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TOWN OF DENNIS HEALTH REGULATIONS TO CONTROL TOXIC & HAZARDOUS MATERIALS

FINDINGS

The Board of Health of the Town of Dennis finds that:

1. The groundwater underlying this town is the sole source of its existing and future water supply, including drinking water;
2. The groundwater aquifer is integrally connected with and flows into, the surface waters, lakes, streams and coastal estuaries which constitute significant recreational and economic resources of the town used for bathing and other water-related recreation, and shellfishing and fishing;
3. Accidental spills and discharges of petroleum products and other toxic and hazardous materials have repeatedly threatened the quality of such groundwater supplies and related water resources on Cape Cod and in other Massachusetts towns, posing potential public health and safety hazards and threatening economic losses to the affected communities;
4. Unless preventive measures are adopted to prohibit discharge of toxic and hazardous materials and to control their storage within the town, further spills and discharges of such materials will predictably occur, and with greater frequency and degree of hazard by reason of increasing construction, commercial and industrial development, population, and vehicular traffic in the Town of Dennis and on Cape Cod;
5. The foregoing conclusions are confirmed by findings set forth in the Environmental Impact Statement and Water Quality Management Plan for Cape Cod (September, 1978), prepared by the Cape Cod Planning & Economic Development Commission pursuant to Section 208 of the Federal Clean Waters Act; by the report entitled Chemical Contamination (September, 1979), prepared by the Special Legislative Commission on Water Supply, Commonwealth of Massachusetts, and by the report, Chemical Quality of Ground Water, Cape Cod, Massachusetts (1979), prepared by the U.S. Geological Survey.

AUTHORITY

The Board of Health of the Town of Dennis adopts the following regulations under the provisions of Chapter 111, M.G.L., § 31:

PART I: REGULATIONS – TOWNWIDE

SECTION 1: DEFINITIONS

- A. The term **“discharge”**, means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of toxic or hazardous material upon or into any land or waters in the Town of Dennis. The term “discharge” as used and applied in this regulation, does not include the following:
1. proper disposal of any material in a sanitary or industrial landfill that has received and maintained all necessary legal approvals for that purpose;
 2. application of fertilizers and pesticides in accordance with label and with regulations of the Massachusetts Pesticide Control Board;
 3. disposal of “sanitary sewage” to subsurface sewage disposal systems as defined and permitted by Title 5, of the Massachusetts Environmental Code.
- B. The term **“toxic or hazardous material”** means any substance or mixture of such physical, chemical or infectious characteristics as to pose a significant actual or potential hazard to water supplies, or other hazard to human health, if such substance or mixture were discharged onto land or in the waters of this town. “Toxic or hazardous materials” include, without limitation: **organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalies, and include products such as pesticides, herbicides, solvents and thinners.**¹⁰¹ The following activities, without limitation, are presumed to involve the use of toxic or hazardous materials, unless and except to the extent that anyone engaging in such an activity can demonstrate the contrary to the satisfaction of the Board of Health:

**Airplane, Boat and Motor Vehicle
Service and Repair**

**Motor Machinery
Service and Assembly**

**Chemical and Bacteriological
Laboratory Operation**

**Painting, Wood Preserving
and Furniture Stripping**

Cabinet Making

**Application of Pesticide and
Herbicide**

**Dry Cleaning
Electronic Circuit Assembly
Metal Plating, Finishing and Polishing**

**Photographic Processing
Printing**

- C. The term **“party”** means any person, group of persons representing a company, organization, etc., or an individual representing one’s self.

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- D. The Board of Health may, consistent with this definition and by authority of Chapter 111, § 31, M.G.L. , issue regulations further identifying specific materials and activities involving the use of toxic or hazardous materials. Such regulations shall automatically become a part of this definition.

SECTION 2: PROHIBITIONS

- A. The discharge of toxic or hazardous materials upon the ground or into any surface or groundwaters within the Town of Dennis is prohibited.

SECTION 3: STORAGE CONTROLS

- A. Outdoor storage of toxic or hazardous materials is prohibited, except in product-tight containers which are protected from the elements, leakage, accidental damage and vandalism. For purposes of this subsection, road salts and fertilizer shall be considered as hazardous materials.
- B. Any wastes containing toxic or hazardous materials shall be held on the premises in product-tight containers and shall be removed and disposed of in accordance with the Massachusetts Hazardous Waste Management Act., Chapter 21C, M.G.L.A.
- C. The Board of Health may require that containers of toxic or hazardous materials be stored on an impervious, chemical resistant surface compatible with the material being stored, and that provisions be made to contain the product in the case of accidental spillage. Containers shall be stored in such a way as to facilitate visual inspection of each container for damage and leakage.

SECTION 4: REPORT OF SPILLS AND LEAKS

- A. Every spill, leak or other loss of toxic or hazardous materials believed to be in excess of 20 gallons, shall be reported to the Board of Health within **two (2) hours** of detection.

