

Local Law #3 for the year 2010, a local law amending the Town of Virgil Zoning Law and Zoning Map

SECTION 1 The Zoning Law adopted on February 15, 2007 is hereby amended by deleting Sections 560 through 590 and by adding the following:

AQUIFER PROTECTION DISTRICT

SECTION 560 PURPOSE

The purpose of the Aquifer Protection District is, in the interest of public health, safety, and general welfare, to preserve the quality and quantity of the Town's groundwater resources in order to ensure a safe and healthy drinking water supply. This is to be accomplished by regulating land uses which might contribute to the contamination of any aquifers identified as necessary for the present and future water supply of the Town of Virgil.

SECTION 561 SCOPE

The Aquifer Protection District shall be considered as overlying other zoning districts. Any uses permitted in the portions of the districts so overlaid shall be permitted subject to all the provisions of this district. In any cases where conflicts arise between these supplemental regulations and any other existing regulations, the more restrictive shall apply.

Nothing herein shall regulate farm management practices which are consistent with generally accepted principles of farming.

SECTION 562 ESTABLISHMENT OF AREAS

A. For the purposes of this District, there are hereby established within the Town of Virgil certain aquifer protection areas which consist of any aquifer, the land above such aquifers, and the aquifer's most significant recharge areas as follows:

1. Area I: 60-Day Capture Zone to Municipal Supply Well
Area I consists of outwash sand and gravel deposits within the Town of Virgil that are part of a regional glacial-aquifer system that occupies major valleys. Groundwater within Area I will flow to, and reach, the municipal supply wells for the Greek Peak area. Area I represents the 60-Day capture zone, meaning that it takes groundwater 60 days or less to reach the municipal supply well.

2. Area II: 5-Year Capture Zone to Municipal Supply Well
Area II consists of outwash sand and gravel deposits within the Town of Virgil that are part of a regional glacial-aquifer system that occupies major valleys. Groundwater within Area II will flow to, and reach, the municipal supply wells for the Greek Peak area. It takes groundwater five years or less to reach the municipal supply well.
3. Area III: General Aquifer Area.
The general aquifer area consists of outwash sand and gravel deposits elsewhere within the Town of Virgil. Area III serves as a source of groundwater for numerous private water supplies, and non-municipal public drinking water supplies.
4. Area IV: Contributing Recharge Area
Contributing Recharge Area - This zone includes uplands that serve as a source of recharge to a municipal public water supply well.
5. Area V: Tributary Watershed Area
Tributary watershed area. The tributary watershed area shall include uplands that may contribute runoff overland and/or through surface streams for groundwater recharge to Area III. Area V also serves as a source of groundwater for numerous private water supplies, and non-municipal public drinking water supplies.
6. The boundaries of Areas I through V reflect the best hydrogeologic information available as of the date of the map. All boundaries were developed using information and analysis of the United States Geological Survey, as documented in: Miller, T.S., Hydrology and Simulation of Ground-Water Flow in a Glacial Aquifer System in the West Branch Tioughnioga River Valley, Cortland and Onondaga Counties, New York (in review).

SECTION 563 DESIGNATION OF CRITICAL ENVIRONMENTAL AREA

Aquifer Protection District Areas I & II are hereby designated as a Critical Environmental Area Pursuant to Section 617.14 (g) (State Environmental Quality Review Act) of the regulations of the Department of Environmental Conservation.

SECTION 564 PERMITTED USES

All uses currently permitted in the underlying zoning district by the Town of Virgil Zoning Law and Map are permitted in the Aquifer Protection District subject to the provisions of this Article.

SECTION 565 NON-CONFORMING USES

A non-conforming use within the Aquifer Protection District may be continued subject to Section 700 of this zoning law.

SECTION 566 PROHIBITED USES AND ACTIVITIES

The following uses and activities are prohibited:

- A. The discharge, land application, or disposal of any hazardous material, toxic substance, or radioactive material.
- B. The manufacturing or processing of any hazardous material or toxic substances in Areas I & II.
- C. Petroleum storage facilities or vehicular servicing in Area I.
- D. Petroleum storage facilities with a total tank capacity in excess of 40,000 gallons in Areas II, III, IV, and V.
- E. The open storage of pesticides, herbicides, or fungicides.
- F. The open storage of coal or chloride salts.
- G. The dumping or disposing of snow or ice collected offsite from roadways or parking areas into or within 50 feet linear distance of any watercourse, or onto land located in Areas I & II.
- H. Any form of underground injection of drilling fluids, hazardous materials, or toxic substances, for the purpose of disposal.
- I. Gas exploration and drilling in Areas I, II, & III on the surface, but not below ground.
- J. Solid waste disposal facilities and junkyards in Areas I, II, III, & IV.
- K. Onsite wastewater treatment systems in Area I.
- L. The disposal of toxic substances or hazardous materials by means of discharge to an onsite wastewater treatment system in all areas.
- M. The mining of sod, loam, sand, gravel, aggregate, quarried stone, or like material in Areas I & II except when incidental to, or in connection with, the construction or maintenance of a building.
- N. Subsurface discharge from floor drains in all areas.

