
Article 1307
Wellhead Protection

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1307.01 SPECIFIC TERMS

The following words and phrases shall have the meaning given in this Ordinance:

AUTHORITY. The General Authority of the City of Franklin.

CITY. The City of Franklin, Venango County, Pennsylvania.

CODE ENFORCEMENT OFFICER. The Code Enforcement Officer of the City or his designee.

CONTAMINANTS. Waste products, hydrocarbons, heavy metals, herbicides, pesticides, chlorinated hydrocarbons or any other substance determined to be a contaminant by the Authority, the City, the Code Enforcement Officer, Pennsylvania Department of Environmental Resources, or the United States of America Environmental Protection Agency.

ENGINEER. The Engineer of the City or his designee.

HAZARDOUS SUBSTANCE. Any substance which is known to be toxic to humans so as to pose a hazard to health, or in the absence of adequate data on human toxicity, is presumed to be toxic to humans because when tested on laboratory animals it has a lethal concentration value of not more than 5,000 parts per million.

PLANNING COMMISSION. The City of Franklin Planning and Zoning Commission.

REGULATED SUBSTANCE. Any substance regulated under federal, state, or county environmental, pollution control, hazardous substance or drinking water laws or regulations.

WELLHEAD PROTECTION OVERLAY DISTRICT. That area within the corporate boundaries of the City as is set forth on the Zoning Map and incorporated

herein by reference thereto. Within the Wellhead Protection Overlay District, the following Wellhead Protection Zones are hereby established:

- a. **Zone 1** shall be that area marked on the Zoning Map as Zone 1, which Zone 1 represents a protective zone immediately surrounding a community water supply well, which shall be a maximum radius of 400 feet.
- b. **Zone 2** shall be that area marked on the Zoning Map as Zone 2, which Zone 2 represents an area determined by methods applicable to that hydrogeological setting as having a ten (10) year time-of-travel of groundwater supply to public well sites; and
- c. **Zone 3** shall be that area marked on the Zoning Map as Zone 3, which Zone 3 represents the area that contributes surface and groundwater to Zone 2.

ZONING MAP. The Official Zoning Map of the City.

1307.02 REGULATED LAND USES

Within the Wellhead Protection Overlay District, land uses shall be regulated as follows:

- (a) Lots and tracts of land located within the Wellhead Protection Overlay District, as delineated on the Zoning Map, shall be governed by the restrictions applicable to the Wellhead Protection Zone in which such lots and tracts of land are located;
- (b) Certain land uses within the Wellhead Protection Overlay District will be regulated (hereinafter "Regulated Land Uses") according to the Schedule of Regulated Land Uses shown in Table 1307;
- (c) Certain particular Regulated Land Uses will be prohibited, or permitted only by Special Permit, within Zones 1, 2, or 3, as applicable, as is set forth in the Schedule of Regulated Land Uses; and
- (d) Where the boundary of any Wellhead Protection Zone divides any property, the entire property shall be considered to lie within the Wellhead Protection Zone offering the highest degree of protection to groundwater resources. Should any person challenge the boundary of Zones 1, 2 or 3, it shall be the responsibility of that person to retain a recognized professional with competence in the field to determine more accurately the precise boundary of the disputed area. The final boundary to be used will be determined by the City with assistance from the Engineer and, if appropriate, a professional hydrogeologist.

1307.03 REPORTING REQUIREMENTS FOR NEW USES

As to each lot or tract of land located within the Wellhead Protection Overlay District upon which there is conducted a Regulated Land Use, the record owner thereof shall submit, or cause to be submitted, to the Code Enforcement Officer the following reports and information in the manner prescribed:

- (a) Copies of all federal, state and county operational approvals, certificates, permits and applications, on-going environmental reports and monitoring results relating to environmental, pollution control, hazardous substance and drinking water laws and regulations pertaining to such lot or tract of land, as and when required to be submitted to federal, state and county governmental authorities;
- (b) In the event that any contaminants and/or substances regulated under federal, state or county environmental, pollution control, hazardous substance or drinking water laws or regulations are released on or from any lot or tract of land within the Wellhead Protection Overlay District, copies of any and all notices, reports and documents which such owner filed, or caused to be filed, with any federal, state and/or county governmental authorities, which provide notice of or relate to such release, as and when such notices, reports and documents are required to be filed with such governmental authorities; and
- (c) Copies of all notices, orders, rules, decisions, recommendations, enforcement actions and similar documentation, as and when received by or on behalf of such record owner or the occupant of any such lot or tract of land, from any federal, state or county governmental authority in connection with the enforcement of environmental, pollution control, hazardous substance or drinking water laws or regulations.