SECTION 5: ENFORCEMENT

- A. The provisions of these regulations shall be enforced by the Board of Health. The agent of the Board of Health may, according to law, enter upon any premises at any reasonable time to inspect for compliance.
- B. Upon request of an agent of the Board of Health, the owner or operator of any premises at which toxic or hazardous materials are used or stored shall furnish all information required to monitor compliance with this regulation, including a complete list of all chemicals, pesticides, fuels and other toxic or hazardous materials used or stored on the premises, a description of measures taken to protect storage containers from vandalism, corrosion and spillage, and the means of disposal of all toxic or hazardous wastes produced on the site. A sample of wastewater disposed to on-site septic systems, dry wells, or sewage treatment systems may be required by the agent of the Board of Health.

SECTION 6: VIOLATION

- A. Written notice of any violation of these regulations shall be given by the agent of the Board of Health, specifying the nature of the violation, any corrective measures that must be undertaken,

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including containment and cleanup of discharged materials; any preventive measures required for avoiding future violations; and a time for compliance. Requirements specified in such a notice shall be reasonable in relation to the public health hazard involved and the difficulty of compliance. The cost of containment and cleanup shall be borne by the party responsible for the discharge of hazardous waste, as defined in Section I-A, Definitions. If the party at fault cannot be identified, then the cost of containment and cleanup shall be borne by the owner and operator of the premises.

SECTION 7: PENALTY

- A. 1. Failure to comply with provisions of this regulation will result in the levy of fines of not less than \$200.00, but no more than \$1,000.00. Each day's failure to comply with the provisions of this regulation shall constitute a separate violation.
2. **Punishment for Disconnecting Alternative Systems.** All work which has been deemed unacceptable by the Board of Health shall be removed and replaced or, otherwise, corrected so that it complies with the requirements of these regulations.

SECTION 8: SEVERABILITY

- A. Each provision of these regulations shall be construed as separate, to the end that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.

PART II: WATER RESOURCE DISTRICT REGULATIONS

SECTION 1: PURPOSE

The purpose of the Water Resource District is to protect the public health by preventing contamination of the ground and surface water resources providing water supply to the town. The boundaries of the Water Resource District are delineated on a map entitled "Water Resource District" of Dennis, as amended, dated November 20, 2002. In addition to the Townwide Regulations of Part I, the following regulations apply to the Water Resource District.

SECTION 2: POWERS

The Board of Health is hereby designated the permit-granting authority for land use approval in the Water Resource District regarding all activities set forth in Section 3. The Board of Health shall have the power to promulgate rules and regulations for carrying out its duties under Part II of the Health Regulations to control Toxic and Hazardous Materials.

SECTION 3: BOUNDARY DISPUTES

If the location of the District boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a "**Special Permit**" application to the Dennis Board of Health. Any application for a special permit for this purpose shall be accompanied by adequate documentation.

The burden of proof shall be upon the owner(s) of the land to show where the bounds should be located. At the request of the owner(s), the town may engage a professional engineer, hydrologist, geologist, or soil

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scientist to determine more accurately the boundaries of the district³ with respect to individual parcels of land, and may charge the owner(s) for the cost of the investigation.⁴

SECTION 4: DEFINITIONS

For the purposes of this section, the following terms are defined below:

Aquifer: Geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

Groundwater Protection District:¹ The zoning district defined to overlay other zoning districts in the Town of Dennis. The groundwater protection district may include specifically designated recharge areas.

Impervious Surface: Material or structure on, above, or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.

Mining: The removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores, or bedrock.

Potential Drinking Water Sources:² Areas which could provide significant potable water in the future.

Recharge Areas:¹ Areas that collect precipitation or surface water and carry it to aquifers. Recharge areas may include areas designated as Zone I, Zone II, or Zone III.

Toxic or Hazardous Material: Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water in the Town of Dennis. Toxic or hazardous materials include, without limitation; synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids alkalis, and all substances defined as Toxic or Hazardous under Massachusetts General Laws (M.G.L.), Chapter (c.) 21C and 21E and 310 CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use

SECTION 5: APPLICABILITY

A **"Use Permit"** is required for parcels of land within the Dennis Water Resource District for the construction of new buildings, changes of use, or expansion of existing buildings or uses for the following activities:

- A. Any use involving on-site disposal of process wastes from operations other than personal hygiene and food for residents, patrons and employees.⁵
- B. Any use (other than a one or two family dwelling) with a sewage flow, as determined by Title 5, of the State Environmental Code, exceeding 110 gallons per day, per 10,000 square feet of lot area, or exceeding 15,000 gallons per day, regardless of lot area.
- C. **PROHIBITED USES:** The following uses are prohibited: ^{6,7}

