

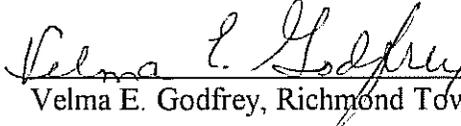
Water Supply Source Protection Ordinance

Printed hearing notice required by Charter in *Burlington Free Press*: June 14, 1996

Adopted and Passed by the Richmond Selectboard on June 17, 1996.

Posted in five public places on June 19, 1996.

Received by Richmond Town Clerk on June 20, 1996 and filed in the "Book of Ordinances" in the Richmond Town Clerk's Office.


Velma E. Godfrey, Richmond Town Clerk

EFFECTIVE DATE: AUGUST 17, 1996

TOWN OF RICHMOND, VERMONT
WATER SUPPLY SOURCE PROTECTION ORDINANCE

The Richmond Town Selectboard, acting in that capacity and as the Board of Water Commissioners of the Town, hereby adopts the following ordinance pursuant to 24 V.S.A. §3315, 24 V.S.A. §2291, 24 V.S.A. §1972, and such other statutes as may be applicable to the subject matter hereof:

Article 1

Purpose; Title

- 1.1 **Title**: This Ordinance shall be known and may be cited as the "Town of Richmond Water Supply Source Protection Ordinance".
- 1.2 **Purpose**: The purpose of this Ordinance is to protect the health, safety, and general welfare of users of the Town's public water supply, by prohibiting certain uses and contaminants which are reasonably likely to reach and adversely affect the Town's Public Water Supply Source.

Article 2

Definitions

- 2.1 As used in this Ordinance, the following terms shall have the following meanings:
- a. "Hazardous Waste" means any material or substance which, by reason of its composition or characteristics, is from time to time defined as hazardous either by 42 U.S.C. §§ 6901 et seq., or by 15 U.S.C. § 2605(e), or by 42 U.S.C. §§ 9601 et seq., or by 10 V.S.A. Chapter 159, or by any laws of similar purpose or effect, or by any regulations promulgated under any of the foregoing, and any other material which the Federal Environmental Protection Agency, the Vermont Agency of Natural Resources or its Secretary, or the Vermont Department of Environmental Conservation, or any similar governmental agency or unit having jurisdiction, shall determine from time to time is ineligible for disposal in landfills, whether by reasons of being toxic, reactive, ignitable, corrosive or otherwise. For example only, and without limitation, the following materials are hazardous: waste gasoline, used motor oil, paint thinner, film processing fluids and similar materials.
 - b. "Impervious Area" means an area with an impervious surface which is enclosed on all sides by impervious barriers, so that leachate from any stored materials will be contained and will not enter groundwater.
 - c. "Lot" means any contiguous land in the Source Protection Area owned by a person on the effective date of this ordinance. If a Lot (as so defined) is further lawfully divided, each area of land in the Source Protection Area created by such division shall also be a "Lot".
 - d. "Officer" shall mean the officer designated by the Selectboard under Rule 8.6 of the District Court Civil Rules, to issue complaints for violation of this Ordinance.

- e. "Person" means an individual, partnership, corporation, association, and any other incorporated or unincorporated entity, excluding the Town.
- f. "Public Water Supply Source" means the Town's water well located on the easterly side of Bridge Street and southerly of the Winooski River, and any additional wells which may in the future be installed for supplying public water to properties in the Town.
- g. "Remedial Action" with regard to an underground or above ground storage tank shall mean removal from the Source Protection Area of the tank, removal of any soils contaminated by leakage from the tank, and clean up and removal from the Source Protection Area of any gasoline products, petroleum products or other Hazardous Waste which has leaked into an Impervious Area.
- h. "Source Protection Area" means a certain contiguous area of land within the Town which is located generally northerly and southerly of Cochran Road, and easterly and westerly of Bridge Street and easterly of Thompson Road. This area is depicted on a Plan (the "Plan") entitled "Public Water Supply Source Protection Areas, Richmond, Vermont", dated August 15, 1995. A copy of the legend of the Plan, and the portion of the Plan depicting this area, is attached to this ordinance. The original of the Plan is on file in the Town Clerk's office.
- i. "Structure" shall mean an assembly of materials for occupancy or use.
- j. "Town" means the Town of Richmond, Vermont.
- k. "Use" includes the words "arranged", "designed", or "intended to be used".
- l. "Written Notice" means written notice to a person by certified mail, return receipt requested. Notice shall be deemed given when deposited in the United States mails by this method. Any notice to a property owner shall be sufficient if addressed to the property owner at the property owner's address as shown in the Town Grand List book completed next preceding the date of the notice, or to such other address as a person may designate by notice in writing by the aforesaid method to the Town Listers.

