

WELLHEAD PROTECTION LAW

Adopted April 17, 2018

TOWN OF ROSE

LOCAL LAW NO. 1 2018

A LOCAL LAW AMENDING THE ZONING LAW OF THE TOWN OF ROSE TO ESTABLISH A WELLHEAD PROTECTION OVERLAY DISTRICT.

Be it enacted by the Town Board of the Town of Rose as follows:

SECTION 1 – PURPOSE

This Local Law is adopted under the authority of Section 10 of the Municipal Home Rule Law of the State of New York in accordance with a well-considered comprehensive plan.

The purpose and intent of this Local Law is to assist in the preservation of public health, general welfare and safety of the residents of the Town and to facilitate the adequate provision of clean, safe water through the elimination or prevention of ground water contamination in the vicinity of wells that supply public drinking water for the Town of Rose.

This complies with the NYS Dept. of health rules and regulations of public water supplies. The application of these regulations is guided by having the strictest rules applying closer to the wellhead while less stringent rules apply in the more distant areas.

SECTION 2 TITLE

This Local Law shall be known and may be cited as the “Wellhead Protection Law of the Town of Rose”.

SECTION 3 DEFINITIONS

Article II, of the Town of Rose Zoning Law shall be amended by adding the following definitions:

Agricultural waste storage facility – An impoundment made by constructing an embankment and/or excavating a pit or dugout, or by fabricating a structure to temporarily store agricultural wastes such as manure, wastewater, and contaminated runoff until a suitable time arrives for its proper use or disposal.

Agricultural waste transfer system – A permanent or temporary conveyance system to transfer farm generated agricultural wastes (e.g. manure, wastewater, soiled bedding material, spilled feed, processing or wash water, and other wastes) to a composting facility, agricultural waste storage facility, agricultural waste treatment facility, loading area, and/or agricultural land for application and final utilization. Such a system includes but is not limited to any combination of reception pits, settling tanks/basins/channels, pipelines, lined ditches, valves, pumps, drag hoses, and/or sprinklers.

Agricultural waste treatment facility – A facility to mechanically, chemically and/or biologically treat agricultural waste such as manure and wastewater. Commonly it is composed of an impoundment made by constructing an embankment and/or excavating a pit or dugout, or by fabricating a structure (i.e. anaerobic lagoons). Other treatment facilities included constructed wetlands, anaerobic digesters, etc.

Composting – Agricultural Facility: A facility to mechanically, chemically and/or biologically treat agricultural waste, such as manure and/or wastewater, to process and transform such waste for re-use as a raw or semi-finished product.

Deicing compounds - Any bulk quantities of chloride compounds and/or other deicing compounds (e.g., urea or calcium magnesium acetate) intended for application to roads, including mixtures of sand and chloride compounds in any proportion where the chloride compounds constitute over eight percent of the mixture. Bulk quantity of deicing compounds means any quantity, but does not include any chloride compounds in a solid form which are packaged in waterproof bags or containers which do not exceed one hundred pounds each.

Disposal - The abandonment, discharge, deposit, injection, dumping, spilling, leaking, or placing by any other means of any solid waste, petroleum, radioactive material, hazardous substance, hazardous waste, or aqueous carried waste into or onto land or a surface water body.

Fertilizers - Any commercially produced mixture generally containing phosphorous, nitrogen, and potassium which is applied to the ground to increase nutrients for plants and other crops.

Fish hatchery waste - Undigested food and fecal material emanating from a fish hatchery.

Food processing waste - Waste resulting solely from the processing of fruits, vegetables, grains, dairy products and related food products.

Garbage - Putrescible solid waste including animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking or serving of foods.

Groundwater - Water below the land surface in a saturated zone of soil or rock. This includes perched water separated from the main body of ground water by an unsaturated zone.

Hazardous Substance - Any substance listed as a hazardous substance in 6 NYCRR Part 597, Hazardous Substance List, or a mixture thereof. In general, a hazardous substance means any substance which: (1) because of its quantity, concentration, or physical, chemical, or infectious characteristics poses a significant hazard to human health or safety if improperly treated, stored, transported, disposed of, or otherwise managed; (2)

poses a present or potential hazard to the environment when improperly treated, stored, transported, disposed of, or otherwise managed; (3) because of its toxicity or concentration within biological chains, presents a demonstrated threat to biological life cycles when released into the environment.