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- i.⁸ landfills and open dumps as defined in 310 CMR 19.006;
- ii automobile graveyards and junkyards, as defined in M.G.L., c. 104B, §1;
- iii.⁹ landfills receiving only wastewater and/or septage residuals including those approved by the Department pursuant to M.G.L., c. 21, §26 through 53; M.G.L., c. 111, §17; M.G.L., c. 83, §6 and 7, and regulations promulgated thereunder;
- iv.¹⁰ facilities that generate, treat, store, or dispose of hazardous waste that are subject to M.G.L., c. 21C and 310 CMR 30.00, except for the following:
 - a) very small quantity generators as defined under 310CMR 30.000;
 - b) household hazardous waste centers and events under 310 CMR 30.390;
 - c) waste oil retention facilities required by M.G.L., c. 21, §52A;
 - d) water remediation treatment works approved by DEP for the treatment of contaminated ground or surface waters;
- v.¹⁰ petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5171 and 5983. SIC Codes are established by the US Office of Management and Budget and may be determined by referring to the publication, Standard Industrial Classification Manual, and any other subsequent amendments;
- vi.¹¹ storage of liquid hazardous materials, as defined in M.G.L., c. 21E, and/or liquid petroleum products unless such storage is:
 - a) above ground level, and;
 - b) on an impervious surface, and;
 - c) either
 - (i) in container(s) or above ground tank(s) within a building, or;
 - (ii) outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to hold either 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is greater;
- vii. storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;
- viii.¹² storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- ix. storage of animal manure unless covered or contained in accordance with the specifications of the Natural Resource Conservation Service;

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- x. earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material (including mining activities) to within 6 feet of adjusted high groundwater as determined from monitoring wells and adjusted water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads, or utility works;
- xi.^{13,14} discharge to the ground of non-sanitary wastewater including industrial and commercial process wastewater, except;
 - a) the replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
 - b) treatment works approved by the Department designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13);
 - c) publicly owned treatment works;
- xii. stockpiling and disposal of snow and ice containing deicing chemicals if brought in from outside the district;
- xiii. storage of commercial fertilizers, as defined in M.G.L., Chapter 128, §64, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.

SECTION 6: PROCEDURES

A. APPLICATION AND PLANS

Applicants for a Use Permit in the Water Resource District shall submit six (6) applications and plans, as set forth in a Water Resource District Use Permit Application Checklist. The site plan and its attachments shall at a minimum include the following information where pertinent:

- 1. a completed list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;
- 2. for those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Hazardous Materials Coordinator, Fire Chief, and Board of Health. The plan shall include:
 - a) provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures;
 - b) provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces;
 - c) evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection.

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3. proposed down-gradient location(s) for groundwater monitoring well(s), should the Board of Health deem the activity a potential groundwater threat.

B. REVIEW AND REPORTS

The Board of Health shall transmit one copy of each of the application and required plans to the Planning Board, Dennis Water District, Conservation Commission, Fire Department and any other applicable town agency for their review. Failure to respond in writing within **thirty (30) days** shall indicate the approval of said boards and agencies.¹⁵

C. CRITERIA

Approval of a Use Permit in the Water Resource District shall be granted upon Board of Health determination that the plan complies with the requirements set out in Section 5, and that there will be no deterioration of groundwater quality or quantity. In making this determination, the board shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to water quality which would result if these control measures failed.

SECTION 7: REQUIREMENTS

A. INTENSITY REGULATIONS

1. At least **30%** of the lot area shall be left in its natural vegetated state.
2. No more than **60%** of the lot area shall be covered by buildings, roadways, parking or accessory structures and uses. Roof area that is directly drained into Board of Health approved dry wells may be calculated into the open space formula. For the purposes of this regulation only, roof area shall mean the area of the roof footprint on the horizontal surface of the earth.

B. DESIGN OBJECTIVES

1. Building Location Where the lot is partially situated outside of the Water Resource District, potential pollution sources such as on-site waste disposal systems shall be located outside of the District to the extent possible.
2. Disposal Methods it is incumbent upon the applicant to demonstrate the availability and the feasibility of toxic and hazardous waste disposal methods, which are in conformance with Chapter 21E, M.G.L.A. Further, the applicant must agree to utilize these methods.
3. Drainage Methods All runoff from impervious surfaces shall be recharged on the site. Roof drainage shall be piped to dry wells dedicated exclusively for this purpose. All pavement runoff shall be directed towards areas of natural vegetation for purposes of infiltration and biological cleansing.
4. Employee Training In situations of intense industrial use, a training program may be required by the Board of Health.

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SECTION 8: COMPLIANCE

- A. No building permit shall be issued by the Building Commissioner for any building subject to water Resource District Regulations and no construction or Site preparation shall be started until a Use Permit has first been issued by the Board of Health.
- B. An as-built plan of all drainage and disposal systems, certified by a registered surveyor and engineer, shall be submitted to the Health Agent prior to issuance of an occupancy permit.
- C. Any changes in the approved plans shall be submitted to the Board of Health for further review. Any changes or deviation from the approved plan may render the permit invalid.

SECTION 9: VIOLATIONS

Written notice of any violation shall be provided by the Health Inspector to the owner of the premises, specifying the nature of the violations and a schedule of compliance, including cleanup of any spilled materials. This compliance schedule must be reasonable in relation to the public health hazard involved. In no event shall more than **30 days** be allowed for either compliance or finalization of a plan for longer-term compliance.

DENNIS BOARD OF HEALTH

Thomas J. Perrino, Vice Chairman

Curt A. Livingston

Barbara Bird

Diane T. Chamberlain

Adopted: December 15, 1981

Amended: June 19, 1984
February 17, 1987
November 10, 1987
March 8, 2001
February 13, 2003

Footnotes: See Attached
