

Article 02 Aquifer Protection District

Are you in favor of the adoption of Warrant Article 02 to the Town Zoning Ordinance as proposed by the Planning Board as follows:

To amend Zoning Ordinance Article VIII – Aquifer Protection District by revising the existing language and inserting new language.

The intent of the proposed revisions is to increase protection of public and private drinking water sources through expanding groundwater protections to all public water systems in South Hampton, providing clearer justifications and definitions for terms related to groundwater protection, adding performance measures and design requirements to reduce risk to groundwater resources, and providing clearer administrative procedures.

Existing Text

~~Text To Be Removed~~

Text To Be Added

Article VIII. ~~AQUIFER-GROUNDWATER~~ PROTECTION DISTRICT

A. Authority and Purpose

Pursuant to RSA 674:16-21, the Town of South Hampton adopts an ~~Aquifer~~ **Groundwater** Protection District and accompanying regulations in **the interest of the public health, safety and general welfare of the citizens, the purpose of this Ordinance is to protect, preserve and maintain existing and potential groundwater drinking water supply and recharge areas within the known aquifer from adverse development, land use practices or depletions** ~~order to protect, preserve and maintain potential groundwater supplies and related groundwater recharge areas within the Town.~~ The objectives of the aquifer protection district are:

1. To protect the public health and general welfare of the citizens of South Hampton.
2. To prevent development and land use practices that would contaminate or reduce the recharge of the identified aquifers.
3. To provide for future growth and development of the Town, in accordance with the Master Plan, by insuring the future availability of public and private water supplies.
4. To encourage uses that can appropriately and safely be located in the aquifer recharge areas.
5. **To protect surface waters that are fed by groundwater.**

As authorized in RSA 674:21, a Conditional Use Permit [“CUP”] shall be required for an activity that does not comply with this ordinance, and for uses listed in Article VIII.E.3. All conditions specified for applicable CUPs shall be met. Any person aggrieved by a Planning Board decision on a CUP application may appeal to the Superior Court as provided in RSA 677:15. These Planning Board decisions cannot be appealed to the Zoning Board of Adjustment (cf., RSA 676:5.III).

Conditional Use Permits approved under this ordinance shall meet general criteria and applicable criteria for specific conditions that are provided in Article VIII.E.4.

B. Definitions

1. 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) adult animals are raised simultaneously.
2. Aquifer: For the purpose of this ordinance, aquifer means a geologic formation, group of formations, or part of a formation that is capable of yielding quantities of groundwater usable for municipal, public or private water supplies.
3. Bulk Storage: Storage of materials intended for wholesale distribution or for use in a manufacturing or repair facility.
4. Contact Waste: Water that has been used in a manufacturing or cleaning process that has contacted industrial waste.
5. Dwelling Unit: A building or that portion of a building consisting of one 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.
6. 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.
7. Impervious: not readily permitting the infiltration of water.
8. 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.
9. 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.
10. Groundwater: All the water below the land surface in the zone of saturation or in rock fractures capable of yielding water to a well.
11. Groundwater Recharge: The infiltration of precipitation through surface soil materials into groundwater. Recharge may also occur from surface waters, including lakes, streams and wetlands.
12. Leachable Wastes: Waste materials, including solid wastes, sludge and agricultural wastes that are capable of releasing contaminants to the surrounding environment.
13. 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.
14. 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 conforming with the provisions of this Ordinance, shall be considered to be a non-conforming use.

15. ~~—Non-Municipal Well: Any well not owned and operated by the Town of South Hampton or its agent.~~
16. Outdoor storage: storage of materials where they are not protected from the elements by a roof, walls, and a floor with an impervious surface.
17. 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.
18. 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.
19. Recharge Area: The land surface area from which groundwater recharge occurs.
20. Regulated substance: means any of the following, excluding substances used for the treatment of drinking water or waste water at department-approved facilities: (1) Oil as defined in RSA 146-A:2, III; (2) Any substance that contains a regulated contaminant for which an ambient groundwater quality standard has been established pursuant to RSA 485-C:6; and (3) Any substance listed in 40 CFR 302, in the most recent edition.
21. Sanitary protective radius: The area around a public water supply well which must be maintained in its natural state as required by Env-Dw 302 or 305 (for community water systems); Env-Dw 405.14 and 406.12 (for other public water systems).
22. 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 Geologist, 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.
23. Secondary containment: a structure, such as an impervious berm or dike, that is adequate to contain any spills or leaks at 110% of the volume of the largest regulated container in the storage area.
24. Sludge: Residual materials produced by the sewage treatment process.
25. Snow dump: For the purposes of this ordinance, a location where snow, which is cleared from roadways and/or motor vehicle parking areas, is collected from other locations and placed for disposal.
26. 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 gaseous waste material resulting from residential, industrial, commercial, mining, and agricultural operations.
27. ~~—Split Spoon Sampling Technique: A sampling technique associated with the taking of soil samples by the use of a drill rig that has a split tube to take soil samples at various levels in the ground.~~

28. 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 purpose of this Article, buildings are structures.

