

RECV'D: Office of the Town Clerk November, 3, 2014

TOWN OF DURHAM, CONNECTICUT  
GROUNDWATER ORDINANCE

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 previously 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, the following regulations shall apply:

- A. The following uses of groundwater are prohibited in the GMZ: the extraction, consumption, or utilization of groundwater for any purpose, including residential wells. However, groundwater in the GMZ may be used for the purpose of evaluating groundwater quality for environmental investigation. Groundwater in the GMZ may also be used for industrial processes and agricultural irrigation provided that the owner of the well complies with Section VIII of this Ordinance and obtains a permit from the Town of Durham Health Department pursuant to Section 19-13-B51m of the State of Connecticut Public Health Code.
- B. All existing groundwater wells, except wells used for the purposes exempt under Paragraph A of this Section, 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 Durham Health Department within thirty (30) days of the date this Ordinance become 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 a property owner from developing property within the GMZ provided that any development proposal requiring on-

site drinking water shall demonstrate the ability to connect to town water at the property owner'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 Section VII.A. of this Ordinance for continued use of wells in existence on the effective date of this Ordinance and used exclusively for agricultural irrigation ("Irrigation Wells"). Prior to the use of any Irrigation Wells, 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 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 demonstrated through professional testing and analysis; 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 Wells 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. Upon approval of the use of any Irrigation Well by the Town of Durham Health Department, the owner shall provide continued 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 upon it for operation of the Irrigation Well, including, but not limited to, ensuring the water is suitable for its intended agricultural uses.

Prior to sale of a property for which the Town of Durham Health Department has approved continued use of an Irrigation Well, the property owner shall provide written notice to the purchaser of the property of the condition of the Irrigation 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 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 Section VII.A. of this Ordinance for continued use of such Industrial Process Well. Prior to the use of any Industrial Process Well, the owner must receive written approval from the CT DEEP and EPA that the well has been installed pursuant to local building codes, that the industrial process water meets all applicable legal requirements and the terms of any applicable State permits during use and if discharged or emitted, and that all plumbing in the industrial system complies 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 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.

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 \_\_\_\_\_.