
SCHENECTADY INTERMUNICIPAL WATERSHED RULES AND REGULATIONS

**For Protection From Contamination
Of The Public Water Supplies
Drawing From The Schenectady Aquifer**

SCHENECTADY COUNTY, NEW YORK

DRAFT

**Prepared for :
The Schenectady Intermunicipal Watershed Rules Committee**

Promulgated by:
The New York State Department of Health
Under Section 1100 of the New York State Public Health Law
_____, 1990

DMK Draft # 19, 2/90

SCHENECTADY INTERMUNICIPAL
WATERSHED RULES AND REGULATIONS

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INTERMUNICIPAL WATERSHED RULES AND REGULATIONS

SCHENECTADY COUNTY, NEW YORK

Pursuant to the authority vested in me as State Commissioner of Health by Section 1100 of the Public Health Law, I hereby repeal Sections 142.2, 142.3, 142.4, and 142.5 of Part 142 of Title 10 [Health] of the Official Compilation of Codes, Rules and Regulations of the State of New York to be effective upon filing with the Secretary of State to read as follows:

Section 142.2, Schenectady Aquifer, Schenectady County, New York

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A. APPLICABILITY

These Rules and Regulations herein set forth, duly made and enacted in accordance with the provisions of Sections 1100-1107 of the New York State Public Health Law, shall apply to the wells which comprise the sources of public water supply for the following municipal jurisdictions in Schenectady County:

City of Schenectady
Town of Glenville
Town of Niskayuna
Town of Rotterdam
Village of Scotia

These Rules and Regulations shall apply to any lands, premises and uses within the respective protection zones created herein and shown on the Intermunicipal Watershed Rules and Regulations "Schenectady Aquifer Protection Zones Map", Plate #1, dated _____ and the "Intermunicipal Watershed Rules and Regulations Municipal Property Inventory Maps", dated _____. Said map, or series of maps, all notations or other information shown thereon are part of these Rules and Regulations and is located in the Office of the Clerk of each municipality and the County. These Rules and Regulations are intended to be superimposed upon the existing land use laws of each municipality served by the Schenectady Aquifer to augment and enhance those protective measures already in place. These Rules and Regulations shall in no way affect the limitations or requirements applicable in the underlying municipal land use and zoning districts.

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B. DEFINITIONS

- 1] **Aboveground Storage Facility** - Any tank, pipe or other vessel, used singularly or in combination, at least ninety percent (90%) of which is above the surface of the ground and is used for the purpose of material holding, storage or containment.
- 2] **Board** - The Intermunicipal Watershed Rules and Regulations Board comprised of the chief elected official of each of the municipal jurisdictions in Schenectady County served by the Schenectady Aquifer and established to enforce and administer these Rules and Regulations and to conduct the central review function of actions taking place within the designated protection zones.
- 3] **Bulk Storage** - The holding or containment of dry, semi-dry or liquid materials in large quantities, either packaged or loose, usually dispensed in smaller quantities for sale, use or consumption.
- 4] **Chloride Salt** - The solid compounds or solutions of potassium chloride (commonly used as fertilizer), calcium chloride (commonly used for winter road maintenance) or sodium chloride (commonly used for winter road maintenance and water softener regeneration).
- 5] **Fertilizer** - Any commercially produced mixture generally containing phosphorus, nitrogen and/or potassium which is applied to the ground to provide nutrients to plants.
- 6] **Fungicide** - Any substance used to destroy or inhibit fungus growth.
- 7] **General Aquifer Recharge Zone** - The land outside of the primary recharge zone through which runoff and precipitation flow directly and rapidly into the ground, also to be known as Zone III. [See Schenectady Aquifer Protection Zones Map, Plate #1, dated ____].
- 8] **Groundwater** - The slowly moving subsurface water resources present in the aquifer.
- 9] **Hazardous Material** - Any substance listed in either 40 CFR Part 261, 40 CFR Part 302, or 6 NYCRR Part 371, alone or in combination, including but not limited to petroleum products, organic chemical solvents, heavy metal sludges, acids with a pH less than or equal to 2, alkalies with a pH greater than or equal to 12.5, radioactive substances, pathogenic or infectious wastes or any material exhibiting the characteristics of ignitability, corrosivity, reactivity or Extraction Procedure toxicity.

