

## **Draft Town of Franklin Aquifer Protection Ordinance**

BE IT ORDAINED by the electors of the Town of Franklin at a duly warned Town Meeting held on \_\_\_\_\_, 2010 that an ordinance designated AN AQUIFER PROTECTION ORDINANCE is hereby enacted which provides as follows:

### **1.. TITLE AND AUTHORITY**

**1.1** Aquifers are an essential natural resource and a major source of public drinking water for the Town of Franklin and the State of Connecticut. Use of groundwater will increase as the population grows and opportunities for new surface water supplies diminish due to the rising cost of land and increasingly intense development. At the same time, numerous drinking water wells have been contaminated by certain land use activities, and others are now threatened. To address this problem, Connecticut has established the Aquifer Protection Area Program (Connecticut General Statutes §22a-354a to §22a-354bb) (hereafter "Aquifer Protection Program") to identify critical water supply aquifers and to protect them from pollution by managing land use. Protection requires coordinated responsibilities pursuant to the Aquifer Protection Program shared by the state, municipality and water companies to ensure a plentiful supply of public drinking water for present and future generations. The Town of Franklin does not qualify for the Aquifer Protection Program yet desires to undertake a local program of the same nature to protect this valuable resource of the Town and the State. It is therefore the purpose of this Ordinance to protect aquifer protection areas within the Town of Franklin by making provisions for:

A. implementing regulations consistent with state regulations and An Act Concerning Aquifer Protection Areas, Connecticut General Statutes §22a-354a to §22a-354bb (the "Act");

B. delineating aquifer protection areas on the Town of Franklin Potential High Yield Aquifers Study Area Map;

C. regulating land use activity within the aquifer protection area including: prohibiting certain new activities; registering existing regulated activities; and issuing permits for new regulated activities at registered facilities; and

D. administering and enforcing this Ordinance.

**1.2** This Ordinance was adopted and may be amended, from time to time, consistent with the provisions of §22a-354p of An Act Concerning Aquifer Protection Areas, the Connecticut General Statutes §22a-354a to §22a-354bb and the Regulations of Connecticut State Agencies §22a-354i-1 through §22a-354i-10.

- 1.3** The Board of Selectmen of the Town of Franklin (hereafter “Board”) is established as the Franklin Aquifer Protection Agency in accordance with the “Ordinance for the Establishment of an Aquifer Protection Agency,” (the “APA Ordinance”) effective (effective date of Ordinance), and shall implement the purposes and provisions of the APA Ordinance and this Ordinance.
- 1.4** The Board shall administer all provisions of this Ordinance and shall approve or deny registrations, issue permits with terms, conditions, limitations or modifications, or deny permits for all regulated activities in aquifer protection areas in the Town of Franklin pursuant to this Ordinance.

## **2. DEFINITIONS**

As used in this Ordinance, the following definitions apply:

**Agriculture or Agricultural** means “agriculture” as defined in the § 1-1(q) of the Connecticut General Statutes. Presently, § 1-1(q) defines “agriculture” as including “cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including horses, bees, poultry, fur-bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by a storm, as an incident to such farming operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale, any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale.

**Aquifer protection area** means “aquifer protection area” as defined in §22a-354h of the Connecticut General Statutes and any extension of such area approved by the Commissioner pursuant to §22a-354i-4 of the Regulations of Connecticut State Agencies. Presently, § 22a-354h defines “aquifer protection area” as “any area consisting of well fields, areas of contribution and recharge areas, identified on maps approved by the Commissioner of the Department of Environmental Protection pursuant to sections 22a-354b to 22a-354d, inclusive, within which land uses or activities shall be required to comply with regulations or ordinances adopted pursuant to sections 22a-354o by the municipality where the aquifer protection area is located” ;

**Area of contribution** means “area of contribution” as defined in §22a-354h of the Connecticut General Statutes and as mapped in accordance with §22a-354b-l of the Regulations of Connecticut State Agencies. Presently § 22a-354h defines “area of contribution” as “the area where the water table or other potentiometric surface is lowered due to the pumping of a well and groundwater flows directly to the well”;

**Affected water company** means “affected water company” as defined in § 22a-354h of the Connecticut General Statutes, as the same may be amended from time to time. Presently, § 22a-354h defines “affected water company” as “any public or private water company owning or operating a public water supply well within an aquifer protection area”;

**Bulk storage facility** means property where oil or petroleum liquids are received by tank vessel, pipeline, railroad car or tank vehicle for the purpose of storage for wholesale distribution;

**Certified Hazardous Materials Manager** means a hazardous materials manager certified by the Institute of Hazardous Materials Management and who is qualified by reason of relevant specialized training and relevant specialized experience to conduct audits of regulated activities to ensure compliance with applicable laws and identify appropriate pollution prevention practices for such(activities;

**Commissioner** means the Commissioner of the Connecticut Department of Environmental Protection, or his or her agent;

**De-icing chemical** means sodium chloride, calcium chloride, or calcium magnesium acetate;

**Domestic sewage** means “domestic sewage” as defined in §22a-430-3(a) the Regulations of Connecticut State Agencies. Presently, § 22a-430-3(a) defines “domestic sewage” as “sewage that consists of water and human excretions or other waterborne wastes incidental to the occupancy of residential buildings or non-residential buildings but not including manufacturing process water, cooling water, wastewater from water softening equipment, commercial laundry wastewater, blowdown from heating or cooling equipment, water from cellar or floor drains or surface water from roofs, paved surfaces or yard drains”;

**Facility** means property where a regulated aquifer activity is conducted by any person, including without limitation any buildings located on the property that are owned or leased by that person, and includes contiguous land owned, leased, or for which there is an option to purchase by that person,

**Facility Owner or Owner** means the owner or lessee of the facility in question;

**Floor drain** means any opening in a floor or surface which opening or surface receives materials spilled or deposited thereon;

**Hazardous material** means (A) any hazardous substance as defined in 40 CFR 302.4 and listed therein at Table 302.4, excluding mixtures with a total concentration of less than 1% hazardous substances based on volume, (B) any hazardous waste as defined in §22a-449(c)-1 01 of the Regulations of Connecticut State Agencies, (C) any pesticide as defined in §22a-47 of the Connecticut General Statutes, or (I)) any oil or petroleum as defined in §22a-448 of the Connecticut General Statutes;

**Hazardous waste** means “hazardous waste” as defined in §22a-449(c)-101 of the Regulations of Connecticut State Agencies. Presently Section 22a-449(c)-101 of the Regulations of Connecticut State Agencies defines hazardous wastes as follows: Hazardous waste means a solid, liquid or gaseous waste that meets one of the following conditions: (1) Is listed in Subpart D of 40 CFR 261; (2) Exhibits a characteristic defined in Subpart C of 40 CFR part 261 that include ignitability, corrosivity, reactivity and toxicity; (3) Is a mixture containing a listed hazardous waste and a non-hazardous solid waste; (4) Is derived from storage, treatment or disposal of a hazardous waste (For example: leachate is derived from disposal); (5) Is not excluded from regulation as a hazardous waste (Exclusions are limited and include very specific wastes treated in specific ways. For example: wastewater treatment plant sludges generated from electroplating operations and stored in on-site land fill).

