

PROPOSED TOWN OF DURHAM, CONNECTICUT

GROUNDWATER ORDINANCE

May 2015

I. Title

This Ordinance shall be known and be cited as the Groundwater Management Zone Ordinance of the Town of Durham, Connecticut.

II. Purpose

The purpose of this Ordinance is to protect the health and safety of the residents of Durham and to protect the integrity of the Durham Meadows Superfund Site remedy by identifying a Groundwater Management Zone (“GMZ”) to prevent the use of and public exposure to contaminated groundwater drawn from the GMZ. In consultation with the United States Environmental Protection Agency (EPA) and the Connecticut Department of Energy & Environmental Protection (CT DEEP), the boundaries of the GMZ are set forth on Figure 1 attached hereto.

III. Scope and Authority

As authorized by Connecticut General Statutes Section 7-148, once this ordinance is applicable to a property located within the boundaries of the GMZ, comprised as set forth in this Ordinance, no groundwater shall be extracted, consumed or utilized from the ground at that property, except as otherwise provided within this Ordinance. This Ordinance shall apply to the GMZ notwithstanding the provisions of any other Town ordinance adopted.

IV. Applicability

This Ordinance shall become applicable to any property within the GMZ on the date that the City of Middletown’s water supply becomes available for connection to the property, by virtue of the presence of a curb box at the property boundary and the initiation of water delivery to the Durham Meadows Superfund Site.

V. Definition

Groundwater: All the water found beneath the surface of the ground including all subsurface water stored in bedrock and overburden aquifers and recharge areas within the GMZ. Groundwater does not include waters found in fire ponds or any other surface water bodies within the GMZ.

VI. Groundwater Management Zone (“GMZ”)

There is hereby established within the Town of Durham the GMZ as depicted in Figure 1. The particular properties contained within the GMZ are generally located on or adjacent to Main Street as depicted in Figure 1 and can be identified using assessor’s maps that are on file at the Town of Durham Office of Assessor, and can be viewed on the Town of Durham’s website. The GMZ depicted in Figure 1 is subject to future amendment. Any future amendment in Figure 1 of this Ordinance is subject to all notice and procedural requirements applicable to a municipal ordinance amendment in the Town of Durham.

VII. Use Regulations

Within the GMZ, except as specifically provided in Section VIII (Exceptions), the following regulations shall apply:

- A. The extraction, consumption, or utilization of groundwater for any purpose, including residential wells is prohibited in the GMZ. However, groundwater in the GMZ may be used for the purpose of evaluating groundwater quality for environmental investigation.
- B. All existing groundwater wells must be abandoned in accordance with the provisions of the Connecticut Well Drilling Code and Rules, Sections 25-126 through 25-137 of the General Statutes and Regulations of the State of Connecticut and all applicable regulations of the Town of Durham Health Department within thirty (30) days of the date this Ordinance becomes applicable to the property.
- C. Properties located within the GMZ that contain any habitable structures (residential, commercial or industrial) with running water shall connect to the public water supply within thirty (30) days of the date this Ordinance becomes applicable to the property.
- D. This Ordinance shall not apply to any investigation or monitoring wells installed or required to be installed, by any federal, state, or local government authority.
- E. Nothing in this regulation shall prohibit any party from developing property within the GMZ provided that any development proposal requiring on-site drinking water shall demonstrate the ability to connect to public water at such party’s expense and be approved by the Town of Durham Health Department.
- F. Nothing in this regulation shall prohibit the use of a closed-loop system for geothermal heating purposes.

VIII. Exceptions

- A. Any person who owns property within the GMZ in the Town of Durham may request an exception to Sections VII.A and VII.B of this Ordinance for continued use of a well in existence on the effective date of this Ordinance and used exclusively for agricultural irrigation (“Irrigation Well”). Prior to the date this Ordinance becomes applicable to such existing Irrigation Well, the owner must provide notice to CT DEEP, the Connecticut Department of Public Health (CT DPH), the Town of Durham Health Department, and the Town of Durham Agriculture Commission, and receive written approval from the Town of Durham Health Department that (i) there is no possibility for cross-connection between the Irrigation Well(s) and the public water supply; and (ii) that levels of contamination in groundwater being used for irrigation purposes, raw or treated, will not adversely affect the health and safety of agricultural workers or other persons exposed to the water or agricultural products raised or grown on the property, as determined by the Town of Durham Health Department, demonstrated by testing and analysis conducted by a state certified laboratory; or (iii) that levels of contamination in groundwater being used for irrigation purposes, raw or treated, will meet Maximum Contaminant Levels described in Sec. 19-13-B102 of the State of Connecticut Public Health Code, Drinking Water Action Levels established by the State of Connecticut Department of Public Health pursuant to Section 22a-471 of Connecticut General Statutes, and Groundwater Protection Criteria as described in Connecticut Remediation Standard Regulations pursuant to Section 22a-133k- through 22a-133k-3 of the Regulations of Connecticut State Agencies, whichever is more stringent. The owner of the Irrigation Well(s) must demonstrate to the Town of Durham Health Department and the Town of Durham Agriculture Commission that the agricultural activities at the property meet the definition of Agriculture as defined by the Connecticut Department of Agriculture in Section 1-1(q) of the Connecticut General Statutes. After approval of the continued use of any Irrigation Well by the Town of Durham Health Department, the owner shall provide additional documentation on these matters to the Town of Durham Health Department and Agriculture Commission on a pre-approved schedule determined by these entities, or at least annually, and comply with such other conditions imposed by these entities for continued operation of the Irrigation Well, including, but not limited to, ensuring the water is suitable for its intended agricultural uses. Groundwater used from any such irrigation well must meet all applicable legal requirements and the terms of any applicable State discharge permits during use and if discharged or emitted, and the associated plumbing must comply with cross connection prohibitions and other requirements pursuant to Connecticut Public Health Code Regulations, state and local building codes, and/or health codes.

