

# Dutchess County Local Law No. 2 of 2024

## Implementation Policy

### 1. Purpose:

The purpose of this Law is to protect Dutchess County residents' water supply sources and health by prohibiting certain contaminant sources within certain separation distances to a public water supply well, aquifer or wetland. In addition, the law intends to regulate the drilling of public water supply wells within certain separation distances to contaminant sources defined in the law.

### 2. Definitions:

- a. Aquifer: Any water-bearing permeable geologic unit, identified, or delineated by New York State as a principal or primary aquifer or Groundwater Protection Zone or similar Regulated Groundwater Areas identified by local municipalities.
- b. Public water supply: A water system which provides water to the public for human consumption through pipes or other constructed conveyances, if such system has at least five service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.
- c. Public water supply well: A drilled, dug, or artesian well serving as source of water for a public water system.
- d. Wetland: wetland designated by the New York State Department of Environmental Conservation.
- e. Commercial: A building, property or space used for business or trade purposes, rather than residential.
- f. Dry Cleaning Establishment: A structure used for the commercial cleaning of clothing and or upholstery that utilizes chemical solvents .
- g. Commercial Underground Storage Tanks: a tank system where at least 10% of its volume, including piping is beneath the surface of the ground and is used for commercial purposes.
- h. Commercial Fill Ports: opening or access point used to add fluid to a container, system or device for commercial use.
- i. Commercial Fueling Pumps: a device designed to dispense fuel at a commercial facility.
- j. Commercial Car Wash: a structure used for commercial washing of vehicles.
- k. Commercial Salvage Operations: A business involved in the activities of salvaging and or recovering of materials.

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- l. Commercial production or refining of chemicals: a commercial facility where raw materials and or crude oil are processed to produce a variety of chemical products and or fuel.
  - m. Ice Control Salt or Products: products used for or in the process of removing ice or preventing its formation on surfaces.
  - n. Absorption Bed: An component of a septic system where septic tank effluent is distributed for absorption into the soil.
  - o. Project Approved by DCHD: An engineering approval issued for a project by the Dutchess County Department of Health.
  - p. Existing and Operating Facility: facility has not been inactive for a period of more than one year,
  - q. Contaminant Source: the type of facilities outlined in Section 3 A of the Dutchess County Local Law No. 2 of 2024, A Local Law Regulating Hazardous Pollution Sources In Proximity To Public Water Supply Sources, Aquifers, And Wetlands, known as The Aquifer Law.
  - r. Dutchess County Water and Wastewater Authority: an independent public benefit corporation established by an act of the State Legislature and governed by an appointed Board of Directors operating in the County of Dutchess.
  - s. Design Professional – A NYS licensed Professional Engineer, Architect, or Surveyor.
3. Application:
- a. The requirements of this law shall apply to the following:
    - i. public water supply wells,
    - ii. dry-cleaning establishments performing the cleaning services on site,
    - iii. underground chemical and petroleum storage tanks, fill ports, and piping used for commercial applications,
    - iv. gasoline or diesel fueling pumps for the purpose of dispensing to individual consumers used in commercial applications,
    - v. commercial car washes.
    - vi. commercial salvage operations for vehicle parts,
    - vii. facilities producing or refining chemicals found in Table 3, 9B, 9C and 9D of Part 5, Subpart 5-1.52 of the New York State Health Department regulations,
    - viii. ice control salt or products with ice control salt in it for the purpose of retail.

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b. The following contaminant sources are exempt from the law:

- i. dry-cleaning establishments performing the cleaning services on site that have all their wastewater lawfully disposed of through a connection to a publicly owned treatment works facility.
- ii. commercial carwashes that have all their wastewaters lawfully disposed through a connection to a publicly owned treatment works facility.
- iii. ice control salt or products with ice control salt in it for the purpose of retail that are stored within a weather tight water-proof structure.

4. Separation requirements:

- a. All new public water supply wells shall, in addition to meeting the separation distances set forth in Table 1 of Part 5, Subpart 5-1 Standards for Water Wells – Appendix 5D of the New York State Health Department regulations, meet the minimum separation distances specified in the table below.
- b. All new contaminant sources shall meet the minimum separation distances provided in the table below:

| Contaminant Source                                                                                                                                                                                 | Minimum Separation Distances from Contaminant Source (feet) |         |         |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|---------|---------|
|                                                                                                                                                                                                    | Public Water Supply Well                                    | Wetland | Aquifer |
| Dry-cleaning establishments performing the cleaning services on site that do not have all their wastewater lawfully disposed of through a connection to a publicly owned treatment works facility. | 1,500                                                       | 1,500   | 1,500   |
| Underground chemical and petroleum storage tanks, fill ports, and piping used in commercial applications.                                                                                          | 1,500                                                       | 1,500   | 1,500   |
| Gasoline or diesel fueling pumps for the purpose of dispensing to individual consumers used in commercial applications.                                                                            | 1,500                                                       | 1,500   | 1,500   |

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|                                                                                                                                                             |       |       |       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|-------|-------|
| Commercial carwashes that do not have all their wastewaters lawfully disposed through a connection to a publicly owned wastewater treatment works facility. | 1,500 | 1,500 | 1,500 |
| Commercial salvage operations for vehicle parts.                                                                                                            | 500   | 500   | 500   |
| Facilities producing or refining chemicals found in Table 3, 9B, 9C and 9D of Part 5, Subpart 5-1.52 of the New York State Health Department regulations.   | 500   | 500   | 500   |
| Ice control salt or products with ice control salt in it for the purpose of retail that are stored within a weather tight water-proof structure.            | 500   | 500   | 500   |

- c. The distances shall be measured horizontally from the nearest point of the contamination source to the well.
- d. The distance shall be measured horizontally from the nearest point of the contamination source to the nearest point of the wetland or aquifer.
- e. For some contaminant sources (dry cleaner, carwash, chemical production or refining) where there is a discharge of wastewater from such activity into a subsurface absorption bed or pit, the distance shall be measured horizontally from the nearest point of the absorption bed or pit to the well or nearest point of the wetland or aquifer.
- f. Commercial salvage operations for vehicle parts separation distance shall be measured horizontally from the nearest stored car, part of car or the car processing area to the well or nearest point of the wetland or aquifer.