**Industrial laundry** means a facility for washing clothes, cloth or other fabric used in industrial operations;

**Infiltration device** means any discharge device installed below or above the ground surface that is designed to discharge liquid to the ground;

**Inland wetland and watercourse areas map** means a map pursuant to §22a-42a of the Connecticut General Statutes;

**ISO 14001 environmental management system certification** means a current ISO 14001 environmental management system certification issued by an ISO 14001 environmental management system registrar that is accredited by the American National Standards Institute - American Society for Quality National Accreditation Board (ANSI-AS ABAB);

**Lubricating oil** means oil that contains less than 1% chlorinated solvents and is used for the sole purpose of lubricating, cutting, grinding, machining, stamping or quenching metals;

**Municipality** means “municipality” as defined in §22a-354h of the Connecticut General Statutes. Presently § 22a-354h defines “municipality” as “any town, consolidated town and city, consolidated town and borough, city or borough”;

**Person** means any individual, firm, partnership, association, syndicate, company, trust, corporation, limited liability company, municipality, agency, political or administrative subdivision of the state, or other legal entity of any kind;

**Pollution** means “pollution” as defined in §22a-423 of the Connecticut General Statutes. Presently, § 22a-423 defines “pollution” as “harmful thermal effect or the contamination or rendering unclean or impure of any waters of the state by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion and sedimentation resulting from any filling, land clearing or excavation activity”;

**Pollution prevention** means the use of processes and materials so as to reduce or minimize the amount of hazardous materials used or the quantity and concentration of pollutants in waste generated;

**Professional engineer (aquifer)** means a professional engineer licensed in accordance with Chapter 391 of the Connecticut General Statutes, and who is qualified by reason of relevant specialized training and relevant specialized experience to conduct audits of regulated aquifer activities to ensure compliance with applicable law and identify appropriate pollution prevention practices for such activities;

**Publicly Owned Treatment Works** means “publicly owned treatment works” as defined in §22a-430-3 of the Regulations of Connecticut State Agencies. Presently, § 22a-430-3 defines “publically owned treatment works” as “a system used for the collection, treatment, and/or disposal of sewage from more than one lot as defined in section 22a-430-1 of the Regulations of the Connecticut State Agencies and which discharges to the waters of the state and which is owned by a municipality or the state”;

**Public service company** means “public service company” as defined in §16-1 of the Connecticut General Statutes. Presently, § 16-1 defines “public service company” as including “electric, electric distribution, gas, telephone, telegraph, pipeline, sewage, water and community antenna television companies, owning, leasing, maintaining, operating, managing or controlling plants or parts of plants or equipment, and all express companies having special privileges on railroads within this state, but shall not include telegraph company functions concerning intrastate money order service, towns, cities, boroughs, any municipal corporation or department thereof, whether separately incorporated or not, a private power producer, as defined in section 16-243b, or an

exempt wholesale generator, as defined in 15 U.S.C. 79z-5a”;

**Public supply well** means “public supply well” as defined in §19-13-B51b of the Regulations of Connecticut State Agencies. Presently, § 19-13-B51b defines “public supply well” as “a water supply well used or made available by a water company to two or more consumers, as defined in section 25-32a of the 1969 supplement to the general statutes”;

**Recharge area** means “recharge area” as defined in §22a-354h of the Connecticut General Statutes and as mapped in accordance with §22a-354b-1 of the Regulations of Connecticut State Agencies. Presently, § 22a-354h defines “recharge area” as the area from which groundwater flows directly to the area of contribution”;

**Registered regulated activity** means a regulated aquifer activity which has been registered under §22a-354i-7 of the Regulations of Connecticut State Agencies or this Ordinance, and is conducted at the facility identified in such registration;

**Registrant** means a person, who or which, has submitted a registration for an existing regulated aquifer activity under §22a-354i-7 of the Regulations of Connecticut State Agencies or this Ordinance;

**Regulated aquifer activity** means any of the following activities, which are located or conducted, wholly or partially, in an aquifer protection area, except as provided for in §22a-354i-5(c) and §22a-354i-6 of the Regulations of Connecticut State Agencies, or this Ordinance:

1. underground storage or transmission of oil or petroleum, to the extent such activity is not pre-empted by federal law, or hazardous material, except for (a) an underground storage tank that contains number two (2) fuel oil and is located more than five hundred (500) feet from a public supply well subject to regulation under §22a-354c or §22a-354z of the Connecticut General Statutes, or (b) underground electrical facilities such as transformers, breakers, or cables containing oil for cooling or insulation purposes which are owned and operated by a public service company,
2. oil or petroleum dispensing for the purpose of retail, wholesale or fleet use,
3. on-site storage of hazardous materials for the purpose of wholesale sale,
4. repair or maintenance of vehicles or internal combustion engines of vehicles, involving the use, storage or disposal of hazardous materials, including solvents, lubricants, paints, brake fluids, transmission fluids or the generation of hazardous wastes,

5. salvage operations of metal or vehicle parts,
6. discharges to ground water other than domestic sewage; except for discharges from the following that have received a permit from the Commissioner: (a) a pump and treat system for ground water remediation, (b) a potable water treatment system, (c) heat pump system, (d) non-contact cooling water system, (e) storm water discharge system, (f) wastewater discharges to ground water other than domestic sewage and stormwater, except discharges from the following that have received a permit from the Commissioner pursuant to Section 22a-430 of the Connecticut General Statutes: (i) a pump and treat system for ground water remediation, (ii) a potable water treatment system, (iii) a heat pump system; (iv) a non-contact cooling water system, or (f) a swimming pool,
7. car or truck washing, unless all waste waters from such activity are lawfully disposed of through a connection to a publicly owned treatment works,
8. production or refining of chemicals, including without limitation hazardous materials or asphalt,
9. clothes or cloth cleaning service which involves the use, storage or disposal of hazardous materials including without limitation dry-cleaning solvents,
10. industrial laundry activity that involves the cleaning of clothes or cloth contaminated by hazardous material, unless all waste waters from such activity are lawfully disposed of through a connection to a publicly owned treatment works,
11. generation of electrical power by means of fossil fuels, except for (a) generation of electrical power by an emergency engine as defined by §§ 22a-174-22(a)(2) and (3) of the Regulations of Connecticut State Agencies, or (b) generation of electrical power by means of natural gas or propane. Presently, § 22a-174-22(a)(3) defines an “emergency engine” as “a stationary reciprocating engine or turbine engine which is used as a means of providing mechanical or electrical power only during periods of testing and scheduled maintenance or during either an emergency or in accordance with a contract intended to ensure an adequate supply of electricity for use within the State of Connecticut during the loss of electrical power derived from nuclear facilities. The term does not include an engine for which the owner or operator of such engine is party to any other agreement to sell electrical power from such engine to an elec,