Impervious Surface - Any man-made material, such as pavement used in parking lots or driveways or any building or other structure on a lot, that does not allow surface water to penetrate into the soil.

Manure - Animal feces and urine, and associated bedding material.

Medical Waste - Waste generated in the diagnosis, treatment (e.g., provision of medical services), or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biological products.

Mineral - Any naturally formed, usually inorganic, solid material located on or below the surface of the earth including but not limited to architectural stone, gem stones, limestone, granite, ore, bluestone, gravel and sand. Peat and topsoil are also considered to be minerals.

N.R.C.S. - The Natural Resources Conservation Service, formerly known as the Soil Conservation Service, is an agency of the United States Department of Agriculture that provides technical assistance to farmers and other private landowners and managers.

On-Site Consumption - The use of petroleum to heat or cool a residential or non-residential structure or to operate machinery necessary for agricultural activities. On-site consumption does not include the on-site use of petroleum for processing or manufacturing activities or the sale or distribution of petroleum for or into vehicles, except vehicles used for agricultural operations on that site.

Overburden - All of the earth, vegetation and other materials which lie above or alongside a mineral deposit.

Petroleum - Any petroleum-based oil of any kind which is liquid at 20 degrees Celsius under atmospheric pressure and has been refined, re-refined, or otherwise processed for the purpose of: 1) being burned to produce heat or energy; 2) as a motor fuel or lubricant; or 3) in the operation of hydraulic equipment.

Process Waste - Any waste generated by industrial, commercial, or mining operations that by virtue of some use, process, or procedure no longer meets the manufacturer's original product specifications.

Putrescible - The tendency of organic matter to decompose by microorganisms with the formation of malodorous byproducts (not including wood).

Radioactive Material - Any material in any form that emits radiation spontaneously, excluding those radioactive materials or devices containing radioactive materials which are exempt from licensing and regulatory control pursuant to regulations of the New York State Department of Labor or the United States Nuclear Regulatory Commission.

Refuse - Anything putrescible or nonputrescible that is discarded or rejected as useless or worthless.

Septage - The contents of a septic tank, cesspool, or other individual wastewater treatment work which receives domestic or commercial sewage wastes.

Sewage - The combination of human and household waste with water which is discharged to the home or commercial plumbing system.

Solid Waste - Garbage, refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded materials including solid, liquid, semi-solid, or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, and from community activities.

Wellhead Protection Area - The surface and subsurface area surrounding a well or group of wells through which contaminants are reasonably likely to move toward and reach the water well(s).

SECTION 4 Creation of Wellhead Protection Overlay District

Article III, Section 300 of the Town of Rose Zoning Law shall be amended by adding the following:

Wellhead Protection Overlay District WHP

SECTION 5 Wellhead Protection Overlay District Regulations

Article IV of the Town of Rose Zoning Law shall be amended by adding the following:

Section 407 Wellhead Protection Overlay District

The following uses and activities are regulated in the Wellhead Protection Overlay District in the Town of Rose in order to safeguard groundwater resources that serve as public drinking water supplies:

A. Boundaries of the Wellhead Protection Overlay District

The Wellhead Protection Overlay District includes the land area through which contaminants are reasonably likely to move toward and reach the water wells

operated by the Rose – North Rose Water District. This area, termed the Wellhead Protection Area, was delineated in the 2011 document entitled “*Source Water Protection Plan for the Rose – North Rose Water District*” prepared by the New York Rural Water Association. A copy of this document is on file with the Town Clerk. A map showing the boundaries of the Wellhead Protection Area Overlay District is attached herein and made part of this Local Law. In addition, there shall be three zones within the Wellhead Protection District, the boundaries of which Zones and the Wellhead Protection Area Overlay District shall be:

- Zone 1 **Critical Protection Area:** Established at the sixty (60) day Time of Travel (TOT) distance surrounding the well cap, as delineated on the overlay map.

- Zone 2 **Primary Protection Area:** Established at the two (2) year Time of Travel (TOT) distance from the well head as delineated in the overlay map.

- Zone 3 **Secondary Protection Area:** This area includes the five (5) year Time of Travel (TOT) distance surrounding the well cap, as delineated on the overlay map.

These zones collectively coincide with, and are components of, the Wellhead Protection Overlay District and are identified on separate time-of-travel maps (also attached) for the Salter-Colvin and Catchpole Road wellhead areas.

