

TOWN OF ENFIELD LOCAL LAW NUMBER 1 OF 2022

DRINKING WATER PROTECTION LAW

This local law for the Town of Enfield is hereby adopted by Resolution of the Town Board of the Town of Enfield dated January 12, 2022 and reads in its entirety as follows:

SECTION 1: SHORT TITLE

This local law shall be known as the "Drinking Water Protection Law," or simply as the "Local Law" herein.

SECTION 2: AUTHORITY

This Local Law is adopted pursuant to the authority and provisions of § 10 of the Municipal Home Rule Law, § 10 of the Statute of Local Governments, and Town Law Article 16.

SECTION 3: LEGISLATIVE INTENT

The Town Board of the Town of Enfield has adopted this Local Law to advance and protect the public health, safety, and general welfare of the Town of Enfield by:

- 1) Ensuring that Town of Enfield's residents and businesses have sustainable drinking water supplies now and for future generations by protecting individual streams, wetlands, water bodies, aquifers, and wells from contamination and excessive water withdrawals;
- 2) Protecting the quality of surface and groundwater resources that contribute to drinking water sources by identifying and mitigating the potential adverse effects of some forms of development;
- 3) Maintaining a balance between the property rights of individual landowners and the community at large that both require a safe and dependable drinking water supply.

The above are achieved through amendments to the Town's Site Plan Review Law. These amendments pertain to development activities that have the inherent potential to contaminate or deplete water resources that supply aquifers and drinking water wells in Enfield.

SECTION 4: DEFINITIONS

§ 1.4 of the Site Plan Review Law entitled, DEFINITIONS, shall be amended to include following terms:

Bottled Water: any product, including natural spring or well water taken from municipal or private utility systems or other water, distilled water, de-ionized water or any of the foregoing to which chemicals may be added, which are put into sealed bottles, packages or other containers, to be sold for domestic consumption or culinary use, involving a likelihood of such water being ingested by human beings.

Bulk Water: water intended for drinking water that is transported by tank trucks or water not intended for drinking or agriculture that is transported by tank trucks, tank trailers, railroad tank cars, or off-site pipelines.

Deicing Compounds: any bulk quantities of chloride compounds and/or other deicing compounds (e.g., urea or calcium magnesium acetate) intended for application to exterior surfaces, including mixtures of sand and chloride compounds in any proportion where the chloride compounds constitute over eight percent of the mixture. Bulk quantity of deicing compounds means any quantity, but does not include any chloride compounds in a solid form which are packaged in waterproof bags or containers which do not exceed one hundred pounds each.

Disposal: discarding by abandonment, discharge, deposit, injection, dumping, spilling, leaking, or placing by any other means of any solid waste, petroleum, radioactive material, hazardous substance, hazardous waste, or wastewater into or onto land or a surface water body.

Fertilizers: any mixture generally containing phosphorus, nitrogen, and potassium which is applied to the ground to increase nutrients to plants.

Groundwater: water below the land surface in a saturated zone of soil or rock. This includes perched water separated from the main body of groundwater by an unsaturated zone.

Hazardous Substance: any substance listed as a hazardous substance in 6 NYCRR Part 597, Hazardous Substance List, or a mixture thereof. In general, a hazardous substance means any substance which: (1) because of its quantity, concentration, or physical, chemical, or infectious characteristics poses a significant hazard to human health or safety if improperly treated, stored, transported, disposed of, or otherwise managed; (2) poses a present or potential hazard to the environment when improperly treated, stored, transported, disposed of, or otherwise managed; (3) because of its toxicity or concentration within biological chains, presents a demonstrated threat to biological life cycles when released into the environment.

Hazardous Waste: any solid waste, defined or listed as a hazardous waste in 6 NYCRR Part 371.

Herbicide: Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any plant, being those substances defined as herbicides pursuant to New York State's Environmental Conservation Law (hereafter, "ECL") Section 33-0101.

Manure: shall mean animal feces and urine.

Medical Waste: a solid waste generated in the diagnosis, treatment (e.g., provision of medical services), or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biological products.

Open-Loop System: a geothermal heating and cooling system that withdraws water from an

extraction well or body of water, passes the water through a heat exchange system, and discharges the temperature-altered water either into the ground in a discharge or return well or to the ground surface or into surface water.

Pesticide: any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant, being those substances refined as pesticides pursuant to ECL Section 33-0101 et seq.

Petroleum: Any petroleum-based oil of any kind which is liquid at 20 degrees Celsius under atmospheric pressure and has been refined, re-refined, or otherwise processed for the purpose of: 1) being burned to produce heat or energy; 2) as a motor fuel or lubricant; or 3) in the operation of hydraulic equipment.

Process Waste: Any waste generated by industrial, commercial, or mining operations that by virtue of some use, process, or procedure no longer meets the manufacturer's original product specifications.

Radioactive Material: any material in any form that emits radiation spontaneously.

Septage: the contents of a septic tank, cesspool, or other individual wastewater treatment work which receives domestic sewage wastes.

Sewage: the combination of human and household waste with water which is discharged to the home plumbing system.

Sludge: the solid, semi-solid, or liquid waste generated from a waste processing facility, but does not include the liquid stream of effluent.

Solid Waste: all putrescible and non-putrescible materials or substances that are discarded, abandoned, or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water treatment facilities, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, discarded automobiles and offal, except where exempt from compliance with 6 NYCRR Part 360 as described in 6 NYCRR §360-1.2(a)(4).

Stormwater: rainwater, surface runoff, snowmelt, ice-melt, drainage, and related naturally occurring surface water and accumulation(s).