29. ~~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 the Town. Toxic or hazardous materials include, without limitation, volatile organic wastes, acids and alkalis, 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 Ws410.04 (1), in New Hampshire Solid Waste Rules He-P 1901.03 (v), and in the Code of Federal Regulations~~

~~Any substance which poses an actual or potential hazard to water supplies or human health if such a substance were discharged to land or waters of the Town. Hazardous materials include volatile organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis. Also included are pesticides, herbicides, solvents and thinners, and such other substances as defined in the NH Water Supply and Pollution Control Rules, Section Ws 410.04(1), in the NH Solid Waste Rules He-P 1901.3(v), and in the Code of Federal Regulations 40 CFR 261 as amended. 40 CFR 261 as amended. 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:~~

- a. Airplane, boat and motor vehicle service and repair.
- b. Chemical and bacteriological laboratory operation.
- c. Dry cleaning.
- d. Electronic circuit manufacturing.
- e. Metal plating, finishing and polishing.
- f. Motor and machinery service and assembly.
- g. Painting, wood preserving and furniture stripping.
- h. Pesticide and herbicide application.
- i. Photographic processing.
- j. Printing.

30. ~~Transmissivity: The rate at which water is transmitted through a unit width of a water-bearing formation under a unit hydraulic gradient. It is equal to the hydraulic conductivity times the thickness of the formation and is given in units of distance squared per unit time.~~

31. ~~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.~~

C. Administration and Enforcement

- ~~1. **General:** The Planning Board shall administer the provisions of the Aquifer Protection District. All development proposals and 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.~~
- ~~2. **Enforcement and Fines:** The Board of Selectmen shall be responsible for the enforcement of the provisions and conditions of the Aquifer Protection District. Violations are punishable by fines as provided by RSA 676:17.~~

C. District Boundaries

~~1. **Location:** The Aquifer Protection District is defined as the area shown on the map entitled, "Aquifer Protection District," and is hereby adopted as part of the official Zoning Map of the Town of South Hampton. The Aquifer Protection district includes the area delineated by the U.S.G.S., aquifer delineation studies, engineering studies, or master plan map used to delineate the aquifer.~~

The Groundwater Protection District is defined as the areas shown on the overlay map entitled, "Groundwater Protection District", and is hereby adopted as part of the official Zoning Map of the Town of South Hampton. The Groundwater Protection District includes the following boundaries:

- Stratified-Drift Aquifers in the Lower Merrimack and Coastal River Basins - US Geological Survey Water-Resources Investigations Report 91-4025, "Geohydrology and Water Quality of Stratified-Drift Aquifers in the Lower Merrimack and Coastal River Basins, Southeastern New Hampshire."
 - All Wellhead Protection Areas for Public Water Systems as defined by this ordinance and as defined by the New Hampshire Department of Environmental Services.
2. When the actual boundary of the Groundwater Protection District is in dispute by any land owner or abutter actually affected by said boundary, the Planning Board, at the land owner/abutter's expense and request, may engage a professional geologist or hydrologist to prepare a report determining the proper location and extent of the aquifer and recharge area relative to the property in question. This report shall include but not be limited to:
 - a. A two foot interval topographic layout of the lot prepared by a registered land surveyor.
 - b. A high intensity soils map of the lot prepared by a soils scientist qualified in hydrologic studies including a written report of their on-site field inspection and test boring data.
 - c. The aquifer boundary as shown on the Groundwater Protection District Map shall be overlaid on the plat and the newly proposed boundary location shall be indicated on the same plat by a broken line.
 - d. Any additional mapping, hydrogeologic reports or information which becomes available as a result of recent or on-going scientific investigation of the locations and extent of aquifers, performed by the U.S. Geological Survey, NH State agencies or boards, the Town of South Hampton, or the agents of any of the above.The Planning Board may, based upon the findings of Article VIII.C.2.a-d, adjust the boundary or area designation of the Groundwater Protection District or reduce or expand the area so designated so as to more correctly define the location and extent

of the aquifer on a site-specific, case-by-case basis.