B. Applicability of Regulations

The Wellhead Protection Overlay District shall be considered as overlying other existing districts shown on the Zoning Map. Any uses permitted in the underlying district shall be permitted in the Wellhead Protection Overlay District except where the overlay district prohibits or imposes greater or additional restrictions and requirements. In any cases where conflicts arise between these requirements and any other existing regulations, the more restrictive regulations shall apply.

C. Prohibited Uses and Activities

The following activities and uses are prohibited in the entire Wellhead Protection Overlay District in order to protect public health and safety and preserve the Town drinking water supply:

1. Any activity or use that involves the on-site disposal or surface land application of solid waste, medical waste, septage, sewage, sludge, human excreta, fish hatchery waste, food processing wastes, petroleum, radioactive material, hazardous substances, hazardous waste, or process wastes (including aqueous-carried waste) with the exception of animal

manure applied pursuant to Best Management Practices as defined by NRCS, and the regulations and procedures of the New York State Department of Environmental Conservation for farm operations.

2. Storage of petroleum except for on-site consumption or for the provision of public drinking water.
3. Construction, operation and maintenance of a composting - agricultural facility, agricultural waste transfer system, agricultural waste storage facility, or agricultural waste treatment facility except as noted below in Section D.
4. Construction of on-site wastewater treatment systems designed for or capable of surface or subsurface discharges of one thousand gallons per day (1,000 gpd) or more except as noted below in Section D.
5. Stockpiling or storage of coal, deicing compounds, hazardous substances, hazardous waste, or fertilizers-except in structures designed to prevent contact with precipitation and constructed on low permeability pads.
6. Stockpiling or storage of more than one inoperative motor vehicle.
7. Mining or extraction of minerals or overburden (except for the purpose of on-site construction) are prohibited except as provided by a Special Use Permit described in Section "D."
8. Construction of commercial pipelines or piping systems that carry petroleum or liquid hazardous substances/waste.
9. Use of wells, including bored, drilled, driven, or dug holes or shafts to inject wastes and fluids to the subsurface, except manure applied by means of injection to serve as fertilizer in farming operations.

D. Special Use Permits in Wellhead Protection Overlay District, Zone 3.

1. In addition to the uses and activities indicated in Article VII, the following activities/structures may be permitted in Zone 3 pursuant to a valid Special Use Permit. Special use permits must be obtained from the Planning Board for any proposed use or activity requiring a building permit located partially or wholly within the Wellhead Protection Overlay District that would render impervious to infiltration ten percent (10%) or three thousand (3,000) square feet of a single lot or building site, whichever is greater.
2. In addition to other uses, a special use mining permit must be obtained from the Planning Board for mining for purposes of soil

removal as described in section “C7.”

3. Construction, operation and maintenance of a composting - agricultural facility, agricultural waste transfer system, agricultural waste storage facility, or agricultural waste treatment facility with Best Management Practices to be followed.
4. Construction of on-site wastewater treatment systems designed for or capable of surface or subsurface discharges of one thousand gallons per day (1,000 gpd) or more.
5. In its evaluation of special use permit applications within the Wellhead Protection Overlay District, the Planning Board shall consider the following in addition to, and not instead of, any other considerations as required by the Zoning Law:
 - a. Compliance with all pertinent requirements as set forth in this Section.
 - b. Adequacy of any control measures to prevent contamination and depletion of the groundwater resources that provide drinking water for municipal wells operated by the Rose – North Rose Water District.
 - c. The degree of threat to water quality and quantity that would result if control measures failed
6. The Planning Board may require changes or additions to the Site Plan as a condition of approval to safeguard groundwater resources.

E. Nonconforming Uses and Activities

1. A use or activity lawfully in existence as of the effective date of Section 407 and non-conforming with Section 407, may be continued, except where specifically prohibited from continuing by these rules and regulations.
2. A use or activity within the Wellhead Protection Overlay District that is non-conforming with Section 407 shall not be enlarged in size so as to occupy a greater area of land or floor area than was committed to the nonconforming use at the time of enactment of Section 407.
3. A use or activity within the Wellhead Protection Overlay District that is non-conforming with Section 407 shall not be altered, reconstructed, or structurally changed in any way that increases its nonconformity or

degree of threat to groundwater quality at the time of enactment of Section 407.