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- 10] **Herbicide** - Any man-made substance used to destroy or inhibit plant growth.
- 11] **Human Excreta** - Human feces and urine.
- 12] **Linear Distance** - The shortest horizontal distance from the nearest point of a structure or object to the boundary of any protection zone, or to the edge, margin or steep bank forming the ordinary high water line of a waterbody.
- 13] **Municipal Water Purveyor** - The local official responsible for the operation, maintenance, and provision of the public water supply in each of the communities served by the Schenectady Aquifer also to be known as the Director of the Department of Water and Wastewater in the City of Schenectady, the Superintendent of Public Works in the Village of Scotia, the Superintendent of Water in the Town of Glenville, the Commissioner of Public Works in the Town of Niskayuna and the Commissioner of Public Works in the Town of Rotterdam.
- 14] **Nonconforming Use** - A building, structure or permitted use of land lawfully existing at the time of the effective date of these Rules and Regulations or any amendments thereto and which does not conform to the standards and prohibitions of the protection zone in which it is situated.
- 15] **Onsite Disposal System** - Any system used for the disposal of sewage, "industrial waste" or "other waste", as defined in Section 17-0105 of Article 17 of the New York State Environmental Conservation Law, and including sewer systems and sewage treatment works, on a site or parcel of land.
- 16] **Open Storage** - The holding of a material in such a way which permits exposure to the elements of nature.
- 17] **Pesticide** - Any man-made substance used to destroy or inhibit pests such as rodents and insects.
- 18] **Primary Recharge Zone** - Those land areas of general aquifer recharge, also to be known as Zone II [see Schenectady Aquifer Protection Zones Map, Plate #1, dated _____ and the Intermunicipal Watershed Rules and Regulations Municipal Property Inventory Maps, dated _____] that contribute groundwater to the public wells, including and encompassing the wellhead protection zone.
- 19] **Protection Zones** - Specific areas, also known as Zones I-IV, that define a hierarchy of aquifer sensitive land as designated and described herein and delineated on the Schenectady Aquifer Protection Zones Map, Plate #1, dated _____ and the Intermunicipal Watershed Rules and Regulations Municipal Property Inventory Maps, dated _____

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- 20] Radiation - Ionizing radiation, that is, any alpha-particle, beta particle, gamma ray, x-ray, neutron, high speed proton, and any other atomic particle producing ionization, but shall not mean any sound or radio wave, or visible, infrared, or ultra violet light.
- 21] Radioactive Material - Any material in any form regulated as a spontaneous emission of radiation within 10 NYCRR Part 16.
- 22] Salvage Yards - An area where two or more unregistered, old or second hand motor vehicles are being accumulated for purposes of disposal, resale of used parts or reclaiming certain materials such as metal, gas, fabric and/or the like.
- 23] Schenectady Aquifer - The water saturated subsurface or exposed geologic formations generally existing in the Mohawk Valley lowland areas within the municipal boundaries of the City of Schenectady, Village of Scotia, and the Towns of Rotterdam, Glenville, Niskayuna and Princetown.
- 24] Septage - Residue removed from wastewater disposal systems.
- 25] Sewage - Any liquid, semi-liquid or solid human or animal waste matter from a domestic, commercial, private or industrial establishments or other places together with such groundwater infiltration and surface water as may be present including mixtures of sewage with "industrial wastes" or "other wastes" as defined in Section 17-0105 of Article 17 of the New York State Environmental Conservation Law.
- 26] Sludge - The solid residue resulting from a municipal or industrial process of wastewater or water treatment.
- 27] Solid Waste - All putrescible and nonputrescible materials or substances discarded or rejected including but not limited to garbage, refuse, industrial and commercial waste, sludges, ashes, contained gaseous materials, incinerator residue, demolition and construction debris, discarded automobiles and offal, but not including sewage and other highly diluted waterborne materials.
- 28] Spill - Any intentional or unintentional action or omission resulting in an unpermitted releasing, spilling, discharging, leaking, pumping, pouring, emitting, emptying or dumping of a petroleum product, toxic substance or any other potentially hazardous material so that such substances, products or materials may enter the environment.
- 29] Solid Waste Management Facility - Any facility employed beyond the initial solid waste collection process and managing solid waste including, but not limited to: storage areas or facilities; transfer stations; rail-haul or barge-haul facilities; landfills; disposal facilities; solid waste incinerators; landspreading facilities; composting facilities; surface impoundments; and waste oil storage, reprocessing, refining facilities, recyclables handling and recovery facilities, and waste tire storage facilities.