3. ~~Overlay: The Aquifer Protection District is a zoning overlay district, which imposes additional requirement and restrictions to those of the underlying district. In all cases, the more restrictive requirement(s) shall apply.~~
4. ~~Appeals: When the bounds of an 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 a written 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 hydro geologist 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, as it pertains to the property in question, shall be modified by such determination subject to review and approval by the Planning Board.~~

D. Hydrogeologic Study

1. ~~Requirement: Within the Aquifer Protection District, a hydro geologic study shall be required for the following:~~
 - a. ~~developments involving the subdivision of four (4) lots or greater.~~
 - b. ~~developments resulting in the installation of a septic system, or series of septic systems, designed to dispose 2,400 gallons (ore more) of wastewater per day (gpd).~~
2. ~~Small subdivisions: For residential subdivisions of fewer than four (4) lots, and for commercial, industrial and institutional uses which produce less than 2,400 gpd of wastewater, the Planning Board shall determine the needs for a hydro geologic study on a case by case basis. Their determination shall consider potential threats of the use proposed and characteristics of the site.~~
3. ~~Standards: A qualified hydro geologist shall perform Hydro geologic studies. These studies shall be sufficiently detailed to evaluate the development's impacts to groundwater within the parcel to be developed and the surrounding land. All hydro geologic studies shall include at least the following:~~
 - a. ~~An adequate number of subsurface borings in order to determine the site geology and stratigraphy. Boring requirements are as follows:~~
 - (1) ~~For sites up to 30 acres, the parcel shall contain a minimum of one boring per three acres, with a minimum of three borings for a site. For sites greater than 30 acres, additional borings of at least one per 10 acres are required.~~
 - (2) ~~At least twenty percent (20%) of the borings shall be sampled utilizing the "split spoon" sampling technique.~~
 - (3) ~~At least one boring shall be dug to bedrock.~~
 - b. ~~Identification of water table contours and groundwater flow directions, with water table measurements using a series of shallow observation wells screened~~

at the water table. The number of observation wells required shall be the same as the number of borings required.

- ~~1. Water quality sampling and analysis to determine existing conditions, measuring the following parameters: nitrate nitrogen (NO₃-N), ammonia-nitrogen (NH₃-N), pH, and specific conductance.~~
 - ~~d. An analysis of cumulative impact nitrogen loading employing a saturation build out model. The analysis shall include verification that the development will not cause the nitrate nitrogen (NO₃-N) concentration to exceed 5 mg/l in the groundwater at the down-gradient property boundary.~~
2. —

D. REGULATIONS AND REQUIREMENTS: This Ordinance applies to all uses in the Groundwater Protection District, except for those uses exempt under Article VIII.G. Exemptions of this Ordinance.

1. Minimum Lot Size: The minimum lot size within the Groundwater Protection District for each dwelling unit if a residential use, or each principal building if a non-residential use, shall be 3 acres, or 130,680 square feet
2. Maximum Site Coverage: Within the Groundwater Protection District, no more than ten percent (10%) of a single lot, may be rendered impervious to groundwater infiltration for residential uses. Up to 25% of a single lot may be made impervious for commercial, industrial and institutional uses provided that on-site recharge of runoff from roofed and paved areas is provided for. To the maximum extent feasible, all runoff from impervious surfaces shall be recharged to the aquifer on-site. Recharge impoundments shall have vegetative cover for surface treatment and infiltration. Furthermore, the stormwater drainage plan shall provide for the removal of sediment, oil, gasoline, and all other toxic, hazardous and solid waste materials from impervious areas. This runoff may be treated by the use of treatment swales, oil/gas separators or other devices, prior to retention and percolation of the runoff. All such techniques shall be approved by the Planning Board.
3. Maximum impervious site coverage may exceed the maximum site coverage provided that the following performance standards are met and the plans are approved by the Planning Board or its designated agent under Article VIII.D.5.
 - a. ~~Nitrate loading: No development shall cause the nitrate nitrogen (NO₃-N) concentration to exceed 5 mg/l in the groundwater beyond the site.~~
 - b. ~~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.~~
 - c. ~~Location: Where the premises are partially outside the Aquifer Protection Overlay Zone, potential pollution sources such as on site waste disposal systems shall be located outside and down gradient of the zone to the extent feasible.~~
 - d. ~~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.~~

4. Septic System Design and Installation: Septic systems shall be constructed in accordance with the "Subdivision and Individual Sewage Disposal System Design Rules" (NH Code of Administrative Rules, Chapter Ws 1000). However, any town ordinance or regulation that is more restrictive shall apply. A Sanitary Engineer licensed in New Hampshire shall design all new or reconstructed on-lot wastewater disposal systems constructed in the Aquifer **Aquifer Groundwater** Protection District. These systems shall be installed under the supervision of said engineer.