12. production of electronic boards, electrical components, or other electrical equipment involving the use, storage or disposal of any hazardous material or involving metal plating, degreasing of parts or equipment, or etching operations,
13. embalming or crematory services which involve the use, storage or disposal of hazardous material, unless all waste waters from such activity are lawfully disposed of through a connection to a publicly owned treatment works,
14. furniture stripping operations which involve the use, storage or disposal of hazardous materials,
15. furniture finishing operations which involve the use, storage or disposal of hazardous materials, unless all waste waters from such activity are lawfully disposed of through a connection to a publicly owned treatment works,
16. storage, treatment or disposal of hazardous waste subject to a permit under §22a-449(c)-100 to §22a-449(c)-110, inclusive, of the Regulations of Connecticut State Agencies,
17. biological or chemical testing, analysis or research which involves the use, storage or disposal of hazardous material, unless all waste waters from such activity are lawfully disposed of through a connection to a publicly owned treatment works, and provided that on-site testing of a public supply well by a public water utility is not a regulated aquifer activity,
18. pest control services which involve storage, mixing or loading of pesticides or other hazardous materials,
19. photographic finishing which involves the use, storage or disposal of hazardous materials, unless all waste water from such activity are lawfully disposed of through a connection to a publicly owned treatment works,
20. production or fabrication of metal products which involves the use, storage or disposal of hazardous materials including (a) metal cleaning or degreasing with industrial solvents, (b) metal plating, or (c) metal etching,
21. printing, plate making, lithography, photoengraving, or gravure, which involves the use, storage or disposal of hazardous materials,
22. accumulation or storage of waste oil, anti-freeze or spent lead-acid



batteries which are subject to a general permit issued under §22a-208(i) and §22a-454(e)(I) of the Connecticut General Statutes, (Facilities subject to a general permit include transfer stations, landfills, household hazardous waste collection sites, and certain recycling facilities.)

23. production of rubber, resin cements, elastomers or plastic, which involves the use, storage or disposal of hazardous materials,
24. storage of de-icing chemicals, unless such storage takes place within a weather tight water-proof structure for the purpose of retail sale or for the purpose of deciding parking areas or access roads to parking areas,
25. accumulation, storage, handling, recycling, disposal, reduction, processing, burning, transfer or composting of solid waste which is subject to a permit issued by the Commissioner pursuant to §22a-207b, §22a-208a., and §22a-208c of the Connecticut General Statute, except for a potable water treatment sludge disposal area,
26. dying, coating or printing of textiles, or tanning or finishing of leather, which activity involves the use, storage or disposal of hazardous materials,
27. production of wood veneer, plywood, reconstituted wood or pressure-treated wood, which involves the use, storage or disposal of hazardous material, and
28. pulp production processes that involve bleaching;

**Release** means “release” as defined in §22a-133k-1(a)(51) of the Regulations of Connecticut State Agencies. Presently, § 22a-133k-1(a)(51) defines “release” as “any discharge, spillage, uncontrolled loss, seepage, filtration, leakage, injection, escape, dumping, pumping, pouring, emitting, emptying, or disposal of a substance”;

**State aquifer protection regulations** means §22a-354i-1 to §22a-354i-10, inclusive, of the Regulations of Connecticut State Agencies;

**Storage of hazardous materials** means the holding or possession of any hazardous material;

**Storage tank** means a stationary device which is designed to store hazardous materials, and is constructed of non-earthen materials including without limitation concrete, steel, fiberglass or plastic;

**Topographic feature** means an object, whether natural or man-made, located on the

earth surface and of sufficient size that it appears on a 1:24,000 scale topographic quadrangle map drawn by the United States Geological Survey;

**Town of Franklin Potential High Yield Aquifers Study Area Map** means the Town of Franklin drawing dated 9-18-09 illustrating (1) Potential High Yield Aquifers Study Area and (2) Surficial Aquifer Potential. This Map is based upon information provided by the State of Connecticut, Bureau of Water Protection and Land Reuse, Planning. This Map may be amended by the Board as additional geological and hydrogeologic information is obtained relative to areas of contribution and recharge areas consistent with the requirements of §§22a-354c, 22a-354d, 22a-254n and 22a-354z of the Connecticut General Statutes. The past and current versions of the Map shall be retained in the Office of the Town Clerk.

**Underground** when referring to a storage tank or storage tank component means that ten percent or more of the volumetric capacity of such tank or component is below the surface of the ground and that portion which is below the surface of the ground is not fully visible for inspection;

**Vehicle** or **vehicles** means any vehicle propelled or drawn by any non-muscular power, including without limitation an automobile, aircraft, all-terrain vehicle or snowmobile **or** a “vessel” as defined by §15-170 of the Connecticut General Statutes. Presently, §15-170 defines “vessel” as “every description of watercraft, other than a seaplane on water, used or capable of being used as a means of transportation on water”;

**Waters** means “waters” as defined in §22a-423 of the Connecticut General Statutes. Presently, § 22a-423 defines “waters” as “all tidal waters, harbors, estuaries, rivers, brooks, watercourses, waterways, wells, springs, lakes, ponds, marshes, drainage systems and all other surface or underground streams, bodies or accumulations of water, natural or artificial, public or private, which are contained within, flow through or border upon this state or any portion thereof.”;

**Well field** means “well field” as defined in §22a-354h of the Connecticut General Statutes. Presently, § 22a-354h defines “well field” as “the immediate area surrounding a public drinking water supply well or group of wells”.

### **3. DELINEATION OF AQUIFER PROTECTION AREA BOUNDARIES**

**3.1** The Board shall delineate the aquifer protection areas on the Town of Franklin Potential High Yield Aquifers Study Area Map. Such delineation shall consist of the combined areas of contribution and recharge areas as identified and approved by the Board.

- A. Such boundaries shall be delineated within one hundred twenty (120) days after being formal identification by the Board that an area of contribution and recharge is subject to designation as an aquifer protection area is located partially or entirely within the Town of Franklin.
- B. Notice of such delineation shall be published in a newspaper having substantial circulation in the affected area. Such notice shall include at least the following:
  - 1. a map or detailed description of the subject aquifer protection area; and
  - 2. the name, telephone number, and work address of the Zoning Enforcement Officer, who may be contacted for further information.
- C. Notice of such delineation shall be mailed, certified mail, return receipt requested, to each owner of property within the area designated as an aquifer protection area. This notice shall include the information called for in the published notice required by Section 3.1.B.