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- 30] **Toxic Substance** - Any compound or material which is, or may be, harmful to human health as defined by Section 4801 - Subdivision 2 of the New York State Public Health Law.
- 31] **Tributary Watershed Zone** - Land outside the aquifer area that contributes runoff overland and/or through surface streams for groundwater recharge, also known as Zone IV. [See Schenectady Aquifer Protection Zones Map, Plate #1, dated _____ and the Intermunicipal Watershed Rules and Regulations Municipal Property Inventory Maps, dated _____].
- 32] **Underground Injection** - The emplacement of fluids into the subsurface of the earth including but not limited to radioactive hazardous and non-hazardous waste, the use of this procedure for the production of oil or gas productions, the excavation of minerals or the emplacement of fluids into the subsurface of the earth.
- 33] **Underground Storage Facility** - Any tank, pipe or other vessel at least ten percent of which is beneath the surface of the ground and is used for the purpose of material holding, storage or containment, except those used for public water and sewer.
- 34] **Waste Treatment Facility** - Any facility used for the purpose of treating, neutralizing, stabilizing or disposing of sewage, but excluding small scale septic systems and leachfields serving fewer than five residential units.
- 35] **Waterbody** - Any river, stream, spring, pond, lake, reservoir or channel of water or any man-made culvert which flows directly into one of the aforementioned.
- 36] **Wellhead Protection Zone** - The surface extent of the cone of depression, immediately adjacent to the public wells, where groundwater is diverted to the public wells, also known as Zone I. [See Schenectady Aquifer Protection Zone Maps, Plate #1, dated _____, and the Intermunicipal Watershed Rules and Regulations Municipal Property Inventory Maps, dated _____].

C. GENERAL PROVISIONS

1] **Agency Actions:**

- i. No state, county or local government agency having jurisdiction shall perform any act nor grant any permit or approval for any use or activity within any of the herein defined protection zones which may result in the contravention of water quality standards as set forth in 10 NYCRR Part 170 and 6 NYCRR Part 703.
- ii. Where groundwater deterioration is likely to be caused by land development, municipal officials shall insure that appropriate zoning or other controls are implemented to prevent groundwater contamination.

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- 2] **Accidental Spills** - Within any of the herein defined Protection Zones, any person who is the owner of, or in actual or constructive possession or control of a hazardous substance, or any agent or employee thereof, or any person in a contractual relationship therewith, who is responsible for, or has knowledge of any spill, as defined in Section B., above, of any petroleum, hazardous material, toxic substance or radioactive material to the ground surface or any waterbody, which is likely to have an adverse affect on water quality or quantity, shall notify the appropriate Municipal Water Purveyor, the New York State Departments of Environmental Conservation and Health, as described in the following sub-paragraphs i. and ii., of this Section. The Municipal Water Purveyor shall notify all other appropriate agencies and the Board of any spill.
- i. All spills shall be reported to the appropriate Municipal Water Purveyor and the New York State Department of Environmental Conservation within two [2] hours of such spill, or as soon as knowledge of such spill is obtained, and shall be addressed in accordance with the provisions of Article 12 of the Navigation Law, Sections 170 through 197, and Article 17 of the New York State Environmental Conservation Law. Clean-up of spills is the responsibility of the owners; in case of material in transit, clean-up is the responsibility of the carrier.
 - ii. The State Department of Health shall be advised of any spills within twelve [12] hours.
- 3] **SPDES Permits** - Within any of the herein defined Protection Zones, all applicants for a permit under the New York State Pollutant Discharge Elimination System [SPDES] shall simultaneously submit a copy of the application to the New York State Department of Environmental Conservation and the appropriate Municipal Water Purveyor. The Municipal Water Purveyor shall transmit a copy of this application to the Board for its information.
- 4] **Exceptions** - Exception to the Rules and Regulations may be granted by the Commissioner of Health after appropriate study and review, based on prior usage and unique local conditions if, in his judgment, the health and safety of the consuming public will be protected because of treatment provided or other remedial action taken. Such exceptions shall be given to the applicant for such exception, the Municipal Water Purveyor and the Board in writing, and only after a hearing on the question has been held.
- 5] **Protection Zone Boundary Adjustments** - When the location of a protection zone boundary, as shown on the adopted Protection Zones Map, is in dispute by any owner or abutter affected by said boundary, the owner or abutter at his own expense may engage a licensed engineer or professional hydrogeologist to conduct such investigations as are necessary to determine if a discrepancy exists in the mapped boundary.

