper containers to prevent environmental release of contaminants.

8. Application of pesticides, herbicides, fungicides or chemical fertilizers:

a. Application of pesticides, herbicides, fungicides or chemical fertilizers shall be performed in accordance with the recommendations and label of the manufacturer.

b. Property owners who enlist the services of a commercial pesticide, fungicide or herbicide applicator shall ensure that the applicator is certified and licensed by the New York State Department of Environmental Conservation.

9. Whenever there is a question as to the groundwater contamination potential of a proposed use, the expert opinion of the United States Environmental Protection Agency (U.S. EPA), the New York State Department of Environmental Conservation (NYS DEC), or the state or county health departments may be requested.

10. The dumping or disposal of snow or ice collected off-site from roadways or parking areas within fifty (50) feet linear distance of watercourse is prohibited.

11. Any outside area used for loading, handling, or mixing of coal or salts, shall be designed so as to prevent seepage and runoff from entering the groundwater or any watercourse.

F. Supplemental Requirement in Wellhead Protection Areas.

1. The following uses shall require special permit by the planning board:

a. The discharge, land application or disposal of any septic, sewage sludge and/or food waste by-product(s);

b. Any use that involves the production, processing or use of any hazardous material, toxic substances or radioactive material.

2. All new development within five hundred (500) feet of a wellhead protection area shall be subject to site plan review and approval by the planning board.

3. Prohibited uses within five hundred (500) feet of a public water supply well:

a. All on-site sewage disposal systems.

b. All earth material extractive uses.

G. Delineation of Wellhead Protection Area. Upon delineation of any wellhead protection area boundaries for the town and subsequent approval, they shall become separate wellhead protection areas under this subsection and shall be subject to all applicable rules and requirement established in this chapter and promulgated by the approval authority at the time such areas are delineated. (LL No. 2, 2003 (part))