**3.2** In order to clarify the location of an aquifer protection area boundary, the Board may extend such boundary to coincide with the nearest property line, municipal boundary or topographic feature pursuant to §22a-354i-4 of the Regulations of Connecticut State Agencies. Such extension shall, at a minimum, fully encompass the aquifer protection areas bounded by Town of Franklin Potential High Yield Aquifers Study Area Map but shall not exceed the distance necessary to clarify the location of the aquifer protection area or to facilitate the administration of regulations pertaining thereto.

- A. Any request to the Board for extension of an aquifer protection area boundary shall include at least the following:
  - 1. A map to scale delineating (i) the aquifer protection area boundary mapped under Section 3.1 of this Ordinance and (ii) the proposed extension of the aquifer protection area boundary;
  - 2. A certification by the duly authorized agent of the applicant for the extension that notice of such request has been provided to all owners of property within the proposed extended aquifer protection area and all affected water companies in accordance with the following:
    - (a) Such notice shall include at least the following:

- (i) A map showing the aquifer protection area boundaries and the proposed extension of such boundaries,
    - (ii) the name, work address, and telephone number of the Zoning Enforcement Officer, and
    - (iii) a statement that any person may, not later than thirty (30) days after said notification, submit to the applicant written comments on such proposed boundary extension;
  - (b) Such notice shall be effectuated by the following:
    - (i) Delivery of notice by certified mail to those individuals and entities identified in Subsection 3.2.A.2, or
    - (ii) the publication of a notice in a newspaper having substantial circulation in the affected area; and posting of notice near the proposed boundaries of the subject aquifer, protection area of at least four signs each of which shall be at least four square feet in size (2' x 2'); and
  - (c) a summary of comments received by such applicant regarding the proposed boundary extension and the applicant's response.
- B. Not later than sixty (60) days after the request for extension the Board shall cause such boundary to be delineated in accordance with subsection (a) of this section if the Board concludes the extension is reasonably justified.
- 3.3** No person may challenge the boundaries of the aquifer protection area under this Ordinance unless such challenge is based solely on a failure by the Board to properly delineate the boundaries in accordance with §22a-354n of the Connecticut General Statutes.
- 3.4** A map of the location and boundaries of the aquifer protection areas, or regulated areas, shall be available for inspection in the Office of the Town Clerk or the Board.
- 3.5** If the Town of Franklin Potential High Yield Aquifers Study Area Map is

amended by the Board consistent with the provisions of §22a-354b-i(i) or §22a-354b-1(j) of the Regulations of Connecticut State Agencies and this Ordinance, the Board shall cause the amended aquifer protection area boundary to be delineated in accordance with Section 3.1 or 3.2 of this Ordinance.

#### **4. PROHIBITED AND REGULATED ACTIVITIES**

**4.1** All regulated aquifer activities are prohibited in aquifer protection areas, except as specified in Section 4.2.

**4.2** The following regulated activities are not prohibited in aquifer protection areas:

- A. A registered regulated activity which is conducted in compliance with §22a-354i-9 of the Regulations of Connecticut State Agencies and Section 12 of this Ordinance.
- B. A regulated aquifer activity which has received a permit issued pursuant to §22a-354i-8 of the Regulations of Connecticut State Agencies and Section 9 of this Ordinance.

**4.3** The following are non-regulated aquifer activities

- A. Any activity conducted at a residence without compensation;
- B. any activity involving the use or storage of no more than two and one-half (2.5) gallons of each type of hazardous material on-site at any one time, provided the total of all hazardous materials on-site does not exceed fifty-five (55) gallons at any one time;
- C. any agricultural activity regulated pursuant to §22a-354m(d) of the Connecticut General Statutes;
- D. any activity provided all the following conditions are satisfied:
  - 1. such activity takes place solely within an enclosed building in an area with an impermeable floor,
  - 2. such activity involves no more than 10% of the floor area in the building where the activity takes place,
  - 3. any hazardous material used in connection with such activity is stored in such building at all times,

4. all waste waters generated by such activity are lawfully disposed through a connection to a publicly owned treatment works, and
  5. such activity does not involve (a) repair or maintenance of internal combustion engines, including without limitation, vehicles, or equipment associated with such vehicles, (b) underground storage of any hazardous material, or (c) above ground storage of more than one hundred and ten (110) gallons of hazardous materials;
- E. any activity solely involving the use of lubricating oil provided all the following conditions are satisfied:
1. such activity does not involve cleaning of metals with chlorinated solvents at the facility,
  2. such activity takes place solely within an enclosed building in an area with an impermeable floor,
  3. any hazardous material used in connection with such activity is stored in such building at all times, and
  4. such activity does not involve: (a) repair or maintenance of internal combustion engines, including without limitation, vehicles, or equipment associated with such vehicles, (b) underground storage of any hazardous material, or (c) above ground storage of more than one hundred ten (110) gallons of such lubricating Oil and associated hazardous waste; and
- F. any activity involving the dispensing of oil or petroleum from an above-ground storage tank or tanks with an aggregate volume of two thousand (2000) gallons or less provided all the following conditions are satisfied:
1. such dispensing activity takes place solely on a paved surface which is covered by a roof,
  2. the above-ground storage tank(s) is a double-walled tank with overfill alarms, and
  3. all associated piping is either above ground, or has secondary containment.

#### **4.4 Determination of a non-regulated aquifer activity**

- A. Any person proposing to carry out a non-regulated aquifer activity, as set

forth in Section 4.3 of this Ordinance, in an aquifer protection area shall, prior to commencement of such activity, notify the Board or its duly authorized agent on a form provided by the Board. Such form shall provide sufficient information to enable the Board or its duly authorized agent to properly determine that the proposed activity is a regulated aquifer activity or a non-regulated aquifer activity within the aquifer protection area.

- B. If such activity is determined to be a non-regulated aquifer activity, then no further action under this Ordinance is necessary including the imposition of fines as authorized by Connecticut General Statutes.

## **5. ACTIVITIES REGULATED BY THE STATE**

- 5.1** The Commissioner shall exclusively regulate activities within aquifer protection areas that are specified in §22a-354p(g) of the Connecticut General Statutes. The Board shall regulate all other regulated aquifer activities.

Presently, §22a-354p(g) grants the Commissioner exclusive authority to regulate activities proposed by:

(A)(1) any person to whom the Commissioner has issued an individual permit under the national pollutant discharge elimination system of the federal Clean Water Act (33 USC 1251, *et seq.*), or  
(2) under the state pollutant discharge elimination system pursuant to Conn. Gen. Stats. § 22a-430, or  
(3) any person to whom the Commissioner has issued a permit under the provisions of the federal Resource Conservation and Recovery Act (42 USC 6901, *et seq.*) for a treatment, storage or disposal facility;

(B) any public service company, as defined in Conn. Gen. Stats. § 16-1, providing gas, electric, pipeline, water or telephone service;

(C) any large quantity generator, as defined in regulations adopted by the Commissioner under Conn. Gen. Stats. § 22a-339; or

(D) any state department, agency or instrumentality, except any local or regional board of education.