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The owner or abutter shall submit all pertinent findings to the appropriate municipal water purveyor. The municipal water purveyor shall transmit the submission to the Board, and the Board may adjust the boundary or zone designation thereon. The Board shall reserve the right to withhold action pending investigations by the Board or its appointed agents.

All amendments and adjustments to a Protection Zone Boundary or designation shall be officially recorded on the Intermunicipal Watershed Rules and Regulations Protection Zones Map. The Board shall transmit to the State Commissioner of Health a copy of any such recorded amendments or adjustments.

- 6] **Non-Conforming Buildings, Structures and/or Uses** - Non-conforming buildings, structures and/or uses of land may be continued subject to the owner of such building, structure or use of land demonstrating compliance with conditions set forth in sub-paragraphs a. through c. of this Section.

No non-conforming building, structure or use of land shall be enlarged, altered or extended in any manner without a site plan review and specific prior approval by the Local Water Purveyor. No non-conforming building, structure or use of land, may be modified in any way which is deemed, by the Local Water Purveyor, to increase its threat to the groundwater or otherwise contravene the purpose and intent of these Watershed Rules and Regulations.

In the event that any non-conforming use is discontinued for a period of six [6] months, or more, it shall permanently desist. Any new building, structure or use of land shall conform to the purpose intent and literal provisions of these Rules and Regulations, and any amendment thereto. A non-conforming use of land may only be changed to a conforming use of land.

a. Provide a written annual report with the following information submitted to and approved by the appropriate Municipal Water Purveyor:

1. Changes in operation;
2. intended sale(s) of property;
3. results of state agencies programs - test results and audits from such programs as Petroleum or Chemical Bulk Storage, Resources Conservation and Recovery Act [RCRA], etc.; and

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4. accidental spills [see Paragraph C.2].

b. Develop and implement a plan to protect the Aquifer from potential contaminations associated with land use activities. This plan must include:

1. Restrictions or management of activities on the property;
2. dam/berm [revised drainage control] planned;
3. identification and development of operating procedures for potential pollution activities [i.e., changing oil of a car]; and
4. disposal procedure for toxic substance or hazardous material.

The plan must be approved by the appropriate water purveyor.

c. Should procedures described in Paragraphs a. and b. not prevent contamination of the Schenectady Aquifer or any portion thereof, the owner shall immediately cease the offending activity and shall be responsible to immediately remove the contamination from the aquifer.

D. SPECIFIC REGULATIONS: ZONE IV. TRIBUTARY WATERSHED ZONE

- i. The discharge or disposal of any hazardous material, toxic substance or radioactive material is prohibited, except as allowed by a valid Permit per 6 NYCRR 360-364, 6 NYCRR 370-374, 6 NYCRR 750-758 and/or 10 NYCRR Part 16.
- ii. The discharge, land application, burial or disposal of any septage, sewage, sludge, animal wastes, animal remains or human excreta within one hundred [100] feet of any waterbody is prohibited, except as allowed by a valid Permit in accordance with 6 NYCRR 360-364, 6 NYCRR 370-374, 6 NYCRR 750-758 and/or 10 NYCRR Part 16.
- iii. The dumping or disposing of snow or ice collected offsite from roadways or parking areas is prohibited within one hundred [100] feet of any waterbody.
- iv. The open storage of agricultural chemicals, pesticides, herbicides, fungicides and fertilizers within one hundred [100] feet linear distance of any waterbody is prohibited.
- v. The open storage of coal or chloride salts within one hundred [100] feet linear distance of any waterbody is prohibited.