The designated Town engineer or septic system inspector of the Town shall inspect the installation of each new system prior to covering and shall certify that the system has been installed as designed. A fee for inspector shall be charged to the owner according to a fee schedule determined by the Selectmen.

The following site requirements shall apply to all septic system construction in the **Aquifer Groundwater** Protection District:

- a. At least 24 inches of natural permeable soil shall exist above the seasonal high-water table.
 - b. At least four feet of natural soil shall exist above bedrock.
 - c. At least three feet of natural permeable soil shall exist above any impermeable subsoil.
 - d. No filling of wetlands shall be allowed to provide the minimum distance of septic systems to wetlands.
 - e. Fill material used for septic system construction shall be generally homogeneous and shall not contain:
 - more than 15% organic soil by volume;
 - more than 25% cobbles (6 in. diameter) by volume;
 - more than 15% of clay (0.002 mm particles or smaller) by weight; tree stumps, mulch, bark or other large organic matter.
5. **Site Drainage**: The **Maximum Lot Coverage** limits noted in Article VIII.D.3 within the **Groundwater Protection District** may not be exceeded unless the following standards are met and the plans are approved by the Planning Board or its designated agent:
 - a. The applicant shall submit a stormwater drainage plan consistent with the requirements of South Hampton's Site Plan and Subdivision Regulations.
 - b. All runoff from impervious surfaces shall be recharged on the site and diverted, to the extent possible, towards areas covered with vegetation for surface infiltration. This includes roof and foundation drains, if present.
 - c. Low Impact Development practices, which are designed to mimic natural hydrology by reducing impervious surfaces and stormwater runoff and increasing groundwater recharge and pollutant removal, shall be used to the extent practicable unless the applicant can document infeasibility to the satisfaction of the Planning Board.
 - d. The stormwater drainage plan shall provide for removal of oil and gasoline from parking lot runoff by the use of treatment swales, oil/gas separators or other devices,

prior to retention and percolation of the runoff.

- e. Runoff shall be pretreated prior to infiltration. Pretreatment to the extent practicable shall be in accordance with South Hampton's Site Plan and Subdivision Regulations and Best Management Practices as recommended by NHDES.
6. Spill Prevention, Control and Countermeasure (SPCC) Plan for Conditional Uses: All Conditional Uses, as listed under Section XX using, storing or handling regulated substances shall submit a spill control and countermeasure (SPCC) plan to the Fire Department, or appointed designee, 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.
 - f. List of positions within the facility that require training to respond to spills of regulated substances.
 - g. Prevention protocols that are to be followed after an event to limit future large releases of any regulated substance.
 - h. Require that the SPCC is reviewed by the property owner or property manager periodically (at least once every three years) and/or after any major storm event.
 - i. Identify prevention protocols and best management practices that should be implemented prior to a storm/emergency event.
 7. 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.
 8. 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.
 9. 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.
 10. 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.
 11. 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.
 12. 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.

13. 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.
14. 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.
15. Hydrogeologic Study: The Planning Board shall determine, on a case-by-case basis, the need for a hydrogeologic study for any development within the Groundwater Protection District. This determination shall consider the sensitivity of the site including, but not limited to, areas that have septic systems in close proximity to wells -- including public supply wells, irrigation wells, residential wells, and monitoring wells -- or that may contain excessively drained soils or steep slopes. Costs for the above mentioned services shall be charged to the applicant. Requirements for a hydrogeologic study shall include the following:
 - a. The hydrogeologic study shall be performed by a NH licensed geologist specializing in hydrogeology.
 - b. The hydrogeologic study shall evaluate the development's impact on groundwater within both the parcel to be developed and surrounding land. Beyond the property lines of said site groundwater quality shall not be degraded by polluting substances such as, but not limited to, nitrates, phosphates, bacteria, etc. Larger lots may be required based on the findings of this study.
 - c. The proposed use may necessitate the installation of upgradient and downgradient monitoring wells under the direction of a New Hampshire certified professional hydrogeologist if the Planning Board, or its designated agent, determines such installation is necessary for groundwater protection. Installation shall be performed at the expense of the applicant.