1307.04 ADMINISTRATION

The Code Enforcement Officer is hereby designated as the official responsible for the administration and enforcement of this Ordinance.

- (a) The Zoning Hearing Board shall hear appeals from the written determinations and orders of the Code Enforcement Officer regarding applications, enforcement notices, cease and desist orders and other matters, and shall also hear substantive and procedural challenges to the validity of this Ordinance.

- (b) Uses of lots or tracts of land in existence on the date of enactment of this Ordinance which are Regulated Land Uses shall be deemed to be nonconforming uses of land under the terms of this Ordinance. Such nonconforming uses of land may be continued by the present or any subsequent owner so long as:
- (1) Such use is and remains otherwise lawful and in compliance with all federal, state, and county environmental, pollution control, hazardous substance and drinking water laws and regulations;
 - (2) Such nonconforming use has not been and is not discontinued for a period of twelve (12) consecutive months;
 - (3) Such nonconforming use is not, after the date of enactment of this Ordinance, materially altered, changed or expanded, and the provisions allowing certain expansions of nonconforming structures set forth in Section 1306 of this Ordinance shall not apply in the Wellhead Protection Overlay District;
 - (4) The record owner of the lot or tract of land on which such nonconforming use is located is in compliance with Section 1307.03 of this Ordinance regarding reporting requirements; and
 - (5) Such nonconforming use is not an actual known source of groundwater contamination.
- (c) A Regulated Land Use shall be deemed to be new or materially altered, changed or expanded if:
- (1) The land use which constitutes the Regulated Land Use was not previously present and conducted upon the lot or tract of land in question;
 - (2) The Production and/or storage capacity of the Regulated Land Use is increased;
 - (3) The types of substances which give rise to the Regulated Land Use are changed;
 - (4) The number of types of any substances which give rise to the Regulated Land Use is increased; or
 - (5) The quantity of any substances which give rise to the Regulated Land Use is materially increased.

- (d) Following the date of enactment of this Ordinance, Regulated Land Uses which are new or which constitute material changes, alterations or expansions of nonconforming Regulated Land Uses will be prohibited in accordance with the terms of Table 1307 thereby prohibiting such Regulated Land Uses or permitting such Regulated Land Uses only upon the granting of a Special Permit. Any Regulated Land Use which is permitted to be conducted within the Wellhead Protection Overlay District as a result of the granting of a Special Permit in accordance with the terms of this Ordinance and other municipal regulations shall not be deemed to be a nonconforming use of the land under the terms of this Ordinance, but shall without further action be considered a land use which is in conformity with the terms of this Ordinance.
- (e) As to any new Regulated Land Use or any proposed material change, alteration or expansion of a Regulated Land Use which is a nonconforming Regulated Land Use and as to which such Regulated Land Use is permitted to be conducted within the applicable Wellhead Protection Zone upon the granting of a Special Permit, such Special Permit shall only be granted upon the following conditions:
- (1) Such Regulated Land Use is one which is specifically authorized as a Special Permit use in the Wellhead Protection Zone in question, as set forth in Table 1307;
 - (2) Such Regulated Land Use will not, during construction or thereafter, cause the degradation of the groundwater quality upon or beneath the lot or tract of land in question, or upon or beneath adjacent lots or tracts of land, the degree and extent of which degradation is or would be in violation of safe drinking water standards promulgated by federal, state or county governmental authorities; and
 - (3) Satisfactory evidence has been provided to the Code Enforcement Officer or Zoning Hearing Board, as applicable, that the proposed Regulated Land Use is in compliance with all federal, state and county laws and regulations applicable to such Regulated Land Use, and the record owner or occupant has received all necessary approvals of federal, state and county governmental authorities for the conduct of such Regulated Land Use.
- (f) Application for a Special Permit shall be made to the Code Enforcement Officer in writing on such forms as may be prescribed and approved by the Code Enforcement Officer, and such application shall include, at a minimum, a detailed description of each of the activities to be conducted upon the lot or tract of land in question which constitute a Regulated Land Use, including a listing of all substances which are to be stored, handled, used or produced in

connection with each Regulated Land Use being proposed and which substances are subject to regulation by federal, state and/or county governmental authorities. A complete copy of each such application shall be promptly delivered by the Code Enforcement Officer to the Authority for review and, if the Authority deems same appropriate, comment to the Code Enforcement Officer.

