

Below is the current Groundwater Protection Overlay District Zoning—The additional parcels that are proposed to be included in the Overlay District would be subject to the following zoning by-laws:

8.2 GROUNDWATER PROTECTION OVERLAY DISTRICT (GPOD)

8.2.1 Purpose. The purpose of the Groundwater Protection Overlay District bylaw is to:

1. Promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions, and businesses of the Town of Ashland;
2. Preserve and protect existing and potential sources of drinking water supplies;
3. Protect, preserve and maintain the existing and potential groundwater recharge areas within the Town of Ashland;
4. Conserve the natural resources of the Town of Ashland;
5. Reduce erosion of topsoil and the subsequent sedimentation of surface water bodies; and,
6. Prevent temporary and permanent contamination of the environment.

8.2.2 Overlay District. The Groundwater Protection Overlay District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities or uses in a portion of one of the underlying zoning districts which fall within the Groundwater Protection Overlay District must additionally comply with the requirements of this district. Uses that are prohibited in the underlying zoning districts shall not be permitted in the Groundwater Protection Overlay District.

8.2.3 Definitions. Appropriate definitions of terms used in this section are found in Section 10.

8.2.4 Establishment and Delineation. For the purposes of this district, there are hereby established within the Town certain groundwater protection areas, consisting of aquifers or recharge areas which are delineated on a map. This map is at a scale of one (1) inch to one thousand (1,000) feet and is entitled "Groundwater Protection District," Town of Ashland, dated September 22, 1994. This map is hereby made a part of the Ashland Code and is on file in the office of the Town Clerk.

8.2.5 District Boundary Disputes. If the location of the district boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a special permit application to the special permit granting authority (SPGA). Any application for a special permit for this purpose shall be accompanied by adequate documentation. The burden of proof shall be upon the owner(s) of the land in question to show where the bounds should properly be located. However, the Planning Board retains its authority to

determine property location with regard to said Groundwater Protection Overlay District. At the request of the owner(s), the Town may engage a professional engineer (civil or sanitary), hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the district with respect to individual parcels of land, and may charge the owner(s) for all or part of the cost of the investigation.

8.2.6 Permitted Uses. Whenever the requirements of this section differ from those prescribed in other laws or codes, the stricter requirements designated to protect water supplies will take precedence. In the Groundwater Protection Overlay District the following regulations shall apply:

1. Conservation of soil, water, plants, and wildlife;
2. Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
3. Foot, bicycle and/or horse paths, and bridges;
4. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
5. Maintenance, repair, and enlargement of any existing structure, subject to Section 8.2.7 (prohibited uses) and Section 8.2.8 (special permitted uses) hereunder;
6. Farming, gardening, nursery, conservation, forestry, harvesting, and grazing, subject to Section 8.1.7 (prohibited uses) and Section 8.2.8 (special permitted uses) hereunder;
7. Necessary public utilities and facilities designed so as to prevent contamination of surface water and groundwater;
8. Residential development, subject to Section 8.2.7 (prohibited uses) and Section 8.2.8 (special permitted uses) hereunder; and
9. Construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels. Underground storage tanks related to these activities are not categorically permitted.

8.2.7 Prohibited Uses. The following uses are prohibited:

1. The disposal of leachable wastes, except residential subsurface waste disposal systems and normal agricultural operations;
2. Industrial and commercial uses which discharge process wastewater on-site;
3. Use of chemicals for deicing unless deemed necessary for public safety;
4. Storage of hazardous materials, as defined in G.L. Chapter 21E, unless in a free standing container within a building or above ground with secondary containment adequate to

contain a spill the size of the container's total storage capacity;

