

**ARTICLE XI WATER QUALITY PROTECTION BYLAW**  
(approved by Town Meeting November 17, 2008 and by the Attorney General June 15, 2009)

**§ 179-53. Purpose.**

The purposes of this Water Quality Protection Bylaw are:

- A. To promote the health, safety and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions and businesses of the Town of Brewster;
- B. To preserve and protect all existing and potential sources of drinking water supplies within Brewster's borders;
- C. To identify uses that should be prohibited or allowed only by special permit;
- D. To protect groundwater and surface water resources from viral, pathogenic, phosphorus and nitrogen contamination and pollution from stormwater runoff;
- E. To complement the Commonwealth's Department of Environmental Protection regulations governing groundwater protection and the Commonwealth's efforts to protect surface and coastal waters;
- F. To protect other sensitive water resource areas, including those land areas that contribute recharge to private drinking water supply wells;
- G. To conserve the natural resources of the Town; and
- H. To prevent temporary and permanent contamination of the water resources of the Town.

**§ 179-54. Scope of Authority; Overlay District.**

This Bylaw establishes regulations governing land uses and structures and their potential impact upon the Town's water resources. The provisions of Article XI are superimposed over all zoning districts and all land within the Town of Brewster and shall function as an overlay district. Where this Article establishes rules, regulations, requirements, standards or provisions that are stricter than the underlying zoning districts, including those uses and structures found in Table 1 of the Zoning Bylaw, the provisions of this Article shall control. *May 2009 amendment:-* In addition, this Article establishes specific requirements for land uses and activities within those portions of the Town of Brewster mapped and identified on the Zoning Map as the District of Critical Planning Concern ("DCPC") entitled "Brewster Water Protection District" as adopted by the Barnstable County Assembly of Delegates pursuant to the Cape Cod Commission Act which includes "Zone I" and "Zone II" and the "Groundwater Protection District" and the "Pleasant Bay Watershed."

**§ 179-55. Definitions.**

As used in this Article, the following terms shall have the following meanings indicated:

**AQUIFER** - Geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

**BEST MANAGEMENT PRACTICES** - means any structural or non structural mechanism designed to minimize the impact of non-point source pollution on receiving waters or resources, including, but not limited to: detention ponds, construction or installation of vegetative swales and buffers, street cleaning, reduced road salting, and public education programs.

**BUILDER'S ACRE** – a unit of land measure equal to 40,000 square feet, which is considered a building acre in accordance with standard real estate practices.

**COMMERCIAL FERTILIZERS** - Any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use, or claimed by its manufacturer to have value in promoting plant growth. Commercial fertilizers do not include un-manipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and gypsum.

**EARTH REMOVAL** - The removal or relocation of geologic materials, such as topsoil, sand, gravel, metallic ores or bedrock. Mining activities are considered earth removal, whether the disturbed natural materials are removed from the site or re-worked on the site.

**DEP** - The Massachusetts Department of Environmental Protection.

**DEVELOPMENT**- means the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mine, excavation, landfill, or land disturbance; and/or any change in use, or alteration or extension of the use, of land.

**DISCHARGE** - The accidental or intentional disposal, deposit, injection, dumping, spilling, leaking, incineration, or placing of toxic or hazardous material or waste upon or into any land or water so that such hazardous waste or any constituent thereof may enter the land or waters of Brewster. Discharge includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on-site leaching structure or sewage disposal system.

**HAZARDOUS OR TOXIC MATERIALS** - Any substance or mixture of physical, chemical or any 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 of the Town of Brewster. Hazardous or toxic materials include, without limitation, organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, solvents and thinners and products such as pesticides, herbicides in quantities greater than normal household use; and all substances defined as hazardous or toxic under Massachusetts General Laws (MGL), Chapters 21C and 21E, using the Massachusetts Oil and Hazardous Substance List (310 CMR 40.0000), and 310 CMR 30.00.