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E. SPECIFIC REGULATION: ZONE III: GENERAL AQUIFER RECHARGE ZONE

Except to the extent that broader prohibitions or more stringent limitations and requirements are set forth in this Section, all regulations and provisions applicable to Zone IV shall also apply to Zone III.

- i. The construction, installation, maintenance or use of any aboveground storage facility that discharges any petroleum product, hazardous material or toxic substance into the groundwater or into any waterbody, except as allowed by a valid SPDES permit, is prohibited.
- ii. The establishment of any raw waste landfill, ash landfill, construction/demolition landfill, junkyard, salvage yard or dump is prohibited.
- iii. Any form of underground injection for any purpose is prohibited with the sole exception of underground injection activities specifically and directly related to development or maintenance of water supply wells. With the exception of single family residences, proposals to undertake water supply well development or maintenance related underground injection require prior review and approval from the appropriate Municipal Water Purveyor.
- iv. The above-ground discharge, land application or disposal of any septage, sewage, sludge, animal wastes, animal remains or human excreta is prohibited.
- v. The dumping or disposing of snow or ice collected offsite from roadways or parking areas into or within one hundred [100] feet of any waterbody is prohibited.
- vi. The storage of pesticides, herbicides, fungicides and fertilizers for wholesale, retail or commercial agricultural purposes is prohibited unless authorization has been obtained from the New York State Department of Environmental Conservation as provided by Article 33 of the New York State Environmental Conservation Law. The open storage of such material is prohibited.

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- vii. The bulk storage of coal or chloride salts is prohibited except in a watertight ventilated structure constructed on an impervious surface that prevents all seepage and runoff. To protect the structure's contents from exposure to the weather, all entrances without permanent doors shall be covered with a properly secured waterproof material. Any outside areas used for loading, handling or mixing shall be constructed of impervious material, sealed and diked in such a manner so as to prevent all seepage and runoff from entering the groundwater or any waterbody.
- viii. The owner of any aboveground or underground storage facility existing on the effective date of these Rules and Regulations shall notify the appropriate municipal water purveyor and all other appropriate agencies of any leak or spill promptly upon its discovery. The owner shall immediately undertake any such actions as may be necessary to prevent contamination of the groundwater. The municipal water purveyor shall transmit this information to the Board and all other involved or interested agencies.
- ix. The drilling, construction, installation, discontinuance and abandonment of all individual or private water supply wells shall comply with the requirements and standards of the New York State Department of Health.
- x. Any underground storage facility that is out of service for more than one year shall be removed. Any liquid residue shall be removed from the facility, and all connecting lines shall be securely capped or plugged.
- xi. Sanitary sewer lines, pipes and mains shall meet the tightness specifications set by the Water Pollution Control Federation. Remedial measures shall be taken by the owner if there is evidence of excessive exfiltration.

F. SPECIFIC REGULATIONS: ZONE II. PRIMARY RECHARGE ZONE

Except to the extent that broader prohibitions or more stringent limitations and requirements are set forth in this Section, all regulations and provisions applicable to Zones IV and III shall also apply to Zone II.