Article 3

Prohibited Uses and Activities

- 3.1 The following uses and activities are prohibited in the Source Protection Area. No person shall use, or suffer or allow the use of, any property within the Source Protection Area for any of the uses described below. No person shall engage in or carry on, or suffer or allow any person to engage in or carry on, any of the activities described below within the Source Protection area:
- a. Construction, reconstruction, conversion, structural alteration, relocation, enlargement, or occupancy of any Structure used in whole or in part for human habitation unless:
 - i. the Structure is connected to the Town public sewer system in compliance with all applicable laws and regulations; or

- ii. the Structure is connected to a sewage disposal area, and the entirety of the sewage disposal area servicing the Structure lies outside the Source Protection Area, and a Vermont licensed sanitary engineer satisfactory to the Officer provides the following to the Officer:
 - (a) before installation: a design of the entire sewage disposal system, prepared by the engineer and bearing the engineer's stamp, and the engineer's certification to the Officer that any wastewater (regardless of the degree of treatment) from the sewage disposal area and its associated facilities, including but not limited to septic tanks, pump stations, and piping, will not enter the ground beneath the surface of the Source Protection Area, and
 - (b) after installation and before use: an "as built" design of the entire sewage disposal system prepared and stamped by the engineer, locating the sewage disposal area and such associated facilities by surveyed metes and bounds, and the engineer's certification to the Officer that the sewage disposal area and all such associated facilities, as installed, are consistent with the pre-construction design, and, further, that wastewater (regardless of the degree of treatment) from the sewage disposal area and such associated facilities will not enter the ground beneath the surface of the Source Protection Area.
- b. Any use in which the manufacture, use, processing, storage or disposal of Hazardous Waste is a principal activity, including, but not limited to metal plating, chemical manufacturing, wood preserving, furniture stripping, and dry-cleaning.
- c. Trucking or bus terminals, motor vehicle gasoline sales and service, and auto body repairing.
- d. The installation in any Structure of any floor drain or sump by which any liquid or material whatsoever may pass into the ground.
- e. Solid waste disposal areas, dumps, junk and salvage yards, and cemeteries, and the burial of dead animals.
- f. Underground storage tanks for gasoline products, petroleum products, or any other Hazardous Waste. Provided, however, that any underground storage tank used as a supply of home heating oil and existing as of the effective date of this Ordinance may continue to exist. However, the owner of property where any existing underground home heating oil tank is located shall take Remedial Action (i) immediately upon the tank ceasing to be used as a supply of home heating oil, (ii) if the tank leaks, and (iii) in any event within thirty (30) days of Written Notice from the officer that the tank is leaking. Any replacement tank shall be an above ground tank complying with subsection (g) below.

- g. Above ground storage tanks for gasoline products, petroleum products or any other Hazardous Waste, except within a building or on an Impervious Area. Provided, however, that any above ground outdoor storage tank used as a supply of home heating oil and existing on the effective date of this Ordinance may continue to exist, even if not on an Impervious Area. However, the owner of property where any existing above ground home heating oil tank is located shall take Remedial Action (i) immediately upon the tank ceasing to be used as a supply of home heating oil, (ii) if the tank leaks, and (iii) in any event within thirty (30) days of Written Notice from the Officer that the tank is leaking. Any replacement tank shall comply with the first sentence of this subsection (g). This subsection (g) shall not be construed as allowing uses and activities otherwise prohibited by this Section 3.1.
- h. Outdoor storage of salt, de-icing materials, pesticides, herbicides, and fertilizers. Storage of these items when incidental to a residential use and on an Impervious Area which is indoors (covered on top and all sides) is allowed.
- i. The rendering impervious of more than fifteen percent (15%) of the area of any Lot.
- j. The storage or keeping of any unregistered motor vehicle unless stored in an enclosed structure and parked on an impervious surface.
- k. The extraction of earth, sand, gravel, or any other material, except as necessary for the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of a Structure for a use and/or activity not prohibited by this Ordinance.
- l. Any septic tank or sewage disposal field servicing a use or Structure located outside of the Source Protection Area.
- m. The use of salt or other de-icing materials on any private roadway, parking area, or other area.
- n. The following uses and activities within two-hundred feet (200') of the Public Water Supply Source:
 - i. the spreading or storage of any human waste or animal waste. This does not prohibit use of the land for non-commercial household pet activities nor the grazing of livestock per the then current standards for grazing established by the Vermont Department of Agriculture.
 - ii. the spreading or storage of any pesticides, herbicides, or fertilizers.
- o. The following uses and activities in the Source Protection Area but outside of a two-hundred foot (200') radius from the Public Water Supply Source:
 - i. The storage of human waste or animal waste, except on an Impervious Area, which is covered so that rain water will not enter the waste or the Impervious Area. Any storage area for human waste or animal waste in existence on the effective date of this ordinance may continue to be used for a period of sixty (60) days from such effective date, and thereafter shall cease to be used and shall be properly cleaned and all human waste and animal waste removed.