**HAZARDOUS MATERIAL OR WASTE, HOUSEHOLD QUANTITY OF** - means any or all of the following:

- a) 275 gallons or less of oil on site at any time to be used for heating of a structure or to supply an emergency generator, and
- b) 25 gallons (or the dry weight equivalent) or less of other hazardous materials on site at any time, including oil not used for heating or to supply an emergency generator, and
- c) a quantity of hazardous waste at the Very Small Quantity Generator level as defined in the Massachusetts Hazardous Waste Regulations, 310 CMR Section 30.353.

**HISTORICAL HIGH GROUNDWATER TABLE ELEVATION** - A groundwater elevation determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey.

**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.

**LANDFILL** - A facility established in accordance with a valid site assignment for the purposes of disposing solid waste into or on the land, pursuant to 310 CMR 19.006.

**LOT** – as per Chapter 179-2 Definitions.

**MINING** - The removal or relocation of geologic materials, such as topsoil, sand, gravel, metallic ores or bedrock.

**NITROGEN MANAGEMENT**- means the process of ensuring that nitrogen generated by land uses does not exceed established capacities of the resources receiving nitrogen inputs.

**NON-SANITARY WASTEWATER**- Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage including, but not limited to, activities specified in the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6).

**OPEN DUMP** - A facility which is operated or maintained in violation of the Resource Conservation and Recovery Act (42 U.S.C. 4004(a)(b)), or the regulations and criteria for solid waste disposal.

**POTENTIAL DRINKING WATER SOURCES** - Areas that could provide significant potable water in the future.

**PETROLEUM PRODUCT** - Petroleum or petroleum by-product including, but not limited to: fuel oil; gasoline; diesel; kerosene; aviation jet fuel; aviation gasoline; lubricating oils; oily sludge; oil refuse; oil mixed with other wastes; crude oils; or other liquid hydrocarbons regardless of specific gravity. Petroleum product shall not include liquefied petroleum gas including, but not limited to, liquefied natural gas, propane or butane.

**PROCESS WASTEWATER** - All wastewater disposed of on site other than sanitary wastewater.

**RECHARGE AREAS** - Areas that collect precipitation or surface water and carry it or have it pumped to aquifers. "Recharge areas" may include areas designated as Zone I, Zone II or Zone III.

**SEPTAGE** - The liquid, solid, and semi-solid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. Septage does not include any material that is a hazardous waste, pursuant to 310 CMR 30.000.

**SLUDGE** - The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment. Sludge does not include grit, screening, or grease and oil which are removed at the headworks of a facility.

**STORMWATER MANAGEMENT** - means the process of ensuring that the magnitude and frequency of stormwater runoff does not increase the hazards associated with flooding and that water quality is not compromised by untreated stormwater flow.

**SUBDIVISION** - means the division or re-division of a lot, tract, or parcel of land into two or more lots, tracts, or parcels in accordance with G.L. c.41 s.81-L.

**TIGHT TANK**- Any and all containers or devices with regard to or used for wastewater disposal as defined and regulated by the State Sanitary Code, 310 CMR 15.260.

**TREATMENT WORKS** - Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage, or disposal.

**VERY SMALL QUANTITY GENERATOR** - Any public or private entity, other than residential, which produces less than 27 gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136.

**WASTE OIL RETENTION FACILITY** - A waste oil collection facility for automobile service stations, retail outlets, and marinas which is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with M.G.L. c.21, section 52A.

**WATER QUALITY REVIEW COMMITTEE (WQRC)**- Shall consist of a Committee to be appointed by the Board of Selectmen to include seven members; one member each from the Board of Selectmen, Board of Health, Planning Board, Conservation Commission and Water Commissions, the Brewster Building Commissioner and the Brewster Health Agent. At the initial appointment, to occur no later than three weeks after the effective date of this Bylaw, members other than the Building Commissioner and the Health Agent shall be appointed for one, two and three year terms and thereafter all members shall be appointed for three year terms. The Building Commissioner and Health Agent shall serve as members of the WQRC while they are employed in their respective positions.