- i. Uses that pose a risk to groundwater quality due to associated storage, use or handling of hazardous materials or toxic substances as defined by 6 NYCRR Part 595 and 6 NYCRR Part 612, are prohibited. These uses include but are not limited to motor vehicle service or body shops; salvage yards; trucking or bus terminals; coin or commercial laundries; on-site processing relating to dry cleaning and dyeing establishments, furniture

stripping and refinishing operations, printing and photographic establishments; the storage for sale of gasoline, diesel fuel, heating oil, lubricants, anti-freeze, solvents or agricultural or industrial chemicals.

ii. The commercial excavation or extraction of soils, sands and gravels, with the exception of those existing mining operations authorized by the New York State Department of Environmental Conservation under Article 23 - Title 27 of the New York State Environmental Conservation Law, is prohibited.

iii. The introduction into an existing onsite disposal system of any material that is potentially hazardous to groundwater quality, including but not limited to petroleum products, solvents or brines, is prohibited.

iv. The establishment of any solid waste management or waste treatment facility is prohibited.

v. The installation of any underground storage facility is prohibited.

vi. The interment of human or animal remains is prohibited.

vii. The dumping or disposing of snow or ice collected offsite from roadways or parking areas is prohibited.

viii. Approval is required from the appropriate municipal authority having jurisdiction prior to the installation of any new onsite septic disposal system or the replacement or expansion of any existing onsite septic disposal system. Conditions for approval shall include an engineering plan deemed acceptable by the municipal building inspector and/or engineer, a site specific soils analysis, verification of the site's percolation rate and inspection of the site before backfilling. A copy of the approval will be forwarded to the water purveyor.

ix. Approval is required from the appropriate municipal water purveyor prior to the spreading, application or use of any pesticide, herbicide or fungicide for commercial agricultural purposes. Applications for approval shall include a description of the area to be covered, identification of the type and volume of the material to be used plus a full environmental assessment of

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the activity's potential to contaminate the groundwater. Approval is required from the County's Soil and Water Conservation District Representative and the County's Cooperative Extension Office Representative prior to the spreading, application or use of any pesticides, fungicides, herbicides by any licensed applicator.

G. SPECIFIC REGULATION: ZONE I. WELLSHEAD PROTECTION ZONE.

Except to the extent that broader prohibitions or more stringent limitations and requirements are set forth in this Section, all regulations and provisions applicable to Zones IV, III and II shall also apply to Zone I.

i. All land uses and development activities other than those directly connected with the pumping and treatment of public water supplies is prohibited, with the exception of existing single family residences to which the relevant restrictions of these regulations shall apply.

ii. The storage or handling of any septage, sewage, sludge, animal wastes, human excreta, hazardous material, toxic substances or radioactive materials, with the exception of existing single family residences to which the relevant restrictions of these Regulations shall apply and except for fuels and chemicals necessary for pumping and treatment of water supplies wells, is prohibited.

iii. The bulk storage of coal or chloride salts is prohibited.

iv. The use of pesticides, herbicides, fungicides and fertilizers for commercial/agricultural purposes is prohibited.

v. No filling, excavation or dredging, other than those activities specifically referred to in Section F, iv, above, is permitted in any manner without prior site plan review and specific approval by the appropriate municipal Water Purveyor. Conditions for approval shall include certification and concurrence from the local Water Purveyor that the activity shall not contravene water quality standards as set forth in 10 NYCRR Part 710 and 6 NYCRR Part 703, based upon an environmental assessment specifically addressing the need for the activity and its potential impact.

vi. All other use of pesticides, herbicides, fungicides and fertilizers shall be in conformance with the application rates recommended by the Cooperative Extension Association of Schenectady.

H. INSPECTIONS

Each Municipal Water Purveyor, by such agents as may be charged with the maintenance or operation of the water supply system are authorized to make reasonable and periodic inspections of all properties within the boundaries of the Protection Zones, consistent with all Constitutional limitations, to ascertain conformance with these Intermunicipal Rules and Regulations. Through the course of a year, the aforesaid shall make regular reports to the Board describing the results of these inspections plus any other information relevant to the enforcement and administration of these Rules and Regulations.

Information necessary to demonstrate compliance shall be submitted at the request of the municipal water purveyor. The aforesaid shall cause copies of any provisions violated to be served upon the violator together with notices of such violations. If said violator does not immediately comply, the Municipal Water Purveyor shall take any and all appropriate remedial action and shall promptly notify the Board and the State Commissioner of Health of such violations.

The Board shall make annual reports to the State Commissioner of Health, prior to the 30th day of January, including such information as to number of inspections, violations found, notices served, violations abated, the general condition of the resource and any other information relevant to the enforcement and administration of these Rules and Regulations.