SECTION 567 RESTRICTED USES AND ACTIVITIES

- A. Petroleum storage facilities installed above or below ground require secondary containment (dual-walled for underground facilities) and are subject to compliance with those standards described in Articles XIX, XX, and XXI of the Sanitary Code of the Cortland County Health Department and New York State Petroleum Bulk Storage Regulations (6 NYCRR Parts 611, 612, 613 and 614).
- B. Underground home heating oil tanks installed after the enactment date of this chapter shall be dual walled, and are subject to compliance with those standards described in Articles XIX, XX and XXI of the Sanitary Code of the Cortland County Health Department and New York State Petroleum Bulk Storage Regulations (6 NYCRR Parts 611, 612, 613 and 614).
- C. Storage of toxic substances or hazardous materials (including pesticides, herbicides, and fungicides) are subject to compliance with New York State Chemical Bulk Storage Regulations (6 NYCRR Parts 595, 596, 597, 598 and 599).
- D. Vehicular servicing at commercial or industrial facilities, including but not limited to automotive repair stations, body shops, and rustproofing operations, where permitted, are subject to the following requirements, in addition to those found in section 624:
 - 1. Floor drains must be connected to a holding tank.
 - 2. Wastes collected in a holding tank must be disposed of through a licensed waste hauler.
 - 3. Waste degreasing solvents must be stored in drums or a holding tank and disposed of through a licensed waste hauler.
 - 4. Waste oil not intended for re-use must be stored in tanks or drums for disposal by a licensed waste hauler.
 - 5. Storage facilities for tanks and/or drums require dikes and coated concrete floors to retain accidental spills or leaks and a permanent roof to protect tanks or drums and to prevent precipitation from entering dikes. Drums shall be sealed. Tanks and drums must be located to prevent leakage to drains.

6. Large drip pans shall be kept beneath drums which have spigots and are stored in a horizontal position on racks.
 7. Potentially contaminated scrap, including but not limited to scrap parts, batteries, and used filters, shall be stored in proper containers to prevent environmental release of contaminants.
 8. Unregistered non-farm vehicles stored outside shall be drained of fluids or otherwise protected.
- E. Application of pesticides, herbicides, fungicides, or chemical fertilizers shall be performed in accordance with the recommendations and label of the manufacturer. Property owners who enlist the services of a commercial pesticide, fungicide, or herbicide applicator shall ensure that the applicator is certified and licensed by the New York State Department of Environmental Conservation.

SECTION 568 SPECIAL PERMITS REQUIRED

A special permit shall be required from the Town of Virgil Planning Board for any of the following uses:

- A. The manufacturing, processing, or commercial storage of any hazardous material or toxic substance.
- B. A development, other than residential, which increases impervious surface by more than 10,000 sq. ft.
- C. Any subdivision which results in the creation of more than five (5) lots.
- D. A use that anticipates an average daily water withdrawal exceeding 10,000 gallons per day (gpd).

SECTION 569 APPLICATION

Applicants for a special permit to develop in the Aquifer Protection District shall submit the following:

- A. The name, address, and telephone number of the applicant.
- B. If the applicant is a corporation, the name, address, and telephone number of all the corporate officers and directors.

- C. A map and report showing the location of the premises for which the permit is sought, and plans prepared by a licensed professional engineer or architect showing all features of the system necessary for the satisfactory conveyance, storage, distribution, use, and disposal of sanitary wastes, stormwater wastes, process wastes, toxic substances, and hazardous materials, solid wastes, and incidental wastes within the property boundaries of the business or commercial establishment.
- D. A copy of any spill prevention and control plan or storm water pollution prevention plan (SWPPP) for the site.
- E. Toxic substances information.
 - 1. When the use of toxic substances or hazardous materials averages an amount equal to or in excess of fifty-five (55) liquid gallons per month or five-hundred (500) pounds dry weight per month, the applicant must provide for any design features, operating plans, and any other protection measures as the Planning Board deems appropriate and sufficient to prevent and/or monitor groundwater contamination in the event of a leak or spill of these substances.
 - 2. When toxic substances or hazardous materials are used, but the use averages less than fifty-five (55) liquid gallons per month or five hundred (500) pounds dry weight per month, and when the project is determined to have a potential detrimental impact to groundwater quality, the Planning Board may require the applicant to provide for any and all design features, operating plans, and/or such other protection measures as per C above.
 - 3. When storage of toxic substances or hazardous materials at any one time is equal to or exceeds a total of one-hundred eighty five (185) liquid gallons or a total of one-thousand seven hundred (1,700) pounds dry weight, the applicant must provide for any and all design features, operating plans, and such other additional protection measures as the Planning Board may require to prevent and/or monitor groundwater contamination, especially in the event of a potential leak or spill of these substances.