**ZONE I** - The immediate land area around a well. It is defined as a 400 foot protective radius for wells greater than 100,000 gpd and 100 to 400 foot radius for wells less than 100,000 gpd, depending upon the pumping rate. The Zone I must be owned by the water supplier or controlled through a conservation restriction. Only water supplier activities are allowed in the Zone I.

**ZONE II** - The DEP approved area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated as defined in 310 CMR 22.00. The Zone II includes the Zone I.

**ZONE III** - The land area beyond the area of Zone II from which surface water and groundwater drain into Zone II. Zone III boundaries are determined by identifying the topographic surface water drainage divides. The surface water drainage area commonly coincides with the groundwater drainage; however, in areas where they are not coincident, the Zone III encompasses both the surface and groundwater drainage area.

#### § 179-56. Use Regulations.

A. Provided that all necessary permits, orders, or approvals as required by local, county, state, or federal law are also obtained and notwithstanding any requirement to the contrary found within this Article, the following uses and activities shall be exempted from the requirements of this Article and may occur without a special permit:

- (1) **Continuous Transit.** The transportation of hazardous wastes or materials provided that the transporting motor vehicle is in continuous transit;
- (2) **Vehicular and Lawn Maintenance Fuel and Lubricant Use.** The use in a vehicle or lawn maintenance equipment of any hazardous material solely as fuel or lubricant in that vehicle or equipment fuel tank;

- (3) Retail/Wholesale Sales/Office/Commercial Uses that store or handle hazardous materials or wastes in amounts that do not exceed household quantities;**
- (4) Construction Activities. The activities of constructing, repairing, or maintaining any building or structure, provided that all contractors, subcontractors, laborers, and their employees follow all local, county, state and federal laws, when using, handling, storing, or producing any hazardous materials or wastes.**
- (5) Household Use. The household use of hazardous materials or wastes in amounts that do not exceed household quantities.**
- (6) Municipal Use. The municipal use of hazardous materials and any materials stored and used for the sole purpose of water supply treatment or as required by law; and**
- (7) Storage of Oil(s). The storage of oil(s) used for heating fuel, provided that the container used for such storage shall be located within an enclosed structure that is sufficient to preclude leakage of oil to the external environment and to afford routine access for visual inspection and shall be sheltered to prevent the intrusion of precipitation.**
- (8) Conservation of soil, water, plants, and wildlife;**
- (9) Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;**
- (10) Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;**
- (11) Use and development of single-family residential dwelling units;**
- (12) Use of land pursuant to an approved definitive subdivision plan, special permit, or variance;**
- (13) Farming, gardening, nursery, conservation, forestry, harvesting, and grazing;**
- (14) Construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels;**
- (15) Underground storage tanks related to permitted activities.**

**B. Prohibited uses within the Town of Brewster.**

**The following uses are prohibited throughout and within the Town of Brewster:**

- (1) [Deleted]**
- (2) Landfills receiving only wastewater and/or septage (wastewater residuals “monofils”) as defined in 310 CMR 32.05, approved by the DEP pursuant to M.G.L. c. 21, sections 26 through 53; M.G.L. c. 111, section 17; M.G.L. c. 83, sections 6 and 7, and regulations promulgated thereunder;**
- (3) Storage of sludge and septage, as defined in 310 CMR 32.05, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31.**

- (4) Storage of deicing chemicals, chemically treated abrasives or other chemicals used for the removal of ice and snow on roads, unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- (5) Storage of animal manure, unless such storage is covered or contained within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- (6) Earth removal, not consistent with Section 179-39 of the Brewster Zoning Bylaw.
- (7) Facilities that generate, treat, store or dispose of hazardous waste subject to MGL c. 21C and 310 CMR 30.000, except for the following:
  - (a) Very Small Quantity Generators of Class A Regulated Recyclable Material as defined under 310 CMR 30.000.
  - (b) Household hazardous waste centers and collection events under 310 CMR 30.390.
  - (c) Waste oil retention facilities required by MGL c. 21, § 52A.
  - (d) Water remediation treatment works approved by the Department of Environmental Protection (DEP) designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters and operated in compliance with M.G.L. c. 21E and 310 CMR 40.000.
- (8) Automobile graveyards and junkyards, as defined in MGL c. 140B, § 1.
- (9) Storage of dry hazardous materials, as defined in MGL C. 21E, unless in a freestanding container within a building or above ground with adequate secondary containment adequate to contain a spill the size of the container's total storage capacity.
- (10) Storage of fertilizers unless such storage is within a structure designated to prevent the generation and escape of contaminated runoff or leachate.
- (11) Land uses that result in rendering impervious any lot or parcel more than 15% or 2,500 square feet, whichever is greater, unless a system for artificial recharge of precipitation is provided that will not result in the degradation of groundwater quality.
- (12) Any floor drainage system which discharges to the ground without a DEP permit or authorization