- ii. The spreading of animal waste or human waste, except for application to garden areas of 1,500 square feet or less, provided that there shall not be more than one such garden area on any Lot. This does not prohibit use of the land for non-commercial household pet activities nor the grazing of livestock per the then current standards for grazing established by the Vermont Department of Agriculture.
- iii. The spreading of pesticides, herbicides, or fertilizers.
- p. Construction, reconstruction, or enlargement of any roadway, parking area, roof, or other impervious surface which is not designed so that all rain water run-off is diverted toward surface areas covered with vegetation for surface infiltration.
- q. Any other activity which is likely to pollute, contaminate, or otherwise render impure the Public Water Supply Source.

Article 4

Enforcement and Remedies

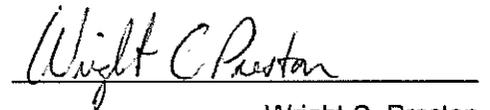
- 4.1 Inspection. The Officer, accompanied by any person from whom the Officer may require assistance, shall have the right, at reasonable times to enter any property or Structure within the Source Protection Area and in the area of a sewage disposal field described in 3.1(a)(ii) for the purpose of conducting such inspections and testing as may be necessary to determine whether a violation of this Ordinance exists. A person shall not prohibit or impair the Officer and such person accompanying the Officer from conducting any such inspection or testing. The Officer shall make a reasonable attempt to contact the landowner except in cases of emergency prior to entering property.
- 4.2 Payment to Town for Clean-up Costs. If any owner of (i) property in the Source Protection Area or (ii) property containing a sewage disposal area described in 3.1(a)(ii) shall not, within thirty (30) days of Written Notice from the Town of a violation of this Ordinance on such owner's property, take any and all actions necessary to correct and remedy the violation and bring the property into compliance with this Ordinance, then the Town, and its contractors, may enter onto such property for the purpose of taking all actions necessary to correct the violation and bring the property into compliance with this Ordinance. The owner of the property shall pay the Town all of its costs and expenses for such remedial work, regardless of whether the violation was caused by such property owner or Persons occupying under the property owner.
- 4.3 Injunction. In addition to any other remedy provided in this Ordinance or available at law or in equity, the Town may institute a suit in equity for an injunction to prevent, restrain, or abate a violation.
- 4.4 Attorneys Fees and Expenses. In the event the Town is required to institute suit against any Person under section 4.2 or 4.3 above, such Person shall pay the Town its reasonable costs and expenses related to such suit in the event the Town prevails.
- 4.5 Civil Ordinance. This Ordinance is designated as a civil ordinance pursuant to 24 V.S.A. §1971(b).
- 4.6 Penalties. The following civil penalties are hereby imposed for violation of this Ordinance: \$500.00 for any violation. Each day a violation continues shall constitute a separate violation.

- 4.7 Waiver Penalties. In cases where violations of this Ordinance are brought in the Traffic and Municipal Ordinance Bureau, and where the violation is admitted and not contested, in lieu of the above, the following waiver penalties are imposed: \$250.00 for each violation. Each day a violation continues shall constitute a separate violation.
- 4.8 Construction. The terms and provisions of this Ordinance are to be liberally construed so as to best achieve and promote the goals and purposes hereof. The captions and headings in this Ordinance are inserted for purposes of convenience and reference only, and shall not be used in any way for the construction or interpretation of this Ordinance.
- 4.9 Severability. The provisions of this Ordinance are severable. If any provision of this Ordinance, or its application to any Person or circumstances is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the invalidity shall not apply to any other portion of this Ordinance which can be given effect without the invalid provision or application hereof.
- 4.10 Determination of Source Protection Area Boundaries. Source Protection Area Boundaries shall be determined by using the scale of the Source Protection Area Plan on the original of the Plan in the Town Clerk's office.
- 4.11 Conflicting Ordinances or Regulations. In case of any inconsistency between a provision of this Ordinance and a provision of any other applicable ordinance or regulation of the Town, including but not limited to the Town's Zoning Bylaws, the provision of this Ordinance shall control.
- 4.12 Effective Date. This Ordinance shall be effective sixty (60) days after its adoption pursuant to 24 V.S.A. §1972, provided, however, that if a petition is filed in accordance with 24 V.S.A. §1973, the taking effect of this ordinance shall be governed by 24 V.S.A. §1973(e).

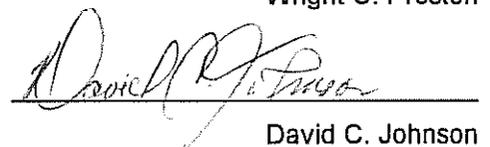
ADOPTED by the Richmond Town Selectboard this 17th day of June, 1996.



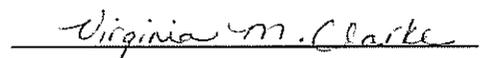
Frances F. Thomas, Chair



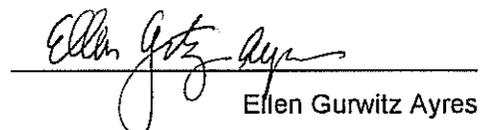
Wright C. Preston



David C. Johnson



Virginia M. Clarke



Ellen Gurwitz Ayres