(g) The Code Enforcement Officer shall issue a written determination approving or disapproving the application for a Special Permit, or conditioning the granting of the Special Permit upon adherence to any or all of the following requirements by the applicant for that Special Permit where the Code Enforcement Officer has found that such adherence is reasonably necessary to fulfill the groundwater protection purposes of this Ordinance:

- (1) The installation of adequate containment facilities and systems so as to prevent the contamination of groundwater by substances regulated by federal, state and/or county governmental authorities;
- (2) The preparation, filing (with the Code Enforcement Officer), and periodic revision of an emergency plan addressing the means by which any potential contamination of groundwater will be controlled, collected and remediated, including emergency contacts and identification of potential contaminants;
- (3) Regular inspection and/or monitoring, by the owner, occupant, the Code Enforcement Officer and/or third parties (including the Authority), of the Regulated Land Use; and
- (4) Compliance by the applicant with the provisions of the Subdivision and Land Development Ordinance then in effect pertaining to sanitary sewage disposal, water supply, storm water management, utilities and easements and subsurface carbonate areas.

No such written determination approving an application for a Special Permit shall be issued until at least thirty (30) days after the Code Enforcement Officer has delivered a copy of the application to the Authority in accordance with Section 1307.04(f) of this Article. A complete copy of each such written determination approving or disapproving an application for a Special Permit shall be promptly delivered by the Code Enforcement Officer to the Authority.

(h) Applications to the Code Enforcement Officer for a Special Permit under this Ordinance, as well as written determinations of the Code Enforcement Officer and appeals from the written determinations of the Code Enforcement Officer to the Zoning Hearing Board and appeals to the courts of the Commonwealth of Pennsylvania shall be subject to the same procedural (but not substantive)

rules as are applicable to applications for special exceptions under the terms of the underlying Zoning Ordinance in effect at the time the application is filed. The Authority shall be considered a “person affected” with respect to all such appeals.

1307.05 SUBDIVISION AND LAND DEVELOPMENT REVIEW

All subdivision proposals and other proposed new development plans to be located within the Wellhead Protection Overlay District shall be reviewed by the Code Enforcement Officer and the Planning Commission for compliance with the provisions of this Ordinance. It shall be the responsibility of the Code Enforcement Officer and the Planning Commission to recommend approval, disapproval or approval with conditions or modifications of the proposed subdivision or development plan, so as to assure compliance with the provisions of this Ordinance.

- (a) Subdivisions and land developments within Zones 1, 2, or 3 for which storm water management controls are required pursuant to the Subdivision and Land Development Ordinance shall be designed consistent with one of the following:
 - (1) Storm water retention basins shall be prohibited; or
 - (2) Storm water retention basins shall be designed with an impermeable liner to prohibit the infiltration of impounded water to the subsurface.
- (b) Subdivisions and land developments within Zones 1, 2 or 3 which are proposed for subsurface sewage disposal shall provide a tested and suitable primary absorption area and a tested and suitable secondary absorption area on each lot.
- (c) Subdivisions and land developments within Zones 1, 2 or 3 shall have the following Preliminary Plan requirements in addition to those requirements of the Subdivision and Land Development Ordinance:
 - (1) A recognized professional with competence in the field shall review aerial photographs, soils, geologic and other available related data as the data relates to the subject property, and the professional shall also conduct a site inspection of the property;
 - (2) Based on the work required in Section 1307.05(c)(1), the professional shall prepare a map of the site showing all topographic, geologic and other pertinent physical features. The map shall indicate, but shall not be limited to, the following:
 - (i.) Closed depressions;