**C. Prohibited uses within Zones I and Zones II of the Ground Water Protection District.**

The following uses, which may be allowed in other areas of the Town of Brewster are prohibited in Zones I and II of the Ground Water Protection District. Notwithstanding language to contrary found within Section 179-52 of the Zoning Bylaw, no variance for a use or activity not otherwise permitted shall be granted by the Board of Appeals within Zones I or Zones II of the Ground Water Protection District.

- (1) Storage of liquid petroleum and/or liquid hazardous products (as defined in M.G.L. c. 21E), except the following: normal household use, outdoor maintenance and heating of a structure; fuel

storage facilities as licensed by the Town; waste oil retention facilities required by statute, rule or regulation; emergency generators required by statute, rule or regulation.

- (2) Petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5983 and 5171, not including liquefied petroleum gas.
- (3) Treatment works that are subject to 314 CMR 5.00 (not Title 5 septic systems), including privately owned sewage treatment facilities, except for the following:
  - (a) The replacement or repair of an existing treatment works that will not result in a system capacity greater than the system capacity of the existing treatment work;
  - (b) The replacement of existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in a system capacity greater than the system capacity of the existing system(s);
  - (c) Treatment works approved by DEP designed for the treatment of contaminated groundwater; and
  - (d) Sewage treatment facilities in those areas with existing water quality problems when it has been demonstrated to DEP and the Planning Board's satisfaction that these problems are attributable to current septic problems and that there will be a net improvement in water quality.
- (4) Stockpiling and disposal of snow or ice removed from highways and streets located outside of a Zone II that contains sodium chloride, chemically treated abrasives or other chemicals used for snow and ice removal.
- (5) Earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material within ten (10) vertical feet of historical high groundwater table elevation, as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey.
- (6) Industrial and commercial uses which discharge process wastewater on site.
- (7) Facilities or works for the treatment or disposal of non-sanitary wastewater that are subject to 314 CMR 5.00, or that discharge to the ground nonsanitary wastewater, including industrial and commercial process waste water, except the following:
  - (a) the replacement or repair of an existing system/treatment works that will not result in a design capacity greater than the design capacity of the existing system/treatment works;
  - (b) treatment works approved by the Department of Environmental Protection designed for the treatment of contaminated ground water and operating in compliance with 314 CMR 5.05(3) or 5.05(13); and
  - (c) publicly owned treatment works.
- (8) Storage of commercial fertilizers, as defined herein and in G.L c. 128, § 64.

**(9) Gasoline stations, automotive service stations or car washes or motor vehicle or commercial boat storage or repair. For the purposes of this Chapter, “commercial” is defined as any activity involving the sale of goods or services carried out with the intent of earning a profit.**

**(10) Dry cleaning establishments.**

**D. Uses/Structures Allowed by Special Permit –**

**(1) Unless otherwise exempted or prohibited elsewhere by this Article and as otherwise permitted in the underlying zoning district, the following uses and activities shall require a Special Permit from the Planning Board. Where the use or activity requires a special permit from another special permit granting authority, the provisions of this Article shall nevertheless apply, although the Planning Board and the other special permit granting authority may hold a combined public hearing pursuant to G.L. c.40A, s.9 in lieu of separate public hearings:**