- 5.2** Any person conducting regulated activities that are within the authority of the Commissioner shall submit a registration or obtain a permit or exemption from the Commissioner prior to engaging in such activity. The Commissioner shall process applications for those regulated activities.
- 5.3** The Board may submit an advisory decision to the Commissioner for

consideration on any permit regulated under this section in accordance with the Connecticut General Statutes §22a-354p(g).

## **6. APPLICATION FOR AN EXEMPTION FROM PROHIBITION OR REGULATION**

- 6.1** The owner or operator of a regulated aquifer activity may seek an exemption from the Commissioner pursuant to §22a-354i-6 of the Regulations of Connecticut State Agencies. Any person seeking an exemption from the Commissioner shall concurrently submit a copy of the application for an exemption to the Board and any affected water company
- 6.2** The Board may submit written comments to the Commissioner on any exemption regulated under this section in accordance with §22a-354i-6(c) of the Regulations of Connecticut State Agencies within sixty (60) days of the agency receipt of copy of the application.

## **7. GENERAL REGISTRATION, PERMIT APPLICATION AND TRANSFER PROCEDURES**

- 7.1** All applications for permits and registrations shall conform to the requirements for Site Plan submissions set forth in the Town of Franklin Zoning Regulations. The Board may request additional information from the applicant for this purpose.
- 7.2** The date of receipt of a registration, permit application or transfer form shall be the date of the first regularly scheduled meeting of the Board after submission of the application or thirty (30) days after delivery of the application, which ever date occurs first.
- 7.3** At any time during the review period, the Board may require the applicant or registrant to provide additional information about the regulated aquifer activity. Requests for additional information shall not stay the time limitations for registrations and permits as set forth in Sections 8 and 9 of this Ordinance.
- 7.4** All permit applications and registrations shall be open for public inspection.
- 7.5** Incomplete permit applications and registrations may be denied without prejudice.
- 7.6** No permit or registration issued under Sections 8 or 9 of this Ordinance shall be assigned or transferred except with written approval by the Board.



## **8 REGISTRATION REQUIREMENTS**

**8.1** Any person engaged in a regulated aquifer activity which substantially commenced, or was in active operation within the past five (5) years, or with respect to which a municipal building permit was issued, either (A) before the effective date of the state aquifer protection regulations, or (B) before the date an applicable aquifer protection area is designated on a municipal zoning district map, whichever occurs later, shall register the activity in accordance with this section unless such person has pending an application for an exemption pursuant to §22a-354i-6 of the Regulations of Connecticut State Agencies.

A. The Commissioner shall process registrations for those regulated aquifer activities specified in §22a-354p(g) of the Connecticut General Statutes. The Board shall process registrations for all other regulated aquifer activities.

B. Persons engaged in regulated aquifer activities not governed by §22a-354p(g) of the Connecticut General Statutes, as set forth in Section 5, above, must register with the Board. The person engaged in such activity shall submit a registration to the Board not later than one hundred eighty (180) days after the later of:

(1) the effective date of this Ordinance; or

(2) the designation of the aquifer protection area pursuant to §22a-354i-2 of the Regulations of Connecticut State Agencies.

Said person shall simultaneously *also* file a copy of the registration with the Commissioner, Commissioner of Public Health and the affected water company.

**8.2** All registrations shall be provided on a form prescribed by the Board and shall be accompanied by the correct registration fee in accordance with Section 18 of this Ordinance. Such registration forms may be obtained from the Franklin Town Clerk or the Board. Such registration forms shall include at least the following information in writing or on maps or drawings:

A. The name, business telephone number, street address and mailing address of the:

1. Registrant; if the registrant is a corporation, limited liability company or limited partnership, the full name of the facility and such corporation, limited liability company or limited partnership as registered with the Connecticut Secretary of State, and any officer or governing or managing body of any partnership, association, firm or corporation,

- 2. owner of such facility if different than the registrant, and
- 3. manager or operator overseeing the operations of such facility;
- B. the location of such facility, using street address or other appropriate method of location, and a map showing the property boundaries of the facility on a 1:24,000 scale United States Geological Survey topographic quadrangle base;
- C. an identification of the regulated aquifer activity or activities conducted at the facility, as defined in Section 2 of this Ordinance, which regulated aquifer activity or activities shall consist of any regulated aquifer activity which substantially commenced, was in active operation, or with respect to which a municipal building permit was issued within the past five years; and
- D. a certification by the registrant that the subject regulated aquifer activity is in compliance with the best management practices set forth in Section 12.1 of this Ordinance, as follows, signed after satisfying the statements set forth in the following certification:

“I have personally examined and am familiar with the information submitted in this registration and all attachments, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief I understand that any false statement made in this document or certification may be punishable as a criminal offense under §53a-1 57b of the Connecticut General Statutes and any other applicable law”

**8.3** When deemed necessary to protect a public supply well subject to regulation under §22a-354c or §22a-354z of the Connecticut General Statutes, the Board may:

- A. require, by written notice, any registrant to submit for review and written approval a storm water management plan prepared in accordance with Section 12.1 of this Ordinance. If so required, the storm water management plan shall be implemented by the registrant immediately upon its approval; or
- B. require, by written notice, any registrant to submit for review and written approval the materials management plan prepared in accordance with Section 12.1 of this Ordinance. If so required, the materials management

plan shall be implemented by the registrant immediately upon its approval

- 8.4** If the Board determines that a registration is incomplete, it shall reject the registration and notify the registrant of what additional information is required and the date by which it shall be submitted.
- 8.5** If the registration is determined to be complete, and the regulated aquifer activity is eligible for registration, the Board shall send written notification of such registration to the registrant. Such registration shall be determined to be complete and eligible if the registrant has not otherwise received a notice of rejection from the Board, not later than one hundred and eighty (180) days after the date the registration is received by the Board.
- 8.6** The following general provisions shall be included in the issuance of all registrations:
- A. The Board has relied in whole or in part on information provided by the registrant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the registration may be modified, suspended or revoked;
  - B. all registrations issued by the Board are subject to and do not derogate any present or future rights or powers of the Commissioner, Board, or municipality, and convey no rights in real estate or material nor, any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the subject land or activity;
  - C. a complete registration shall expire five (5) years from the date of receipt of such registration by the Board;
  - D. the registrant shall apply to the Board to renew the registration on a form prescribed by the Board for a facility prior to expiration of such registration; and
  - E. If a registered regulated aquifer activity is out of business or inactive when registration renewal is required, a five (5) year allowance shall be in effect from the date the registration expires. If the registrant has not applied to renew the registration within five (5) years of the date the registration expires, the facility is no longer eligible for registration
- 8.7** If a regulated aquifer activity which is eligible for registration in accordance with Section 8.1 of this Ordinance fails to be registered or if the registrant of an active registered activity fails to apply for renewal prior to expiration, the Commissioner

or the Board, as appropriate, may accept a late registration at their discretion, subject to the limitations in Section 8.6 (E), above.