Prior to sale of a property for which the Town of Durham Health Department has approved continued use of an Irrigation Well(s), the property owner shall provide written notice to the purchaser of the property of the condition of the Irrigation Well(s) and any and all limitations and conditions on its use. Failure to receive notice does not relieve any subsequent owners of the responsibility to maintain

treatment and ensure the groundwater meets required contamination levels for agricultural use in accordance with this Ordinance.

- B. Any person who owns property within the GMZ in the Town of Durham that uses a groundwater well in existence on the effective date of this Ordinance exclusively for industrial purposes (“Industrial Process Well”) may request an exception to Sections VII.A and VII.B of this Ordinance for continued use of such Industrial Process Well. Prior to the date that this Ordinance becomes applicable to such existing Industrial Process Well, and annually thereafter, the owner must (i) provide documentation to the operator of the Durham public water system to confirm such Industrial Process Well complies with cross connection prohibitions; and (ii) provide documentation to CT DEEP and EPA to confirm that groundwater used from any such Industrial Process Well meets all applicable legal requirements and the terms of any applicable State discharge permits during use and if discharged or emitted.

Prior to sale of a property for which CT DEEP and EPA have approved the continued use of an Industrial Process Well, the property owner shall provide written notice to the purchaser of the property of the condition of the Industrial Process Well and any and all limitations and conditions on its use. Failure to receive notice does not relieve any subsequent owners of the responsibility to comply with all applicable laws for the intended use of the groundwater supply in accordance with this Ordinance.

- C. A property owner may apply for an exception to install and use a new well for non-potable purposes at the property owner’s expense provided the following conditions are met:
1. Such new well must be greater than 200 feet from the water line, measured along a street, alley or easement, for the installed water line and any associated domestic lines connecting to the water line.
 2. The property owner shall submit a plan to the Town of Durham Health Department requesting permission to install a well for non-potable use. The plan shall include, but not be limited to, the property boundaries, the location of the proposed well, all other water lines and connections, septic systems, a detailed description of the anticipated non-potable use of the well, and the anticipated maximum pumping rate. The plan shall be signed by a person qualified as a Licensed Environmental Professional (LEP) in the State of Connecticut who certifies that the location of the proposed well is not within an area of contamination and use of this new well is not reasonably likely to cause migration of the groundwater contamination plumes at the Durham Meadows Superfund Site and other areas of contamination.

3. Within 30 days of the completion of the installation and annually thereafter, the well must be sampled and tested for volatile organic compounds at the property owner's expense using methods acceptable to EPA and CT DEEP and testing must be performed at a laboratory certified by the State of Connecticut Department of Public Health or EPA to perform drinking water analytical testing for volatile organic compounds. The property owner shall provide the testing results to the **Town of Durham Health Department** within 30 days after the analytical results become available.
4. If the well water is found to be contaminated, the property owner shall abandon the well at the property owner's expense within 30 days of the notice from the Town of Durham Department of Health. The well abandonment shall be conducted in accordance with the provisions of the Connecticut Well Drilling Code and Rules, Sections 25- 126 through 25-137 of the General Statutes and Regulations of the State of Connecticut and all applicable regulations of the Town of Durham Health Department. The documentation of well abandonment shall be submitted to the Town of Durham Health Department within 30 days after the completion of well abandonment.
5. If EPA or CT DEEP become aware that the groundwater contamination is migrating in the direction of the well that is subject to this exception, the Town of Durham Health Department, upon notification by EPA or CT DEEP, may require that the well be abandoned. If such notification is provided, the property owner must abandon the well at the property owner's expense in accordance with the provisions of the Connecticut Well Drilling Code and Rules, Sections 25- 126 through 25-137 of the General Statutes and Regulations of the State of Connecticut and all applicable regulations of the Town of Durham Health Department within thirty (30) days of the notice from the Town of Durham Health Department.

IX. Violations

- A. The Town of Durham may institute or cause to be instituted, in the name of the Town, any and all actions, legal and equitable, that shall be appropriate or necessary for the enforcement of the provisions of this Ordinance.
- B. Any person, firm or corporation, being the owner or occupant of, or having control or the use of land within the GMZ who is found to violate any provision of this Ordinance, may be cited in the amount of \$250 per day in accordance with the citation ordinance adopted in accordance with Connecticut General Statutes Section 7-152c. Each day such violation is permitted to exist shall constitute a separate offense.

X. Effective Date

This Ordinance shall take effect on _____.