**(a) [Deleted]**

**(b) the application for the construction of 10 or more dwelling units, whether on one or more contiguous lots, tracts, or parcels, or whether contained within one or more structures;**

**(c) the application for a nonresidential use of 40,000 square feet or greater in lot size or 5,000 square feet gross floor area;**

**(2) Provided that the following uses and/or structures are permitted by the underlying zoning district and other relevant regulations, a special permit may be issued by the Planning Board for the following uses and/or structures, provided that the Planning Board may impose conditions upon the use or structure, consistent with the authority provided in G.L. c.40A, s.9, such that the use or structure will not, in the Planning Board’s sole judgment, be inconsistent with the purpose and intent of this Bylaw. Notwithstanding the powers hereby conveyed by this Article and G.L. c.40A, s.9 to the Planning Board and in recognition of the expertise found within the members of the Water Quality Review Committee, the Planning Board shall, in accordance with the procedures of G.L. c.40A, s.11, cause all applications for a special permit pursuant to this Article to be submitted to the Water Quality Review Committee for the Committee’s comments and recommendations as provided by G.L. c.40A, s.11. The Planning Board shall include in its decision an explanation regarding any substantive deviation from the Committee’s recommendation regarding the approval, denial or conditional approval of the special permit application.**

**(a) [Deleted]**

**(b) The application of fertilizers for non-domestic or non-agricultural uses. Such applications shall be made in a manner so as to minimize adverse impacts on groundwater due to nutrient transport, deposition and sedimentation.**

**(c) The construction of dams or other water control devices, ponds, pools or other changes in water bodies or courses, created for swimming, fishing or other recreational uses, or drainage improvements.**

**(d) Any use that will render impervious more than fifteen percent (15%) or two thousand five hundred (2,500) square feet of any lot, whichever is greater. A system for groundwater recharge must be provided which does not degrade groundwater quality. For nonresidential**

uses, recharge shall be by stormwater infiltration basins or similar systems covered with natural vegetation, and dry wells shall be used only where other methods are infeasible. For all nonresidential uses, all such basins and wells shall be preceded by oil, grease and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.

(e) Any use which involves on-site wastewater disposal facilities having over 10,000 gallons per day capacity or disposal of process waste from operations other than personal hygiene and food for residents, patrons and employees.

(f) Commercial boat and motor vehicle, storage, service or repair. For the purposes of this Chapter, "commercial" is defined as any activity involving the sale of goods or services carried out with the intent of earning a profit.

(g) Storage of home heating fuels in approved containers in amounts greater than 275 gallons or in the aggregate, greater than 275 gallons.

(h) Treatment works that are subject to 314 CMR 5.00, including privately owned sewage treatment facilities, and:

1. 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.
2. The replacement of existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system(s).
3. Treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contaminated groundwater.
4. Sewage treatment facilities in those areas with existing water quality problems when it has been demonstrated to the Department of Environmental Protection's and the Special Permit Granting Authority's satisfaction both that these problems are attributable to current septic problems and that there will be a net improvement in water quality.

#### **179-57 Performance Standards.**

To preserve the natural land surface providing high-quality recharge to the groundwater, to limit sewage flow and fertilizer application to amounts which will be adequately diluted by natural recharge and to prevent the discharge or leakage of toxic or hazardous substances into the surface and groundwater resources, all new, altered or expanded uses within Zone I, Zone II and/or the DCPC area shall meet the following performance standards, in addition to those requirements imposed by this Article or the Planning Board: *[Amended 5/4/2009]*:

- A. No new, altered or expanded uses within Zone I, Zone II and/or the DCPC area shall exceed a 5 parts per million (ppm) nitrogen loading standard based on the methodology contained in the Cape Cod Commission's Nitrogen Loading Technical Bulletin 91-001.

The concentration of nitrate nitrogen resulting from domestic wastewater disposal and from fertilizer application, when diluted by rainwater recharge on the lot, shall not exceed five parts per million (5 ppm).