- 8.8** Any person wishing to assume the benefits under a registration for regulated activities shall apply to transfer such registration on a form prescribed by the Board and submitted to the Board.
- 8.9** The foregoing registration requirements are in addition to any application requirements which may be required by the Town of Franklin Zoning Regulations or the Town of Franklin Inland Wetlands and Watercourses Regulations. Any application for proposed land use activity regulated pursuant to the Zoning Regulations or the Inland Wetlands and Watercourses Regulations shall be submitted simultaneously with the registration required by this section.

## **9. PERMIT REQUIREMENTS**

- 9.1** Any person may apply for a permit to add a regulated aquifer activity to a facility where a registered regulated aquifer activity occurs.
- 9.2** The Board shall process permit applications for those registrants that have registered pursuant to Section 8.1 of this Ordinance. The Commissioner shall process permit applications for regulated activities specified in §22a-354p(g) of the Connecticut General Statutes and for those registrants that have registered pursuant to §22a-354i-7(b)(1) of the Regulations of Connecticut State Agencies.
- 9.3** Action shall be taken on permit applications within thirty-five (35) days after the completion of a public hearing or in the absence of a public hearing within sixty-five (65) days from the date of receipt of the application.
- 9.4** An application for a permit shall be made on a form prescribed by the Board and shall be accompanied by the correct application fee in accordance with Section 18 of this Ordinance. Such permit application forms may be obtained from the Franklin Town Clerk or the Board. Simultaneously with filing an application, the applicant shall send a copy of the application to the Commissioner, the Commissioner of Public Health and the affected water company. An application shall include the following information:
  - A. The information as required for a registration under Section 8.2 of this Ordinance shall be provided for the proposed regulated aquifer activity;
  - B. a confirmation and certification that the existing and proposed activity:
    - 1. remains and shall remain in compliance with Section 12.1 of this Ordinance,

2. shall not increase the number of underground storage tanks used for storage of hazardous materials, and

3. remains and shall remain in compliance with all local, state, and federal environmental laws;

C. a materials management plan in accordance with Section 12.1 of this Ordinance,

D. a storm water management plan in accordance with Section 12.2 of this Ordinance;

E. the following environmental compliance information with respect to environmental violations which occurred at the facility where the regulated activities are conducted, within the five years immediately preceding the date of the application:

1. any criminal conviction involving a violation of any environmental protection law,

2. any civil penalty imposed in any state or federal judicial proceeding, or any penalty exceeding five thousand dollars imposed in any administrative proceeding, and

3. any judicial or administrative orders issued regarding any such violation together with the dates, case or docket numbers, or other information which identifies the proceeding. For any such proceeding initiated by the state or federal government, the Board may require submission of a copy of any official document associated with the proceeding, the final judgment or order;

F. any additional information deemed necessary by the Board regarding potential threats to the ground water and proposed safeguards; and

G. the following certification signed by the applicant and the individual responsible for preparing the application, after satisfying the statements set forth in the certification:

"I have personally examined and am familiar with the information submitted in this document and all attachments, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for

obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information is punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.”

- 9.5** The following entities may submit written comments to the Board, provided that such comments are submitted to the Board within thirty (30) days of their receiving a copy of the application under this Section: (A) the Commissioner; (B) any affected water company, (C) the Commissioner of Public Health, (D) the Wetlands Enforcement Official, and (E) the Zoning Enforcement Official. The Board shall give due consideration to any such comments, and shall provide a copy of the decision to the Commissioner, the affected water company or companies, the Commissioner of Public Health, the Wetlands Enforcement Official and the Zoning Enforcement Official.
- 9.6** To carry out the purposes of the Act, the Board may: (A) grant an application as filed, (B) grant an application upon such terms, conditions, limitations or modifications necessary, or (C) deny it. The Board shall state upon the record the reason for its decision.
- 9.7** The Board may hold a public hearing on an application for a permit in accordance with Section 10 of this Ordinance.
- 9.8** The Board shall not issue a permit unless a complete application has been received and the applicant demonstrates to the Board’s satisfaction that all requirements of Section 9 of this Ordinance have been satisfied and all of the following standards and criteria have been met:
- A. the proposed regulated aquifer activity shall take place at a facility where a registered regulated aquifer activity occurs;
  - B. the proposed regulated aquifer activity shall not increase the number, or storage capacity of underground storage tanks used for hazardous materials except for the replacement of an existing underground storage tank in accordance with Section 12.1 (C) of this Ordinance;
  - C. the materials management plan and storm water management plan have been satisfactorily prepared in accordance with Sections 12.1 and 12.2 of this Ordinance;
  - D. the applicant has submitted a confirmation and certification that all regulated activities remain and shall remain in compliance with all local, state and federal environmental laws in accordance with Section 9.4 (B) of

this Ordinance;

E. the applicant's compliance record does not indicate (1) that any noncompliance resulted from indifference to or disregard for the legal requirements, (2) an unwillingness or inability to devote the resources necessary to comply and remain in compliance, or (3) that instances of noncompliance have led to serious environmental harm, harm to human health or safety, or a substantial risk of such harm;

F. the proposed regulated aquifer activity shall be conducted in accordance with Section 12 of this Ordinance;

G. the existing regulated aquifer activity is being conducted in accordance with Section 12 of this Ordinance; and

H. the certification required under Section 9.4 (G) of this Ordinance has been signed by the applicant and the individual responsible for preparing the application.

**9.9** The Board may impose reasonable conditions or limitations on any permit issued under this section to assure protection of the ground water, including, but not limited to the following:

A. best management practices in addition to those set forth in Section 12 of this Ordinance; and

B. ground water monitoring.

**9.10** The following general provisions shall be included in the issuance of all permits

A. the Board has relied in whole or in part on information provided by the applicant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked;

B. all permits issued by the Board are subject to and do not derogate any present or future rights or powers of the Commissioner, Board, or municipality, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the subject land or activity;

C. the permit shall expire ten (10) years from the date of issuance of such permit by the Board; and

D. a person shall apply to the Board to renew the permit on a form prescribed by the Board prior to expiration of such permit. Such renewal shall be granted upon request by the Board unless a substantial change in the permitted activity is proposed, or enforcement action with regard to the regulated aquifer activity has been taken, in which case, a new permit application shall be submitted and reviewed in accordance' with the provisions of this section.