5. Landfills and open dumps as defined in 310 CMR 19.006;
6. Automobile graveyards and junkyards, as defined in G.L. Chapter 140B, section 1;
7. Stockpiling and disposal of snow and ice containing deicing chemicals if brought in from outside the district;
8. Storage of deicing chemicals unless such storage, including the loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
9. Treatment works that are subject to 314 CMR 5.00 including privately owned sewage treatment facilities, except the following:
 - a. The replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
 - b. The replacement of existing subsurface disposal system(s) with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system(s);
 - c. Treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contaminated groundwater;
 - d. Sewage treatment facilities in those areas with existing water quality problems when it has been demonstrated to the Department of Environmental Protection's and the Special Permit Granting Authority's satisfaction both that these problems are attributable to current septic problems and that there will be a net improvement in water quality.
10. Facilities that generate, treat, store, or dispose of hazardous waste subject to G.L. Chapter 21C and 310 CMR 30.000, except the following:
 - a. Very small quantity generators as defined under 310 CMR 30.000;
 - b. Household hazardous waste centers and events under 310 CMR 30.390;
 - c. Waste oil retention facilities required by G.L. Chapter 21, section 52A;
 - d. Water remediation treatment works approved by the DEP for the treatment of contaminated ground or surface waters;
11. Storage of commercial fertilizers, as defined in G.L. Chapter 128, section 64, unless such storage is within a structure designated to prevent the generation and escape of contaminated runoff or leachate;
12. Storage of animal manure unless covered or contained in accordance with the specifications of the U.S. Soil Conservation Service;

13. Landfilling of sludge or seepage as defined in 310 CMR 32.05;
14. Individual sewage disposal systems that are designed in accordance with 310 CMR 15.00 to receive more than 110 gallons of sewage per quarter acre under one ownership per day, or 440 gallons of sewage on any one acre under one ownership per day, whichever is greater, provided that:
 - a. The replacement or repair of a system, which will not result in an increase in design capacity over the original design capacity of 310 CMR 15.00, whichever is greater, shall be exempted;
 - b. In cluster subdivisions the total sewage flow allowed shall be calculated based on the number of percable lots in the entire parcel;
15. Storage of liquid petroleum products, except the following:
 - a. Normal household use, outdoor maintenance, and heating of a structure;
 - b. Waste oil retention facilities required by statute, rule, or regulation;
 - c. Emergency generators required by statute, rule, or regulation;
 - d. Treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters; provided that such storage, listed in (9) a. through d. above, is in freestanding containers within buildings or above ground with secondary containment adequate to contain a spill the size of the container's total storage capacity;
16. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;
17. Earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material (including mining activities) to within six (6) feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the U.S. Geological Survey, except excavations for building foundations, roads or utility works;
18. The use of septic system cleaners which contain toxic or hazardous chemicals.

8.2.8 Uses and Activities Requiring a Special Permit. The following uses and activities are permitted only upon the issuance of a special permit by the SPGA under such conditions as it may require:

1. Enlargement or alteration of existing uses that do not conform to the Groundwater Protection District;
2. The application of fertilizers for non-domestic or nonagricultural uses. Such applications shall be made in a manner so as to minimize adverse impacts on ground water due to nutrient transport, deposition, and sedimentation;

3. Those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying zoning [except as prohibited above]. Such activities shall require a special permit to prevent contamination of groundwater;
4. The construction of dams or other water control devices, ponds, pools or other changes in water bodies or courses, created for swimming, fishing, or other recreational uses, agricultural uses, or drainage improvements. Such activities shall not adversely affect water quality or quantity;
5. Any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater. A system for groundwater recharge must be provided which does not degrade groundwater quality. For nonresidential uses, recharge shall be by stormwater infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are infeasible. For all nonresidential uses, all such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.

8.2.9 Application Content. The applicant shall file five (5) copies of a site plan and attachments. The site plan shall be drawn at a proper scale as determined by the SPGA and be stamped by a professional engineer. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments shall at a minimum include the following information where pertinent:

1. A complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;
2. For those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Hazardous Materials Coordinator, Fire Chief, and Board of Health. The plan shall include:
 - a. Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and cleanup procedures;
 - b. Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces;
 - c. Evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30.00, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection.
3. Proposed down-gradient location(s) for groundwater monitoring well(s), should the SPGA deem the activity a potential groundwater threat.

8.2.10 Procedure for Issuance of Special Permit. The Special Permit Granting Authority

(SPGA) under this bylaw shall be the Planning Board.