4. When storage of toxic substances or hazardous materials at any one (1) time is less than a total of one hundred eighty five (185) liquid gallons or a total of one thousand seven hundred (1,700) pounds dry weight, the Planning Board may require the applicant to provide for any and all design features, operating plans, and such other additional protection measures as per C above.

F. Water use information.

When the average daily water use is greater than 10,000 gallons per day, the applicant must, at a minimum, provide the following information:

1. Applicant must provide information on the expected average annual water use, expected maximum daily water use, and describe any seasonal variations in expected water use.
 2. Applicant must describe the nature of the water source (e.g., groundwater, surface water, spring, other), and whether the source is a public or private supply. Applicant must describe any proposed onsite water supply facilities if a new private supply will be developed.
 3. Applicant must describe the nature of the water use (e.g., onsite drinking water, manufacturing process, wholesale, etc.). If water is used in a manufacturing process, the nature of the use must be described (e.g., cooling water).
 4. Applicant must state the maximum gallons per day of consumptive water use and total annual consumptive water use, if any.
 5. Applicant must describe how wastewater will be disposed (e.g., public sanitary sewer, onsite wastewater system, etc.)
 6. The Planning Board may require that the applicant provide an assessment of potential impacts of the proposed water use on the quantity of water available for other existing water uses (e.g., neighboring wells) or water resources (e.g., streams, wetlands, aquifers).
- G. Such other information as the Planning Board shall request in order to have all facts before them prior to making its decision.
- H. Copies of any permits and applications to any other governmental agencies.

- I. A list of all toxic substances or hazardous materials used or stored on the premises together with sufficient detail to apprise the Planning Board of the method of storage and the amount of toxic substances or hazardous materials on the premises.
- J. The method of disposal of toxic substances or hazardous materials.

SECTION 570 PROCEDURES; HEARING

- A. The Planning Board shall refer an application for a special permit to the County Planning Board for comments and recommendations in accordance with General Municipal Law section 239.
- B. Where appropriate and not inconsistent with this Article, the Planning Board shall follow administrative procedures, including application fees and general and specific requirements, set forth in Article XIV of this Law.
- C. A public hearing shall be held prior to granting a special permit. Notice of the public hearing shall be published in the official Town newspaper not more than ten (10) days and not less than five (5) days before the date of such public hearing.

SECTION 571 ISSUANCE

- A. The Planning Board may grant the special permit, deny the special permit, or grant the special permit with conditions.
- B. All special permits shall include a requirement that the applicant use the best available means to prevent the contamination of the groundwater and the aquifers of the Town of Virgil. This shall be a continuing requirement.
- C. The Planning Board may impose a condition that the permittee obtain an environmental liability insurance policy in a reasonable amount.

SECTION 572 CHANGE IN USE OR OWNERSHIP

- A. Where a special permit has been issued, a change in either use or ownership requires an application for a new special permit.

- B. In the event that a change in ownership does not result in any change in use, the special permit shall be automatically granted and be considered an agreement between the Planning Board and the new owner that the provisions of this article shall be adhered to.

SECTION 590 ZONING SCHEDULES

- A. Tables 1 and 2 show the Use Schedules for residential/agricultural and commercial/industrial districts respectively.
- B. Tables 3 and 4 show the Development Standards Schedules for residential/agricultural and commercial/industrial districts respectively.

SECTION 2 Zoning Law Section 105 is hereby amended by adding the following definitions:

CONSUMPTIVE USE: The loss of water from a ground-water or surface water source through a manmade conveyance system (including such water that is purveyed through a public water supply system) due to transpiration by vegetation, incorporation into products during their manufacture, evaporation, diversion from the WATERSHED OR RECHARGE AREA, or any other process by which the water withdrawn is not returned to the WATERSHED OR RECHARGE AREA undiminished in quantity.

HAZARDOUS MATERIAL: Any substance found listed in either 40 CFR 261, 40 CFR 302, 6 NYCRR 371, or 6 NYCRR 597, alone or in combination, including but not limited to petroleum products, organic chemical solvents, heavy metal sludges, acids with a pH less than or equal to two (2), alkalis with a pH greater than or equal to twelve point five (12.5), radioactive substances, pathological or infectious wastes or any material exhibiting the characteristics of ignitability, corrosivity, reactivity or EP toxicity.

RECHARGE AREA: An area of land where rainwater infiltrates the ground to reach an aquifer.

TOXIC SUBSTANCE: Any compound or material which is or may be harmful to human health, as defined by § 4801, Subdivision 2, of the New York State Public Health Law.

WATERSHED: A region or area contributing stormwater ultimately to a particular watercourse or body of water.

SECTION 3 The official zoning map is hereby amended to include revised aquifer protection district areas, as set forth on the map prepared by the Cortland County Planning Department, said map bearing the same date as the adoption of this local law.

Adopted: April 8, 2010

Effective date: April 21, 2010