- 9.11** The Board shall notify the applicant or permittee within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Board shall cause notice of its order in issuance or denial of a permit to be published in a newspaper having a general circulation in the municipality in which the aquifer protection area is located.
- 9.12** A permittee may request a modification of a permit from the Board. Such request shall be on a form prescribed by the Board, and shall include the facts and reasons supporting the request. The Board may require the permittee to submit a new application for a permit or renewal in lieu of a modification request.
- 9.13** A person wishing to assume the benefits under a permit for regulated activities shall apply to transfer such permit on a form prescribed by the Board and submitted to the Board.

## **10. PUBLIC HEARINGS REGARDING PERMIT APPLICATIONS**

- 10.1** If the Board decides to hold a public hearing regarding an application for a permit to conduct a regulated aquifer activity within an aquifer protection area, such hearing shall commence no later than sixty-five (65) days after the receipt of such application.
- 10.2** Notice of the hearing shall be published at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days and not fewer than ten (10) .days, and the last not less than two (2) days before the date set for the hearing in a newspaper having a general circulation in each' Town where the affected aquifer, or any part thereof, is located.
- 10.3** The Board shall send to any affected water company, at least ten (10) days before the hearing, a copy of the notice by certified mail, return receipt requested Any affected water company may, through a representative, appear and be heard at any such hearing
- 10.4** All applications, maps and documents relating thereto shall be open for public inspection.



- 10.5** At such hearing any person or persons may appear and be heard.
- 10.6** The hearing shall be completed within forty-five (45) days of its commencement.
- 10.7** In reaching its decision on any application after a public hearing, the Board shall base its' decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Board in its decision.
- 10.8** The applicant or permittee shall be notified of the Board's decision in accordance with Section 9.11 of the Ordinance.

## **11. BOND AND INSURANCE RELEVANT TO PERMIT APPLICANTS**

- 11.1** An applicant may be required to file a bond as a condition of the permit.
- 11.2** Any bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations established in the permit.
- 11.3** Any bond required by the Board shall be in addition to any bond which may be required by the Inland Wetlands and Watercourses Commission or the Planning and Zoning Commission.

## **12. BEST MANAGEMENT PRACTICES**

- 12.1** Every regulated aquifer activity shall be conducted in accordance with the following:
- A. hazardous materials may be stored above ground within an aquifer protection area only in accordance with the following conditions:
1. hazardous material shall be stored in a building or under a roof that minimizes storm water entry to the hazardous material storage area, except that a roof is not required for a bulk storage facility as defined in Section 2 of this Ordinance,
  2. floors within a building or under a roof where hazardous material may be stored shall be constructed or treated to protect the surface of the floor from deterioration due to spillage of any such material,
  3. a structure which may be used for storage or transfer of hazardous material shall be protected from storm water run-on, and ground water intrusion,

4. hazardous material shall be stored within an impermeable containment area which is capable of containing at least the volume of the largest container of such hazardous material present in such area, or 10% of the total volume of all such containers in such area, whichever is larger, without overflow of released hazardous material from the containment area,

5. hazardous material shall not be stored with other hazardous materials that are incompatible and may create a hazard of fire, explosion or generation of toxic substances,

6. hazardous material shall be stored only in a container that has been certified to meet state or federal specifications for containers suitable for the transport of such material,

7. hazardous material shall be stored only in an area that is secured against unauthorized entry by the public, and

8. the requirements of this subdivision are intended to supplement, and not to supersede, any other applicable requirements of federal, state, or local law, including applicable requirements of the Resource Conservation and Recovery Act of 1976;

B. no person shall increase the number of underground storage tanks used to store hazardous materials;

C. an underground storage tank used to store hazardous materials shall not be replaced with a larger tank unless (1) there is no more than a 25% increase in volume of the larger replacement tank, and (2) the larger replacement tank is a double-walled tank with co-axial piping, both meeting new installation component standards pursuant to §22a-449(d)-1(e) and §22a-449(d)-102 of the Regulations of Connecticut State Agencies, and with interstitial monitoring;

D. no person shall use, maintain or install floor drains, dry wells or other infiltration devices or appurtenances which allow the release of waste waters to the ground, unless such release is permitted by the Board in accordance with §22a-430 or §22a-430b of the Connecticut General Statutes; and

E. a materials management plan shall be developed and implemented in accordance with the following:

1. a materials management plan shall contain, at a minimum, the following information with respect to the subject regulated aquifer activity:

(a) a pollution prevention assessment consisting of a detailed evaluation of alternatives to the use of hazardous materials or processes and practices that would reduce or eliminate the use of hazardous materials, and implementation of such alternatives where possible and feasible,

(b) a description of any operations or practices which may pose a threat of pollution to the aquifer, which shall include the following:

(i) a process flow diagram identifying where hazardous materials are stored, disposed and used, and where 'hazardous wastes are generated and subsequently stored and disposed,

(ii) an inventory of all hazardous materials which are likely to be or will be manufactured, produced, stored, utilized or otherwise handled, and

(iii) a description of waste, including waste waters generated, and a description of how such wastes are handled, stored and disposed,

(c) the name, street address, mailing address, title and telephone number of the individual(s) responsible for implementing the materials management plan and the individual(s) who should be contacted in an emergency,

(d) a record-keeping system to account for the types, quantities, and disposition of hazardous materials which are manufactured, produced, utilized, stored, or otherwise handled or which are discharged or emitted; such record-keeping system shall be maintained at the subject facility and shall be made available thereat for inspection during normal business hours by the Commissioner and the Board, and

(e) an emergency response plan for responding to a release of hazardous materials. Such plan shall describe how each such release could result in pollution to the underlying aquifer and shall set forth the methods used or to be used to prevent and abate any such a release;

2. when a materials management plan is required under either Sections 8.3 or 9.4 of this Ordinance, such materials management plan shall be completed and certified by a professional engineer (aquifer) or a certified hazardous materials manager, or, if the facility where the regulated aquifer activity is conducted has received and maintained an ISO 14001 environmental management system certification, then the registrant may complete and certify the materials management plan; and

3. the materials management plan shall be maintained at the subject facility and shall be made available there for inspection during normal business hours by the Commissioner and the Board or their agents.

**12.2** The development and implementation of a storm water management plan required for regulated activities in accordance with Sections 8.3 and 9.4 of this Ordinance, shall be as follows: A storm water management plan shall assure that storm water run-off generated by the subject regulated aquifer activity is (A) managed in a manner so as to prevent pollution of ground water, and (B) shall comply with all of the requirements for the General Permit of the Discharge of Storm Water associated with a Commercial Activity issued pursuant to §22a-430b of the Connecticut General Statutes.