1. Such special permit shall be granted if the SPGA determines, in conjunction with the Board of Health, the Conservation Commission and Town Engineer/Department of Public Works that the intent of this bylaw, as well as its specific criteria, are met. The SPGA shall not grant a special permit under this section unless the petitioner's application materials include, in the SPGA's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The SPGA shall document the basis for any departures from the recommendations of the other Ashland boards or agencies in its decision.
2. The SPGA may adopt regulations to govern design features of projects. Such regulations shall be consistent with subdivision regulations adopted by the Town.
3. Upon receipt of the special permit application, under MGL C 40A, section 9, the SPGA shall transmit one (1) copy to the Board of Health, the Conservation Commission and the Town Engineer/Department of Public Works for their written recommendations. Failure to respond in writing within twenty-one (21) days of receipt by the agency shall indicate approval or no desire to comment by said agency. The necessary number of copies of the application shall be furnished by the applicant.
4. The SPGA shall hold a hearing, in conformity with the provision of G.L. c. 40A, Section 9, within 65 days after the filing of the application. Notice of the public hearing shall be given by publication and posting and by first-class mailings to "parties of interest" as defined in G.L. c. 40A, Section 11. The decision of the SPGA and any extension, modification, or renewal thereof shall be filed with the SPGA and Ashland Town Clerk within 90 days following the closing of the public hearing. Failure of the SPGA to act within 90 days shall be deemed as a granting of the permit. However, no work shall commence until a certification is recorded as required by said Section 11.
5. Notwithstanding the foregoing, where a special permit is required hereunder in connection with the development of a Priority Development Site (PDS), an application therefor shall be submitted simultaneously with any other permit application(s) required by the Code of the Town of Ashland, including these Zoning By-laws, relating to the use or development of the PDS or the buildings and/or structures located thereon, and not otherwise exempted by G.L. c. 43D, and a decision thereon shall be rendered no later than one hundred eighty (180) days from said date of submittal. Review of an application made hereunder shall be combined with any other review(s) required of the Planning Board; where the Board of Appeals is responsible for said other review(s), all reviews shall occur at joint session(s) of the Planning Board and the Board of Appeals, when feasible. **[Added 5-5-2010 ATM, Art. 17]**
6. The SPGA may grant the required special permit only upon finding that the proposed use meets the following standards, those specified herein, and any regulations or guidelines adopted by the SPGA. The proposed use must:
 - a. Be in harmony with the purpose and intent of this section and will promote the purposes of the Groundwater Protection District;

- b. Be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.
- c. Not, during construction or thereafter, have an adverse environmental impact on any surface water, aquifer or recharge area;
- d. In no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Groundwater Protection District; and,
- e. Be consistent with the existing and probable future development of surrounding areas.

8.2.11 Permit Fee. A fee in the amount of twenty dollars (\$20.) shall be collected by the Town Clerk at the time that an application for a Special Permit is submitted. In addition, the SPGA may impose a reasonable fee for the employment of outside consultants pursuant to the provisions of G.L. Chapter 44, Section 53G.

8.2.12 Permit Withdrawal. Any application for special permit may be withdrawn without prejudice by the applicant prior to the publication of the public hearing notice. Once the notice has been published, a withdrawal without prejudice may be permitted only with the approval of the SPGA.

8.2.13 Violations. Written notice of any violations of this Section shall be given by the Building Inspector/Zoning Enforcement Officer to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance. A copy of such notice shall be submitted to the Board of Health, Conservation Commission, and Town Engineer/Department of Public Works. The cost of containment, cleanup, or other action of compliance shall be borne by the owner and operator of the premises. For situations that require remedial action to prevent adverse impact to the water resources within the Groundwater Protection District, the Town of Ashland, the Building Inspector, the Board of Health or any of their agents may order the owner or the operator of the premises to remedy the violation. If said owner and/or operator does not comply with said order, the Town of Ashland, the Building Inspector, the Board of Health, or any of their agents, if authorized to enter upon such premises under the terms of the special permit or otherwise, may act to remedy the violation. The remediation cost shall be the responsibility of the owner and operator of the premises.