Toxic Substance: any chemical or mixture that may be harmful to the environment and to human health if inhaled, swallowed, or absorbed through the skin. Toxic substances are listed in the National Institute for Occupational Safety and Health Registry of Toxic Effects of Chemical Substances. This registry can be found online at: <http://www.cdc.gov/niosh/docs/97-119/pdfs/97-119.pdf>.

Wastewater: water (except stormwater) that is contaminated with pollutants and is or will be discarded.

SECTION 5: DEVELOPMENT AND LAND ACTIVITIES SUBJECT TO REVIEW

The Town of Enfield Site Plan Review Law applies to certain development and land activities. To better protect drinking water resources, § 2.1 A of the Site Plan Review Law is to be amended to require Planning Board approval of Site Plans for the following additional development and land activities:

7. Any proposed use or activity that involves a projected average daily water demand of 1,000 gallons per day or more (water usage rates can be estimated from Table B-3 of the 2014 Design Standards for Intermediate-Sized Wastewater Treatment Systems https://www.dec.ny.gov/docs/water_pdf/2014designstd.pdf).

8. Construction of any use or activity that involves the on-site disposal of solid waste, medical waste, petroleum, radioactive material, hazardous or toxic substances, hazardous waste, process wastes, including wastewater (except for the disposal of sewage through an on-site wastewater treatment system, or the agricultural use of animal manure, associated bedding material, and food processing wastes).

9. Construction of any solid waste management facility except for land application or composting facilities permitted by NYSDEC for agricultural use within an agricultural district created pursuant to New York State Agriculture and Markets Law.

10. Surface land application of septage, sewage, or sludge except where permitted by NYSDEC for agricultural use within an agricultural district created pursuant to New York State Agriculture and Markets Law.

11. Construction of any facility that receives hazardous or toxic substances, hazardous waste, medical waste, or radioactive material generated off-site for treatment, storage, or disposal.

12. Establishment of any commercial or industrial use that includes the bulk stockpiling or storage of coal, cinders, deicing compounds, hazardous substances, hazardous wastes, toxic substances, fertilizers, herbicides and/or pesticides except in packaging for individual use or resale.

13. Establishing any use or activity involving the storage of manure, except for individual household or agricultural use, or at commercial establishments in packaging for individual use or resale.

14. Water extraction for bottled and/or bulk water sales.

15. Construction of subsurface facilities for solution salt mining; open-loop geothermal heating and cooling systems; or disposal of wastes including brine, natural gas exploration and/petroleum production waste, process waste, hazardous wastes, radioactive material, and wastewater.

SECTION 6: GENERAL REVIEW CONSIDERATIONS

The Planning Board's review of the materials submitted as part of a Site Plan includes various general considerations as spelled out in § 2.2 of the Site Plan Review Law. To improve the protection of drinking water resources, the relevant review consideration in this section has been amended to read as follows:

5. The impacts to or upon the quality and quantity of available groundwater resources, streams, ponds, water bodies, and wetlands at or beyond the boundaries of the proposed use.

SECTION 7: ADDITIONAL GENERAL STANDARDS OF REVIEW

In reviewing a Site Plan, the Planning Board considers various general standards as listed in § 2.3 of the Site Plan Review Law. Two additional general standards of review are to be included to advance drinking water protection:

§ 2.3 of the Site Plan Review Law is to be amended to include the additional considerations:

P. The simplicity, reliability and feasibility of the control measures proposed to prevent contamination and depletion of local groundwater resources shall be considered as well as the degree of threat to water quality and quantity if such control measures fail.

Q. A water well shall be located in compliance with the provisions of Appendix 5-B of the New York State Department of Health regulations (10 NYCRR Appendix 5-B) unless an applicable waiver or variance has been issued by the New York State Department of Health or Tompkins County Health Department. This means a well shall be located where it is not subject to seasonal flooding or surface water contamination, shall be located upgradient of any potential or known source of contamination, and the minimum horizontal separation distances from potential sources of contamination listed in Table 1 of Section 5-B.4 of Appendix 5-B of 10 NYCRR Part 5 shall be maintained.

SECTION 8: APPLICATION AND REVIEW PROCEDURES

Applications for Site Plan review shall include a Site Plan survey together with various documents, information, and details. § 3.0 B. of the Site Plan Review Law is to be amended by requiring these additional Site Plan elements:

12. The projected average daily water demand from existing and proposed on-site wells, and their location on the site plan survey with respect to property lines, existing or proposed water bodies, roads, buildings, and potential contaminant sources as listed in Table 1 of Section 5-B.4 of Appendix 5-B of 10 NYCRR Part 5.

13. The location of the premises and all features of the system necessary for the satisfactory conveyance, storage, distribution, use and disposal of stormwater, process wastes, wastewater, petroleum, hazardous substances and wastes, solid waste, and incidental wastes.

14. Spill Prevention Plan (if applicable) including: a complete description of the proposed use and operations; a list of toxic or hazardous chemicals to be used, handled, and/or stored; a description of how these chemicals will be used, handled, stored and disposed of; and procedures for containing or cleaning up spills and notifying appropriate local and state officials.

15. A description of proposed storage facilities for hazardous wastes and provisions for the disposal of these wastes by licensed waste haulers (if applicable).

16. Location of the proposed use or activity in relation to the unconsolidated aquifers in the Enfield Creek Valley as determined by the United States Geological Survey in its Scientific Investigations Report 2019-5136.

SECTION 9: SEVERABILITY

If any clause or provision of this Local Law shall be held invalid or unenforceable by a court or tribunal of competent jurisdiction, such holding shall not affect or invalidate the remainder of this Local Law and any such invalidity or unenforceability shall be confined in its operation to the clause or provision directly involved in the controversy in which such holding shall have been rendered.

SECTION 10: EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the New York Department of State.