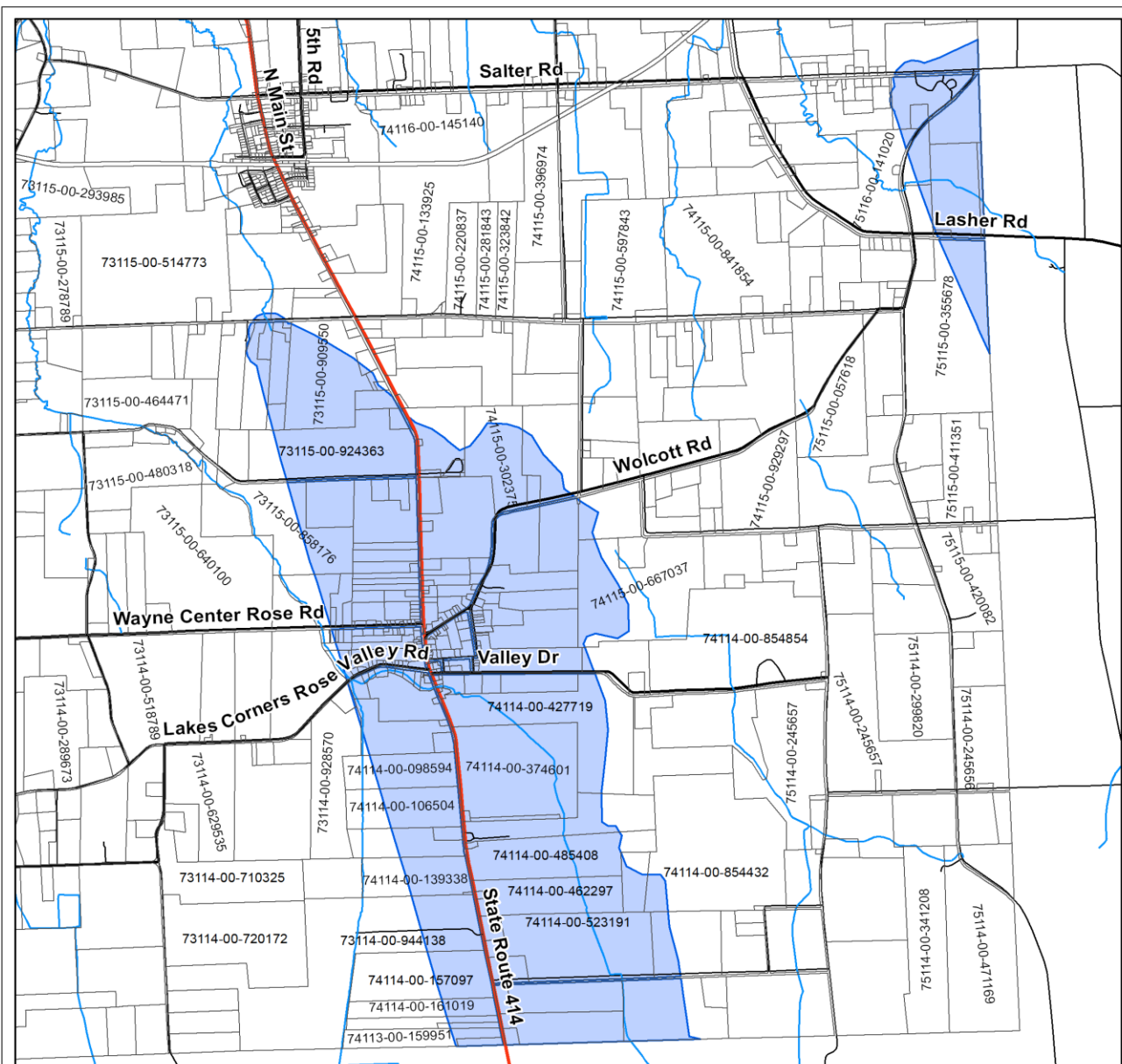
4. Except for single family dwellings, approval must be obtained by the Planning Board for any alteration, reconstruction, or structural change of a use or activity within the Wellhead Protection Overlay District that is non-conforming with Section 407.

SECTION 6 - VALIDITY

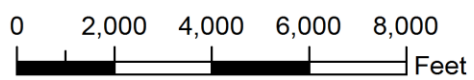
Should any part of this Local Law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the law as a whole or any part thereof other than the part held to be invalid.

SECTION 7 – EFFECTIVE DATE

This Local Law shall take effect upon being filed in the Office of the Secretary of State.



Scale



Legend

- Parcel Boundary (with parcel id#)
- Wellhead Protection Overlay District

**Town of Rose
Wellhead Protection
Overlay District**