(1) Compliance with this standard is presumed under the following conditions:

For the purposes of calculating nitrogen generation, the following standards shall be used:

(a) nitrogen from dwelling units that use septic systems assuming (three persons per dwelling): 35 mg/l;

(b) nitrogen from lawn fertilizers: three pounds per 1,000 square feet (25 % leached);

(c) nitrogen in background precipitation: 0.05 mg/l;

(d) runoff from roads and ways: 1.50 mg/l;

(e) runoff from roofs: 0.75 mg/l

- B.** All toxic or hazardous materials shall be stored in product-tight containers, protected from corrosion, accidental damage or vandalism and shall be used and handled in such a way as to prevent spillage with provisions for spill containment and cleanup procedures. In addition, commercial enterprises shall be required to maintain a product inventory and reconcile said inventory with purchase, use, sales and disposal records at sufficient intervals to detect product loss. Subsurface fuel and chemical storage facilities in compliance with local regulations and Massachusetts fire prevention regulations shall be deemed to be in compliance with this standard.
- C.** No toxic or hazardous materials shall be present in waste disposed on the site. Waste composed in part or entirely of toxic or hazardous materials shall be retained in product-tight containers for removal and disposal by a licensed scavenger service or as directed by the Board of Health.
- D.** Contaminant levels in groundwater resulting from disposal of any substance from operations, other than personal hygiene and food for residents, patrons and employees or from wastewater treatment and disposal systems greater than 10,000 gallons per day capacity, shall not exceed those levels specified in the Drinking Water Regulations of Massachusetts, 310 CMR 22.00, after allowing for dilution by natural recharge on the premises. If higher, background levels of individual constituents in the groundwater shall not be exceeded.
- E.** All runoff from impervious surfaces shall be recharged on the site and diverted towards areas covered with vegetation for surface infiltration to the extent possible. Dry wells shall be used only where other methods are infeasible and shall be preceded by oil, grease and sediment traps to facilitate removal of contaminated solids. In the vicinity of chemical or fuel delivery points, provision shall be made for spill control.
- F.** The Planning Board shall ensure that land uses, structures and related developments conform to the following performance standards for storm water management.
- (1) No development shall result in a direct discharge of untreated stormwater, either on or offsite.
  - (2) Post development discharge rates shall not be greater than predevelopment discharge rates.

- (3) New development shall maximize recharge to groundwater.
  - (4) New development shall be required to remove, onsite, no less than 80% of the annual total suspended solids generated from development runoff.
  - (5) Best management practices shall be maintained for appropriate periods of time.
- G. Sand and gravel removal operations shall be limited to a plane that is at least ten (10) feet above the historical high groundwater level for that location. Land area exposed at any one time shall be limited to no more than five (5) contiguous acres in surface area and land disturbed by sand and gravel removal operations shall be returned to a natural vegetative state within one year of completion of operations.
- H. **Monitoring of Regulated Substances in Groundwater Monitoring Wells.** If required by the Planning Board, groundwater monitoring well(s) shall be provided at the expense of the applicant in a manner, number, and location approved by the Planning Board. Except for existing wells found by the Planning Board to be adequate for this provision, the required well(s) shall be installed by a water well contractor. Samples shall be analyzed and analytical reports that describe the quantity of any hazardous material or waste present in each monitoring well shall be prepared by a Massachusetts certified laboratory.

**§ 179-58. Prohibited Uses within the Pleasant Bay Watershed.**

[RESERVED]

**§ 179-58.1. Uses/Structures Allowed by Special Permit within the Pleasant Bay Watershed.**

[RESERVED]

**§ 179-58.2. Performance Standards within the Pleasant Bay Watershed.**

[RESERVED]

**§ 179-59. Prohibited Uses within the Watersheds of Surface Water Bodies Other than Pleasant Bay.**

[RESERVED]

**§ 179-59.1 Uses/Structures Allowed by Special Permit within Watersheds of Surface Water Bodies Other than Pleasant Bay.**

[RESERVED]

**179-59.2. Performance Standards within the Watersheds of Surface Water Bodies Other than Pleasant Bay.**

[RESERVED]