E. Use Regulations

- ~~a. Minimum lot size: The minimum lot size within the Aquifer Protection for each dwelling unit if a residential use, or each principal building if a non-residential use, shall be 3 acres, or 130,680 square feet.~~
 - ~~b. Maximum Lot Coverage: Within the Aquifer Protection District, no more than ten percent (10%) of a single lot, may be rendered impervious to groundwater infiltration for residential uses. Up to 25% of a single lot may be made impervious for commercial, industrial and institutional uses provided that on-site recharge of runoff from roofed and paved areas is provided for.~~
- 1. Prohibited Uses:** The following uses are prohibited in the ~~Aquifer-Groundwater-Protection Zone District~~ except where permitted to continue as non-conforming uses. Prohibited uses shall include, but not be limited to:
- a. Disposal of solid waste (as defined by NH RSA 149-M) other than brush or stumps generated on the property on which they are to be disposed.
 - ~~b. On-site disposal, bulk storage, processing or recycling of toxic or hazardous materials or wastes. 1. On-site disposal, storage, distribution, processing or recycling of toxic or hazardous materials or wastes including, but not limited to, all petroleum-based products, except as in Article ##.~~
 - c. Disposal of liquid or leachable wastes except that from one or two-family residential subsurface disposal systems, or as otherwise permitted as a

conditional use.

- d. ~~Buried storage of petroleum fuel and other refined petroleum products except as regulated by the NH Water Supply and Pollution Control Commission (Ws 411 Control of Non-residential Underground Storage and Handling of Oil and Petroleum Liquids). Storage tanks for petroleum products, if contained within basements, are permitted.~~ Underground storage tanks except as regulated by the NH Department of Environmental Services, Waste Management Division and only limited to the private needs and use of the site itself, no distribution, storage, or off-site transfer of the materials is permitted. Storage tanks, if completely contained within basements, are permitted.
 - e. Outdoor unenclosed or uncovered storage of road salt and other de-icing chemicals.
 - f. ~~Dumping of snow containing road salt or other de-icing chemicals.~~
Dumping of snow carried from off-site or storage of snow and ice removal chemicals or salts.
 - g. Animal feedlots.
 - h. Automotive service and repair shops, junk and salvage yards.
 - i. Dry cleaning establishments.
 - j. Laundry and car wash establishments not served by a central municipal sewer system.
 - k. Industrial uses which discharge contact type wastes on site.
 - l. Waste injection wells.
 - m. The development or operation of gasoline stations. Development or expansion of other uses or activities on the site that do not involve the dispensing of petroleum products for retail purposes are permitted provided they comply with the Town of South Hampton's Zoning Ordinance.
- 2. Permitted Uses;** The following activities may be permitted provided they are conducted in accordance within the intent of this Ordinance:
- a. Any use permitted by the underlying district of the Zoning Ordinance, except as prohibited.
 - b. Maintenance, repair of any existing non-conforming use or structure, provided there is no increase in impermeable surface beyond that permitted in accordance with Article VIII.G. of this ordinance, further provided that there is no change or expansion in use that presents increased risk to detrimentally affect groundwater quality, nor cause a significant long term reduction in the volume of water.
 - c. Agricultural and forestry uses, provided that fertilizers, pesticides, manure and other leachables are used according to best management practices as prescribed by the Rockingham County Conservation District, if applicable. All said leachables must be stored under shelter. 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 2017) and any subsequent revisions.

F. Conditional Uses

The following uses, if allowed in the underlying zoning district, are permitted only after the South Hampton Planning Board grants a Conditional Use permit:

- a. ~~Industrial and commercial uses not otherwise prohibited in Section G.3 of this Article.~~
- b. ~~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.~~
- c. ~~The Planning Board may grant a Conditional Use Permit for those uses listed above only after written findings of fact are made which certify 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 introducing toxic and hazardous materials to the aquifer or by causing the average concentration of nitrate nitrogen (NO₃-N) to exceed 5 mg/l beyond the affected property boundaries.~~
 - b. ~~The proposed use will not cause a significant long-term reduction in the volume of water contained in the aquifer or in the storage capacity of the aquifer.~~
 - (1) ~~the proposed use will discharge no wastewater 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 materials as herein defined;~~
 - (2) ~~the proposed use complies with all other applicable sections of this Article.~~
- d. ~~All Conditional Uses shall be subject to twice annual 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~~

3. Conditional Uses: The following uses, if allowed in the underlying district, are permitted only after a Conditional Use Permit is granted by the Planning Board.