### **13 OTHER STATE, FEDERAL AND LOCAL LAWS**

**13.1** Nothing in these regulations shall obviate the requirement for the applicant to obtain any other assents, permits or licenses required by law or regulation by the Town of Franklin, State of Connecticut and the Government of the United States including any approval required by the Connecticut Department of Environmental Protection and the U.S. Army Corps of Engineers and the United States Environmental Protection Agency. Obtaining such assents, permits or licenses are the sole responsibility of the applicant.

**13.2** No person shall conduct any regulated aquifer activity within an aquifer protection area which requires zoning or subdivision approval without first having obtained a valid certificate of zoning or subdivision approval, special permit, special exception or variance, or other documentation establishing that the proposal

complies with this Ordinance.

#### **14. ENFORCEMENT**

**14.1** The provisions of this Ordinance shall be enforced by the agent or agents appointed by the Board.

**14.2** If the Board or its duly authorized agent finds that any person is conducting or maintaining any activity, facility or condition which violates any provision of this Ordinance, Board or its duly authorized agent may:

A. Issue a notice of violation.

1. The notice of violation shall state the nature of the violation, the jurisdiction of the Board, and the necessary action required to correct the violation including without limitation halting the activity in the aquifer protection area.

2. The Board may request that the person appear at the next regularly scheduled meeting of the Board to discuss the unauthorized activity, and/or provide a written reply to the notice or file an application for the necessary permit or registration. Failure to carry out the action(s) directed in a notice of violation may result in issuance of an order under Subsection 14.2 (B) or other enforcement proceedings as provided by law.

B. Issue a written order.

1. Such order shall be issued by certified mail, return receipt requested to such person conducting such activity or maintaining such facility or condition to cease such activity immediately or to correct such facility or condition. The Board shall send a copy of such order to any affected water company by certified mail, return receipt requested.

2. Within ten (10) days of the issuance of such order the Board shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. Any affected water company may testify at the hearing. The Board shall consider the facts presented at the hearing and, within ten (10) days of the completion of the hearing, notify the person by certified mail, return receipt requested, that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn.

C. Suspend or revoke registration or permit.

1. The Board may suspend or revoke a registration or a permit if it finds, after a hearing, that the registrant or permittee has not complied with the terms, conditions or limitations set forth in the registration or the permit. Prior to revoking or suspending any registration or permit, the Board shall issue notice to the registrant or the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct that warrants the intended action.

2. The Board shall hold a hearing to provide the registrant or permittee an opportunity to show that it is in compliance with its registration or permit. The Board shall notify the registrant or permittee of its decision by certified mail within fifteen (15) days of the date of its decision. The Board shall publish notice of a suspension or revocation in a newspaper having general circulation in the Town of Franklin.

- 14.3** An order issued pursuant to Section 14.2 (B) shall be effective upon issuance, shall remain in effect until the Board affirms, revises, or withdraws the order, and shall not delay or bar an action pursuant to Section 14.2 (C).

**15. AMENDMENTS**

- 15.1** This Ordinance may be amended, changed or repealed in a manner consistent with §22a-354p(b) of the Connecticut General Statutes.
- 15.2** If a complete application is filed with the Board which is in conformance with this Ordinance as of the date of its filing, the permit issued shall not be required to comply with any changes in regulations taking effect on or after the filing date. The provisions of this section shall not apply to the establishment, amendment, or change of the boundaries of the aquifer protection area or to any changes to this Ordinance necessary to make this Ordinance consistent with Chapter 446i of the Connecticut General Statutes as of the date of the Board's decision

**16. APPEALS**

- 16.1** Appeal of the Board's regulation, order, decision or action shall be made as permitted by the laws of the State of Connecticut.

**17. CONFLICT AND SEVERANCE**

**17.1** If there is a conflict between differing provisions of this Ordinance, the provision that imposes the most stringent standards shall govern.

**17.2** If there is a conflict between the provisions of this Ordinance and the Act, the provisions of the Act shall govern.

**18. REGISTRATION AND PERMIT APPLICATION FEES**

**18.1** All fees required by this Ordinance shall be submitted to the Board by certified check or money order payable to the Town of Franklin at the time the registration or permit application is filed with the Board.

**18.2** No registration or permit application shall be granted or approved by the Board unless the correct registration/application fee is paid in full or unless a waiver has been granted by the Board pursuant to Section 18.6 of this Ordinance.

**18.3** The registration or permit application fee is nonrefundable.

**18.4** Registration or permit application fees shall be based on the following schedule:

**Fee Schedule**

<b>Facility Size</b>	<b>Small (&lt;1 acre)</b>	<b>Medium (1-5 acres)</b>	<b>Large ~5 acres)</b>
<b>Registrations:</b>	\$25	\$25	\$25
Industrial	\$25	\$25	\$25
Commercial	\$25	\$25	\$25
Other			

<b>Fee_Schedule_(continued)</b>	
	<b>Facility Size</b>

	<b>Small (&lt; 1 acre)</b>	<b>Medium (1-5 acres)</b>	<b>Large (&gt;5 acres)</b>
Permits:			
Industrial	\$25	\$25	\$25
Commercial	\$25	\$25	\$25
Other	\$25	\$25	\$25
<b>Materials Management Plan Reviews</b>	\$150	\$150	\$150
<b>Storm water Management Plan Reviews</b>	\$150	\$150	\$150
<b>Public Hearing</b>	\$200	\$200	\$200
<b>Facility Inspection/Monitoring</b>	\$150	\$150	\$150
<b>Regulation Petition,</b>	\$250	\$250	\$250

**18.5** Boards, commissions, councils and departments of the Town of Franklin are exempt from all fee requirements.

**18.6** The registrant or applicant may petition the Board to waive, reduce or allow delayed payment of the fee. Such petitions shall be in writing and shall state fully the facts and circumstances the Board should consider in its determination under this section. The Board may waive all or part of the application fee if the Board determines that:



- A. the activity applied for would clearly result in a substantial public benefit to the environment or to the public health and safety and the registrant or applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the registration or permit application fee; or
- B. the amount of the registration or permit application fee is clearly excessive in relation to the cost to the Town for reviewing and processing the application.

#### **18.7 Extra Assessments**

In the event that additional expenses, including but not limited to outside consultants, experts, or legal advisors are incurred in processing the registration or permit application the applicant/registrant may be assessed an additional fee to cover said costs. Said fees are to be estimated by the duly authorized agent and submitted with the application fee and held until the application is completely processed after which time any residual funds pertaining to this assessment are to be returned to the applicant/registrant.

For the purpose of this assessment, an “outside consultant” means a professional who is not an employee of the Town of Franklin including but not limited to engineering, environmental, hydrogeologic and hazardous materials management professionals.

#### **18.8 The Board shall state upon its record the basis for all actions under this section.**

### **19. EFFECTIVE DATE OF ORDINANCE**

This Ordinance, including the setting of aquifer boundaries and amendments thereto, shall become effective fifteen (15) days after publication.

**Effective Date** \_\_\_\_\_

**Revision Date:**

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