**§ 179-60. [Reserved]**

**§ 179-61. Water quality review.**

- A. **Water Quality Review Committee.** There is hereby established a Water Quality Review Committee (WQRC), comprising one representative each appointed from time to time by and from the Board of Selectmen, Board of Health, Planning Board, Conservation Commission, Water Commission, Health Director and Building Commissioner.
- B. **Certificate of water quality compliance.**

- (1) A certificate of water quality compliance shall be obtained **by the owner of the premises** from the WQRC or, for special permit uses, from the SPGA:
    - (a) For erection of any new principal structure other than a single-family dwelling or for change in occupancy requiring a certificate of use and occupancy under the State Building Code.
    - (b) For occupancy of any premises not requiring a Certificate of use and occupancy but involving the storage, handling or transportation of toxic or hazardous wastes.
  - (2) No building permit or certificate of use and occupancy shall be issued by the Building Commissioner unless a certificate of water quality compliance, if required, has been applied for or obtained.
- C. Requirements.** A certificate of water quality compliance shall be granted only as follows:
- (1) For new construction or additions or new activities not involving structures, only if in full compliance with all requirements of § 179-60, Performance standards.
  - (2) For change in occupancy or operation on previously developed premises, only if the requirements of § 179-60B, C and D are met, and the requirements of all other subsections of § 179-58 are either met or, if previously exceeded, there will be no further increase in noncompliance.
- D. Submittals.** In applying for a certificate of water quality compliance or a special permit, seven sets of application materials shall be submitted to the Building Commissioner, who shall forward one set to each member of the WQRC. In the case of uses requiring a special permit under § 179-58B, one set shall also be submitted to the SPGA along with any other application materials. All information necessary to demonstrate compliance must be submitted, including but not limited to the following:
- (1) A complete list of all chemicals, pesticides, fuels and other potentially toxic or hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use, accompanied by a description of measures to protect from vandalism, corrosion and leakage and to provide for control of spills.
  - (2) A description of potentially toxic or hazardous materials to be generated, indicating storage and disposal method.
  - (3) Evidence of approval by the Massachusetts Department of Environmental Protection of any industrial waste treatment or disposal system or any wastewater treatment system over 15,000 gallons per day capacity, accompanied by analysis by a professional engineer in sanitary or civil engineering registered in the Commonwealth of Massachusetts certifying compliance with § 179-60D.
- E. Action.** For uses not requiring a special permit under § 179-58B, the WQRC shall act within 21 days of application, approving it by issuing a certificate of compliance if a majority determine that the applicant has adequately demonstrated compliance with the requirements of the Water Resource District, and rejecting the application otherwise. For uses requiring a special permit under § 179-58B, the WQRC shall make recommendations to the SPGA within 35 days of receipt of the application, as provided in MGL C. 40A, § 11.

**F. Certificate review.**

- (1) Each three years the WQRC shall review compliance with this Article and the certificate of water quality compliance. Upon request, certificate holders shall submit the following:**
  - (a) Description of any changes from the originally submitted materials.**
  - (b) Certification that the waste disposal system has been inspected by a licensed septic system installer or treatment plant operator within the preceding 90 days and found to be properly maintained and in proper operating condition.**
  - (c) Results from analysis of leachate or wastewaters as may be required by the Board of Health.**
- (2) Evidence of noncompliance shall be reported to the Building Commissioner for enforcement action.**

**§ 179-62. Enforcement.**

- A. Inspection. These provisions shall be enforced by the Building Commissioner. The Building Commissioner or agent of the Board of Health may enter upon the premises at any reasonable time to inspect for compliance with the provisions of this Article. Evidence of compliance with approved waste disposal plans may be required by the enforcing officers. All records pertaining to waste disposal and removal shall be retained.**
- B. Violations. Written notice of any violations shall be provided to the holder of the certificate of water quality compliance, specifying a time for compliance, including cleanup of any spilled materials which is reasonable in relation to the public health hazard involved and the difficulty of compliance, but in no event shall more than 30 days be allowed for either compliance or finalization of a plan for longer term compliance, approved by the WQRC.**