

Town of Amherst
PUBLIC HEALTH REGULATIONS
Drinking Water Supply Protection

Regulations to restrict certain activities in areas located near the Atkins Reservoir and its associated water bodies

Adoption Date: November 29, 2012

The Amherst Board of Health hereby adopts the following regulations under the Provisions of Chapter 111, Section 31 of the Massachusetts General Laws, as amended.

PURPOSE

These regulations are intended to protect public and environmental health by restricting certain activities in areas located near the Atkins Reservoir and its associated water bodies.

AUTHORITY

These regulations are adopted by the Amherst Board of Health, as authorized by Massachusetts General Laws, Chapter 111, Section 31. These regulations are derived from the Massachusetts Department of Environmental Protection (MassDEP) regulations 310 CMR 22.20B: Surface Water Supply Protection and 310 CMR 22.20C: Surface Water Supply Protection for New and Expanded Class A Surface Water Sources.

APPLICABILITY

These regulations shall apply within the areas located within the Zone A of the Atkins Reservoir Watershed, as defined below. These areas are generally located in the portion of Amherst that is north and east of High Point Drive and east of Flat Hills Road.

DEFINITIONS

Leachable Materials: Waste materials including solid wastes, sludge and pesticide and fertilizer wastes capable of releasing water-borne contaminants to the environment.

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. Hazardous materials include, without limitation: synthetic organic chemicals; petroleum products; heavy metals; radioactive or infectious wastes; acids and alkalis; solvents and thinners in quantities greater than normal household use; and all substances defined as hazardous or toxic under MGL c.21C and 21E and 310 CMR 30.00.

Hazardous Waste: Any waste defined in the Massachusetts Hazardous Waste Regulations, 310 CMR Section 30.010. This includes, but is not limited to, waste oil, waste solvents, waste oil-based paint and waste pesticides.

Impervious Surfaces: Materials or structures on or above the ground that do not allow precipitation to infiltrate the underlying soil.

Zone A: The land area between the surface water source and the upper boundary of the bank; AND the land area within a 400 foot lateral distance from the upper boundary of the bank of a Class A surface water source, as defined in 314 CMR 4.05(3)(a); AND the land area within a 200 foot lateral distance from the upper boundary of the bank of a tributary or associated surface water body. The Board of Health has determined that Zone A is as shown on the Town of Amherst Geographic Information System (GIS) website located at: <http://gis.amherstma.gov/public/viewer.aspx?application=parcelapp&maptab=zoningmap&layer=son=ZoneA&keepurl=1> and defined in the legend as "Zone A Water Supply Protection Area."

REGULATIONS

Prohibited Uses

The following new or expanded activities and land uses are prohibited within the Zone A.

1. All underground storage tanks.
2. Above-ground storage of liquid hazardous material as defined in M.G.L. c. 21E, or liquid propane or liquid petroleum products, except as follows:
 - a. The storage is incidental to:
 - a. normal household use, outdoor maintenance, or the heating of a structure;
 - b. use of emergency generators;
 - c. a response action conducted or performed in accordance with M.G.L. c. 21E and 310 CMR 40.000 and which is exempt from a ground water discharge permit pursuant to 314 CMR 5.05(14); and
 - b. The storage is either in container(s) or above-ground tank(s) within a building, or 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. However, these storage requirements do not apply to the replacement of existing tanks or systems for the keeping, dispensing or storing of gasoline provided the replacement is performed in accordance with applicable state and local requirements.
3. Treatment or disposal works subject to 314 CMR 3.00 or 5.00, except the following:
 - a. the replacement or repair of an existing treatment or disposal works that will not result in a design capacity greater than the design capacity of the existing treatment or disposal works;
 - b. treatment or disposal works for sanitary sewage if necessary to treat existing sanitary sewage discharges in non-compliance with 310 CMR 15.000: *The State*

Environmental Code, Title 5: Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of On-site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage, provided the facility owner demonstrates to MassDEP's satisfaction that there are no feasible siting locations outside of Zone A. Any such facility shall be permitted in accordance with 314 CMR 5.00 and shall be required to disinfect the effluent. MassDEP may also require the facility to provide a higher level of treatment prior to discharge;

- c. treatment works approved by MassDEP designed for the treatment of contaminated ground or surface waters and operated in compliance with 314 CMR 5.05(3) or 5.05(13); and
 - d. discharge by public water system of waters incidental to water treatment processes.
4. Facilities that, through their acts or processes, 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 by 310 CMR 30.000;
 - b. treatment works approved by MassDEP designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters;
 5. Sand and gravel excavation operations.
 6. Uncovered or uncontained storage of fertilizers. If used, fertilizers, pesticides, herbicides, lawn care chemicals or other leachable materials shall be used with manufacturer's label instructions and all other necessary precautions to minimize adverse impacts on surface and ground water.
 7. Uncovered or uncontained storage of road or parking lot deicing and sanding materials.
 8. Storage or disposal of snow or ice, removed from highways and streets outside the Zone A, that contains deicing chemicals.
 9. Uncovered or uncontained storage of manure. All new permanent animal manure storage areas shall be within a concrete manure storage pit or other suitable structure that is covered and contained to prevent nutrient loading due to the escape of runoff or leachate.
 10. Junk and salvage operations.
 11. Motor vehicle repair operations.
 12. Cemeteries (human and animal) and mausoleums.
 13. Solid waste combustion facilities or handling facilities as defined at 310 CMR 16.00.
 14. The rendering impervious of the surface of more than 15% of any lot, or more than 20% with artificial recharge, or 2,500 square feet of any lot, whichever is greater.
 15. Commercial outdoor washing of vehicles, commercial car washes.

PENALTIES

Any owner or operator who violates any provision of these regulations shall be subject to a fine or fines levied by the Board of Health pursuant to Massachusetts General Laws, Chapter 111, Section 31 of not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00).

A separate fine up to such limit as is established by Massachusetts General Laws, Chapter 111, Section 31, may be levied for each and every violation of these regulations.

Each day a violation continues shall be construed as a new and separate violation of these regulations.

SEVERABILITY

If any provision of these regulations or the application thereof is held to be invalid by a court of competent jurisdiction, the invalidity shall be limited to said provision(s) and the remainder of these regulations shall remain valid and effective. Any part of these regulations subsequently invalidated by a new state law or modification of an existing state law shall automatically be brought into conformity with the new or amended law and shall be deemed to be effective immediately, without recourse to a public hearing and the customary procedures for amendment or repeal of such regulation.

EFFECTIVE DATE

These regulations were adopted by vote of the Amherst Massachusetts Board of Health, at their regularly scheduled meeting held on November 29, 2012 and are to be in full force and effect on and after March 1, 2013. Before said date, these regulations shall be published and a copy thereof be placed on file in the Board of Health Offices and filed with MassDEP, Drinking Water Program in Springfield. These regulations or any portions thereof may be amended, supplemented or repealed from time to time by the Board, with notice as provided by law, on its own motion or by petition.

Board of Health Members:

David Ahlfeld, Chairman

Nancy Gilbert

Julie Marcus

Maureen O'Leary