- (ii.) Seasonal high water table indicators;
 - (iii.) Outcrops of bedrock;
 - (iv.) Surface drainage into the ground;
 - (v.) Lineaments and faults;
 - (vi.) Quarries and mines;
 - (vii.) Oil and gas wells; and
 - (viii.) Geologic contacts.
- (3) Based upon the work performed in Sections 1307.05(c)(1) and 1307.05(c)(2), the professional shall determine what further testing should be done by the applicant to ensure compliance with this Ordinance. Testing methodology shall be reasonable under the circumstances, including (i) the scale of the proposed development, and (ii) the hazards revealed by examination of available data and site inspection;
- (4) The applicant shall cause the additional testing established in Section 1307.05(c)(3) to be done. A study report shall be submitted and referred to the Engineer and the Authority. This study shall include a map of the area, all test results and a recommendation on the mitigation measures to be taken; and
- (5) The Engineer shall consider the Authority's comments, if any, and report to the Planning Commission, with a copy to the landowner and the Authority, his or her opinion as to the adequacy of the study and as to the capability of the site to support the proposed development in a manner in which the risks attendant to the development in carbonate areas are either eliminated or minimized. Recommendations for site development including building location may be included. Additional studies or testing as deemed necessary by the Engineer in order to produce an adequate study given the scale of the proposed development and the hazards revealed may be required of the applicant.

1307.06 GENERAL EXCEPTIONS

The following general exceptions specify those land uses and activities that are permitted by right and do not require a Special Permit:

- (a) Transit. The transportation of any hazardous or governmentally regulated substance through the Wellhead Protection Overlay District shall be exempt from the provisions of this Ordinance, provided that the transporting vehicle is in transit through the Wellhead Protection Overlay District and further provided that such transportation is conducted in compliance with all applicable federal and state law and regulations.

- (b) Residential: To the extent otherwise permitted or regulated by federal, state and/or county statutes and regulations, the owners and/or occupiers of lots and tracts of land which are primarily utilized for the purpose of single or multi-family residential dwellings are permitted to utilize and store fuels, hazardous chemicals, pesticides, fertilizers, inflammable liquids and gases, and toxic and regulated substances in such quantities and in such manner as is associated with normal consumer, household use, and such limited utilization shall not be deemed a Regulated Land Use for the purposes of this Ordinance.

1307.07 PREVENTIVE AND ENFORCEMENT REMEDIES

For the purpose of preventing violations of this Ordinance and enforcing the provisions of this Ordinance, the City shall have available to it the same preventive and enforcement remedies, including the use of civil actions and summary criminal actions, as are set forth in the Zoning Ordinance. In addition, the Code Enforcement Officer is authorized to issue enforcement notices with respect to violations of this Ordinance, such enforcement notices to be issued in accordance with the enforcement notice provisions of the Zoning Ordinance.

1307.08 FEES

The City Council shall, from time to time, establish by resolution a schedule of fees, charges and expenses and collection procedures for Special Permits, costs of review and inspection, appeals and other matters pertaining to this Ordinance. The schedule of fees shall be available for inspection in the City Clerk's Office of the City of Franklin. An application will not be considered to be complete until all applicable fees, charges and expenses have been paid in full.

1307.09 CONFLICTS

Whenever there is a difference between any of the minimum standards specified in this Ordinance and any standard included in any other ordinance, law or regulation of the City of Franklin, the more stringent requirement shall apply. The provisions of this Ordinance shall be deemed to be supplementary and in addition to the provisions of the Zoning Ordinance and Subdivision and Land Development Ordinance as each is in effect from time to time.

TABLE 1307

USE	ZONE 1	ZONE 2	ZONE 3
Bulk Storage of Regulated Substances	X	X	SP
Dry cleaning Establishments; Coin or Commercial Laundries	X	X	SP
Automotive repair , major or minor	X	X	SP
Heavy Manufacturing Uses	X	X	SP
Junk Yards	X	X	X
Land Application of Wastewater and Sludges	X	X	X
Livestock Animals in Excess of 25,000 lbs. of animal weight per acre in yarding areas	X	X	X
Metal Plating establishments	X	X	SP
Open burning Sites and Dumps	X	X	X
Quarries and Mining Operations	X	X	X
Road Salt Stockpiles	X	SP	SP
Sales, and/or Storage of Fuels	X	SP	SP
Sanitary Landfill	X	X	X
Sewage Treatment Facilities with On-site Disposal of Primary or Secondary Treated Effluent in Excess of 5,000 gpd	X	X	X
Storage and Mixing of Regulated Substances	X	X	SP
Storage of Inflammable Liquids and Gases	X	SP	SP
Use which involves as a principal activity the manufacture, storage, use, transportation, or disposal of Regulated Substances	X	X	X
Use which involves use or storage of Regulated Substances in quantities greater than those associated with normal household use	X	SP	SP