VARIANCES

1. Standards - An owner who experiences unnecessary hardship as a consequence of the literal interpretation of the provisions of these Rules and Regulations may request a hearing by the Commissioner of Health. The Commissioner may grant a variance of the requirements of the Rules and Regulations if the Commissioner finds that the health, welfare and safety of the consuming public will be protected. In making this determination, the Commissioner shall consider the following factors and make findings with respect to each:

- i. Whether the use or activity to be authorized by the variance is in harmony with the purpose and intent of these Rules and Regulations.
- ii. Whether a substantial change will be produced in the general condition of the resource or a substantial risk to groundwater quality or quantity will be created as a result of the variance.

iii. Whether the hardship can be alleviated by some other method that is feasible for the applicant to pursue.

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iv. After considering all permitted uses, whether the property in question cannot yield a reasonable return if used for any purpose allowed in that Protection Zone.

v. Whether the variance requested is the minimum variance necessary to afford relief. To this end, the Health Department may grant a lesser variance than that applied for.

vi. Whether the hardship has not been created by the applicant.

2. Decision of the Commissioner - The Commissioner may request the municipal water purveyor and the Board to review any application for a variance prior to reaching a determination with respect to the request. The Commissioner may impose such conditions as it may deem necessary to serve the purpose and intent of these Rules and Regulations.

The Commissioner shall act on all requests within sixty [60] days of a complete variance application. Failure to act within this sixty [60] day period shall be deemed a denial of the application.

Every decision of the Health Department to grant, grant with conditions, or deny a variance request shall be made in writing and served to the Board, appropriate Municipal Water Purveyor, and the applicant, and shall include all findings made with respect to the aforementioned factors. All conditions shall be expressly set forth and the reasons for such conditions specified. Violations of the conditions of a variance shall be deemed a violation of these Rules and Regulations.

The issuance of a variance shall not authorize the establishment or extension of any use nor the construction of any structure but shall merely authorize the filing of an application for any permit or approval that may be required by the municipality in which such action is proposed.

3. Variance Application Procedure - Applications for a variance shall be submitted to the appropriate municipal water purveyor in the form of a registered letter and shall contain at least the following information:

i. The applicant's name, address and interest in the subject property; or the owner's name and address, if different from the applicant, and the owner's signed consent to file the application.

ii. The protection zone location, along with the street address and legal description of the subject property.

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- iii. A narrative description of the proposed use or action together with any other pertinent information that may be necessary to adequately review the application.
- iv. A sketch plan illustrating all proposed site alterations, all structures existing on site, the existing uses and zoning of adjacent parcels, site contours and drainage patterns.
- v. A statement articulating the hardship imposed by the enforcement and administration of these Rules and Regulations with specific reference to the factors listed in Section I.1. of these Rules and Regulations.
- vi. A statement assessing the potential impact on groundwater quality of the use or activity to be authorized by the waiver or variance.

J. PENALTIES FOR VIOLATIONS

Any person, firm or corporation who violates any provisions of these Intermunicipal Watershed Rules and Regulations or a permit of other approval granted hereunder, shall be subject to those penalties specified in Section 1103 of the New York State Public Health Law. Any such violation may be enjoined subject to Sections 1104 and 1105 Of the New York State Public Health Law.

K. AMENDMENTS

The Board, from time to time, on its own motion or on a recommendation from any community in Schenectady County served by the Schenectady Aquifer, may propose to amend, supplement or change the provisions of these Rules and Regulations. In proposing any amendment, supplement or change, the Board shall, in writing, state the reasons for such action.

No amendment, supplement or change proposed by the Board shall become a valid part of these Rules and Regulations until it is duly adopted by resolution of the governing bodies of each of the communities in Schenectady County served by the Schenectady Aquifer, approved by the State Commissioner of Health and Filed in the Office of the Secretary of State.

L. SEPARABILITY

In the event that any section, paragraph or part of these Rules and Regulations is for any reason declared invalid or held unconstitutional by the courts, every other section, paragraph and part shall continue in full force and effect.

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