- a. Industrial, manufacturing and commercial uses not otherwise prohibited in Article VIII.E.1.
- b. Multi-family residential development.
- c. Residential subdivisions which create more than two building lots.
- d. Sand and gravel excavation and other mining if not carried out within eight (8) vertical feet of the seasonal high water table and if all activities are conducted in compliance with RSA 155- E.

4. Granting Conditional Use Permit: 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 groundwater or drinking water resources.
- 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 wastewater 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.
- e. The proposed use may include any reasonable conditions attached to such permit by the Planning Board regarding construction and operation.
- f. Prior to rendering a decision regarding the possible approval of any Conditional Use Permit application, the Planning Board shall afford the Conservation Commission an opportunity to provide written comment. After consideration and review of an application for a Conditional Use Permit, the Conservation Commission may recommend the Planning Board to deny the application or to impose conditions of approval, if deemed necessary, to mitigate the potential for adverse effects caused by the proposed activity or use. If the Planning Board decides to grant a conditional use permit that does not include the Conservation Commission's recommendations, the Planning Board is encouraged to provide the reason for their conclusion as part of the Notice

~~1. Permitted Uses~~

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

- ~~e. Any use permitted by the underlying district of the Zoning Ordinance, except as prohibited in Section G.3 or regulated by conditional Use in Section H of this Article.~~
- ~~f. Maintenance, repair of any existing structure, provided there is no increase in impermeable surface above the limit established in Section G.2 of this Article.~~
- ~~g. Farming, gardening, nursery, forestry, harvesting and grazing, provided that fertilizers, pesticides, manure and other leachables are used according to best management practices as prescribed by the Rockingham County Conservation District, if applicable, and at levels that will not cause groundwater contamination. All said leachables must be stored under shelter.~~

G. ~~Special Exception for Lots of Record~~

~~Upon application to the Board of Adjustment, a special exception shall be granted to permit the erection of a structure within the Aquifer Protection District on a non-conforming lot provided that all of the following conditions are found to exist:~~

- ~~a. The lot upon which an exception is sought was an official lot of record, as recorded in the Rockingham County Registry of Deeds, prior to the date on which this amendment was posted and published in the Town.~~
- ~~b. The use for which the exception is sought cannot feasibly be carried out on a portion or portions of the lots which are outside the Aquifer Protection District.~~
- ~~c. Due to the provisions of the Aquifer Protection District, no reasonable and economically viable use of the lot can be made without the exception.~~
- ~~d. The design and construction of the proposed use will, to the extent practical, be consistent with the purpose and intent of this Section.~~

F. **Non-Conforming Uses:**

1. Any non-conforming use shall comply with this Article, except that the time period for reestablishment after abandonment shall be limited to one year. However, when non-conforming uses involve a direct hazard to the aquifer or the introduction of foreign substances (such as oils, salts, chemicals, etc.) into the aquifer, these uses shall not continue and the Building Inspector shall issue an immediate cease and desist order to stop these offending activities or processes from continuing within the district.
2. Any non-conforming lot of record existing before the effective date, March 11, 2025 of this article may be used in accordance with Articles VIII.D. and E.

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

1. Any private residence is exempt from Article VIII. D. Use Regulations and Requirements, with exception of minimum lot size, lot coverage and septic design under Article VIII.D..
2. Any business or facility where regulated substances are stored in containers with a capacity of less than five gallons is exempt from Use Regulations under Article VIII.E.
- 3.
4. Storage of heating fuels for on-site use or fuels for emergency electric generation, provided storage tanks are indoors on a concrete floor or have corrosion control, leak detection, and secondary containment in place,
5. 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,
6. Temporary storage of construction materials on a site where they are to be used is exempt from Article VIII.D. provided that the site development project commences 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. Underground storage tank systems and aboveground storage tank systems in compliance with applicable federal and state rules.

H. ADMINISTRATION

The provisions of the Groundwater 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.

I. Effective Date

This article shall become effective upon the date of passage.

J. Enforcement

The Board of Selectmen (or their duly designated agent) shall be responsible for the enforcement of the provisions and conditions of the Groundwater Protection District.