

# **ZONING ORDINANCE AMENDMENT**

**THE TOWN OF SMITHFIELD HEREBY ORDAINS:**

## **ARTICLE 9 – SPECIAL DISTRICTS**

### **9.5 DAVIS LIQUID WASTE SUPERFUND SITE - GROUNDWATER PROTECTION OVERLAY DISTRICT**

#### **9.5.1 Legislative Intent.**

A Groundwater Protection Overlay District (hereinafter “groundwater overlay district”) is hereby established in order to protect public health and safety by prohibiting the use of groundwater for irrigation or potable purposes as herein defined in an area including and proximate to the Davis Liquid Waste Superfund Site at 167 Tarkiln Road and encompassing the contaminated groundwater underlying that property.

The groundwater overlay district is superimposed on current zoning districts. Applicable activities/ uses allowed in a portion of one of the underlying zoning districts which fall within the groundwater overlay district must additionally comply with the requirements of this district. Uses permitted in the underlying zoning districts in conflict with this ordinance shall not be permitted in the groundwater overlay district.

#### **9.5.2 Prohibition of Use of Groundwater for Irrigation or Potable Purposes.**

- A. In connection with the remediation of the Davis Liquid Waste Superfund Site located at 167 Tarkiln Road, the use of groundwater for irrigation or potable purposes under certain real property located in the groundwater overlay district as herein defined is hereby prohibited. For the purposes of this ordinance, “potable purposes” is defined to mean use for drinking water, cooking, or other activities involving direct human contact (such as use in swimming pools).
- B. The real property in the groundwater overlay district is set forth on the list attached hereto as Exhibit A and incorporated herein. A map showing the real property that is included in the groundwater overlay district is attached hereto as Exhibit B and incorporated herein, and a copy of the map shall be maintained in the Office of the Building Official. Only that real property within the groundwater overlay district as shown on Exhibit B is subject to this ordinance. Exhibit A and Exhibit B shall include any new lot created as a result of any legal subdivision or any combining, consolidating of land (“lot consolidation”) within the groundwater overlay district.
- C. The placement and use of a well for irrigation or potable purposes on the real property subject to this ordinance is hereby prohibited.
- D. The three exceptions to the prohibition on wells in the groundwater overlay district are those that are currently in use at the following locations: 432 Log Road

(Assessor's Plat 50, Lot 27E), 520 Log Road (Assessor's Plat 50, Lot 31), and 524 Log Road (Assessor's Plat 50, Lot 30). This exemption is only valid if the owner of the said property allows access to EPA and RIDEM to any well located on said property for the purposes of sampling the water supply. If at any point the sampling and analysis results for any of the said three wells detect contaminants identified with the groundwater being remediated that exceed drinking water standards, site specific groundwater cleanup levels, or other human health risk based standards, the well(s) that exceed said standard(s) will become subject to the terms of the groundwater overlay district, will be capped and an alternative source of drinking water will be provided to the property owners by the Settling Defendants in U.S. vs. Ashland, Case 1:11-cv-00558-M-DLM.

### **9.5.3 Enforcement.**

The Town Engineer and Building Official are authorized to issue notices of violation relating to this Section. Enforcement of the provisions of this Section shall be in accordance with Section 10.6 of the Zoning Ordinance. The Town Engineer shall also provide to the Project Manager of the Davis Liquid Waste Superfund Site at the Rhode Island Department of Environmental Management, the Project Manager of the Davis Liquid Waste Superfund Site at the Environmental Protection Agency and the Director of the Rhode Island Department of Health a copy of any and all notices at the time that they are issued for any violations of this ordinance.

### **9.5.4 Exemptions.**

The prohibitions imposed herein on the groundwater overlay district shall not apply to the use of groundwater from any monitoring well installed in connection with the investigation or remediation of the Davis Liquid Waste Superfund Site or by any federal, state or local governmental authority.

### **9.5.5 District Boundary Disputes**

If the location of a particular parcel in relation to the groundwater overlay district boundary is in doubt, resolution of boundary disputes shall be through a Special Permit application. The burden of proof shall be upon the owner(s) of the land (including any expenses) to demonstrate where the boundaries of the district with respect to their individual parcel(s) of land should be located.

### **9.5.6 Notification.**

The Town Manager or designee shall mail a copy of this ordinance to the owners of all properties included within the groundwater overlay district as listed in the records of the Tax Assessor within 90 days of ordinance passage. The Town Manager or designee shall also mail a copy of this ordinance to any new record owner of property located within the groundwater overlay district within 90 days of recordation of ownership change in the records of the Tax Assessor. Failure to receive a copy of this

ordinance or lack of notice thereof shall not be a defense to a violation of the terms of this ordinance.

**9.5.7 Conflicting Provisions.**

All ordinances and part of ordinances that are in conflict with or inconsistent with this ordinance are hereby repealed.

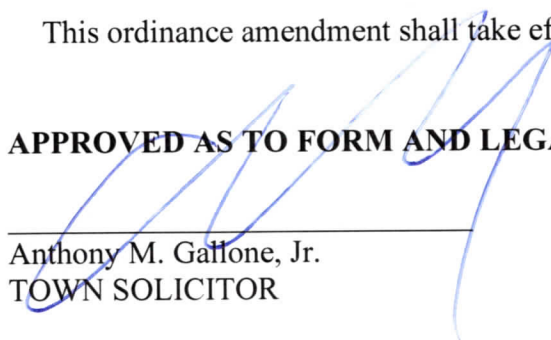
**9.5.8 Saving Clause**

Should any section or provision of this ordinance be declared invalid, such a decision shall not affect the validity of the ordinance as a whole or any other part thereof.

**9.5.9 Effective Date.**

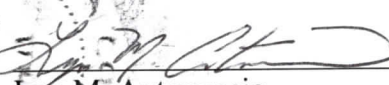
This ordinance amendment shall take effect upon adoption.

**APPROVED AS TO FORM AND LEGALITY:**

  
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Anthony M. Gallone, Jr.  
TOWN SOLICITOR

ADOPTED: April 1, 2025

  
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John J. Tassoni, Jr.  
TOWN COUNCIL PRESIDENT

  
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Lyn M. Antonuccio  
TOWN CLERK