### 5. Enforcement:

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- a. The Commissioner of the Dutchess County Department of Health is responsible for:
  - i. the enforcement of this Law. conducting Inspections
  - ii. Investigations
  - iii. Notices of violation, orders, fines
  - iv. Hearings
  - v. Placarding

### 6. Project Submittal:

- a. Applicants seeking a formal determination of compliance with the Law must engage the services of a New York State Design Professional submit electronic georeferenced plans to the Department showing the location to scale of existing and proposed contaminant sources, public water system wells, wetlands, and aquifers, as appropriate for the project. Environmental Health Services Engineering staff will assess the request and provide a formal determination based the submittal request.

### 7. Waivers:

- a. The Dutchess County Department of Health, where appropriate, can issue waivers to reduce the distance between a proposed public water supply well and an existing contaminant source provided:
  - i. The applicant for the public water supply well requesting the waiver cannot provide water to the facility or property that is operating the contaminant source.
  - ii. The applicant for the waiver must show there is no viable alternative source of water nearby.
  - iii. The applicant must demonstrate they have conformed to the separation distances defined in this law to the greatest extent possible.
- b. Waivers shall not be issued for any individual or entity seeking to establish a proposed contaminant source.
- c. Waivers will be considered on a case by case basis.
- d. Waivers shall be requested the design professional by submitting the Dutchess County Department of Health Waiver Request Form attached in Appendix A

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### 8. Determination of compliance with the law:

- a. We encourage a request for *informal discussions* regarding compliance with the law to determine potential project impacts. A preliminary project meeting can be requested by the owner, applicant or design professional representing the project. Such request shall be to the Division of Environmental Health Service of the Dutchess County Department of Health.
- b. Applicants seeking a *formal determination* of compliance with the Law must engage the services of a New York State licensed professional engineer, architect or surveyor to submit electronic geogrid plans to the Department showing the location to scale of existing and proposed contaminant sources, public water system wells, wetlands, and aquifers, as appropriate for the project. Environmental Health Services Engineering staff will assess the request and provide a formal determination based the submittal request.
- c. For a determination of compliance with the Law, the minimum separation distances provided in the Law shall be met, unless during the design and review process a waiver has been issued by the Dutchess County Department of Health.

### 9. Construction:

- a. No ruling body, governing authority, or project entity shall install or construct a contaminant source that does not meet the separation requirements specified in this law.
- b. No ruling body, governing authority, or project entity shall install or construct a public water system well that does not meet the separation requirements specified in this law, unless a waiver has been issued by the Dutchess County Department of Health.

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Appendix A – Waiver Request Form

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DUTCHESS COUNTY DEPARTMENT OF BEHAVIORAL  
AND COMMUNITY HEALTH  
85 Civic Center Plaza, Suite 106  
Poughkeepsie, NY 12601  
845-486-3404/845-486-3545 (fax)

# Waiver Request Form

**Instructions:** **Engineer** Complete Sections A and B and submit form to the Dutchess County Health Department. See back for further instructions. **Owner** Sign Section C.

## SECTION A. PROJECT INFORMATION

Project name \_\_\_\_\_

Tax Map # \_\_\_\_\_ Street \_\_\_\_\_ Location \_\_\_\_\_  
(T,V,C)

## SECTION B. JUSTIFICATION and ENGINEER's SIGNATURE

Description of waiver (see additional sheets ☐):

\_\_\_\_\_  
\_\_\_\_\_

Justification: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

|  |
|--|
|  |
|  |

Date: \_\_\_\_\_

(seal & signature)

## SECTION C. OWNER's SIGNATURE

Owner has authorized the Engineer to apply (attach authorization) ☐

Name: \_\_\_\_\_ Date: \_\_\_\_\_ Signature: \_\_\_\_\_

## SECTION D. FOR HEALTH DEPARTMENT USE ONLY

Waiver – granted ☐ \_\_\_\_\_  
(Date)

Waiver – denied ☐ \_\_\_\_\_  
(Date)

Reason(s): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Supervising PHE)

\_\_\_\_\_  
(Date)



**10 NYCRR 75.6 (b) Specific Waiver.** The State Commissioner of Health, his designated representative or the designated full-time city, county or part-county health department official, may on written application grant a specific waiver from a provision of this Part, where such waiver is consistent with the general purpose and intent of this Part. The applicant receiving such waiver must be advised in writing if the design or conditions approved do not meet State standards and the potential consequences of such deviations. Systems with a surface discharge are prohibited and are not eligible for a waiver.

**Directions:**

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**SECTION A**

Location: Town, Village, or City. Do not use post office.

**SECTION B**

If you have more than one waiver, then use additional waiver request form(s).

Description of waiver: cite which standard you are requesting a waiver for.

Justification: Provide site-specific engineering reasons and other relevant information showing that public health will not be compromised.

That you cannot meet the standards is not justification.

**SECTION C**

The property owner or someone with legal authority to apply must sign.

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Comments: