

ADD - must also change Schedule of Uses

 §500-12 **Large-Scale Water Extraction** (Based on Edgmont Township, Delaware County, zoning ordinance.)
(Editorial marks are changes to the Edgmont provisions.)

A. Purpose. The intent of these regulations is to recognize and acknowledge that the primary water resources for land located within the Borough are provided by groundwater, spring or surface water, and to create standards and regulations for large-scale water extraction which promote and protect safe, reliable and adequate water supplies, preserve and protect streams, stream tributaries, wetlands, watersheds and valuable aquifers and minimize soil erosion.

B. Use Regulations.

(1) Conditional Use. The large-scale extraction or collection of gallons or more of groundwater, spring and/or surface water for off-site consumption, including the expansion of any such existing use or

operation, may be permitted in the _____ Districts by conditional use subject to the provisions of this §500-12 and all other applicable regulations.

- ~~(2) PA-PUC. The provisions of this section shall not apply to any municipal water authority or any other water authority or water company regulated by the Pennsylvania PUC.~~

C. Bulk and Area Regulations.

- (1) The bulk and area regulations relating to the location of buildings and other structures shall be those of the underlying zoning district unless expressly stated to the contrary in this §500-12.
- (2) The maximum area of disturbance and impervious surface on the lot shall not exceed the percentage of allowable impervious coverage in the underlying zoning district.
- (3) An undisturbed area of not less than 50 feet ???? in width shall be maintained along all property lines and road rights-of-way to provide a buffer and shall not be used for parking, storage or any other purpose except landscaping and crossing of access roads and required utilities and discharge/intake lines. In determining the type and extent of the buffer required, the Borough shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
 - (a) Any required landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation and shall be a minimum of 25 feet ???? wide.
 - (b) Design details of buffers shall be included on the site plan, and buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for land developments in Chapter 390 (Subdivision and Land Development).
 - (c) It shall be the responsibility of the applicant and/or operator and/or property owner to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.

D. Standards of Approval. It shall be the applicant's burden to also demonstrate compliance with the following requirements set forth below:

- (1) Burden. The applicant shall affirmatively demonstrate that the proposed extraction or collection activity, including any increase in existing extraction or collection activity from that previously approved, will not materially interfere with the water rights or water supply of others, including, without limitation, reducing the existing rate of flow of wells, capacity for geothermal energy production, depleting surface water resources, etc., of surrounding properties, and shall submit to the Borough a hydrogeologic impact study prepared by a professional geologist licensed and registered in Pennsylvania, which shall include, but not be limited to the following:
 - (a) Map. A map indicating the location of existing wells within a 0.5-mile radius of the proposed site and identifying all perennial and intermittent streams.
 - (b) Site Plan. A site plan, indicating, without limitation, the access road, parking area, and the location of storage tanks, buildings, well location(s) and signage.

- (c) Report. A written report prepared by a hydrogeologist describing the expected effects of the proposed withdrawal on existing wells, flows of perennial and intermittent streams and the long-term lowering of groundwater levels
 - (d) Subsurface Conditions. Identification of the subsurface material and conditions existing and anticipated for the site, and the type and number of wells to be established thereon
 - (e) Daily Withdrawal. Identification of the anticipated average daily withdrawal from the site
 - (f) Water Data. Identification of the sources of water for withdrawal, sources of recharge, and the quality of each source
 - (g) Effect on Aquifer. Evidence that the withdrawal under the proposed use, together with other withdrawals, will not exceed the withdrawal limits of the basin, aquifer or aquifer system.
 - (h) Effect on Surface Water. Evidence that the withdrawal under the proposed use will not materially impair or reduce the flow of perennial streams in the area.
 - (i) Water Supply. Evidence that existing groundwater and surface water withdrawals will not be adversely impacted.
 - (j) General Effect. Evidence that the withdrawal under the proposed use will not cause substantial and/or permanent adverse impact to the overlying environment.
 - (k) Certification of Driller. Certification that all wells shall be drilled by a Pennsylvania-licensed well driller and a water well inventory report shall be completed and filed with the Pennsylvania Department of Conservation and Natural Resources.
 - (l) Certification of Casing. Certification that all wells shall have a top casing extended a minimum of one foot above the 100-year-flood elevation, and all wells shall have the casing protruding a minimum of six inches above the immediate grade, and the safeguards to be used to prevent the entrance of surface water into said wells and into the aquifer.
 - (m) Water Level Measurement. Certification that all wells shall be accessible for inspection for water-level measurements.
 - (n) Mitigation Plan. Plan for implementation of a mitigation program to protect existing wells, watercourses and/or aquifers in the event the proposed use significantly affects or interferes with said wells, watercourses and/or aquifers, which may include immediate cessation of water extraction, providing an alternative water supply of adequate quantity and quality to the affected well owner(s), providing financial compensation to the affected well owner(s) sufficient to cover the costs of acquiring and maintaining an alternative water supply of adequate quantity and quality, or such other measures as the Borough may approve as just and equitable under the individual circumstances.
- (2) No Delaware River Basin Commission Regulation (DRBC). For any new or increased water extraction or collection activity not regulated by the DRBC, the applicant must also demonstrate that the proposed use shall not:
- (a) Safe Yield. Exceed the safe yield or degrade the water quality of the aquifer;

- (b) Existing Wells. Adversely affect existing wells by diminishing the rate of said flow from that rate which exists prior to the proposed use;
- (c) Streams. Adversely affect the natural base flow of streams and stream tributaries within the watershed;
- (d) Riparian Rights. Interfere with the riparian rights of other persons; or
- (e) Base Flow. Contribute to the lowering of stream flow rates below Natural Q7-10 Base Flow Rate. If at any time the actual stream base flow, at the reference point therefor, equals or is less than the Natural Q7-10 Base Flow, the surface water consumption permitted by any conditional use approved hereunder will cease until the actual base flow rate returns to a level above the Natural Q7-10 Base Flow Rate. The Natural Q7-10 Base Flow Rate will be defined through direct long-term measurements of stream base flow at the reference point. Where sufficient historic data is not available, estimates will be made using the best available comparable hydrologic data. The base flow rate shall be monitored and reported to the Borough as required by this section. Modifications to the originally calculated Natural Q7-10 Base Flow Rate may occur as additional stream flow data is generated. See below for explanation of Natural Q7-10 Base Flow Rate.

Natural Q7-10 Base Flow Rate: MUST ADD
--

(3) Vehicles.

- (a) Identification. The applicant shall identify what commercial vehicles are to be used in connection with the application, including but not limited to those used to transport water from the site, the number, size, type and capacity and the scheduling of vehicles.
- (b) Access. The applicant shall demonstrate that vehicles shall have adequate access to and within the site over an improved all-weather surface in accord with §500-29H.
- (c) Traffic Control. The applicant shall identify proposed traffic control methods to be employed on and off the site to control ingress and egress of vehicles. The Borough Council may impose reasonable limits on the hours during which commercial vehicles may enter and exit the site in order to avoid creating hazards on local roadways or disturbing adjoining or nearby residential districts.
- (d) Traffic Report. A traffic report prepared in accord with §500-78 by a qualified traffic engineer shall be provided by the applicant.

(4) Isolation Distance. The applicant shall demonstrate that the following isolation distances are maintained from the point of extraction:

- (a) Other commercial extraction facilities: 1,000 feet.
- (b) Subsurface sewage absorption areas, elevated sand mounds, cesspools, sewage seepage pits: 100 feet.
- (c) Septic tanks, aerobic tanks, sewage pump tanks and holding tanks: 50 feet.

- (5) Water Quantity. The applicant shall specify the quantity of water to be collected per day, consistent with applicable state and federal permits and DRBC approvals. Any subsequent proposal to increase the specified quantity of water shall require a modification of any conditional use approval by conditional use application and public hearing. In the case of a water extraction or collection facility existing at the time of enactment of this chapter and which is not regulated by the DRBC, such use shall be defined by the amount of maximum withdrawal stated in any existing state permits applicable to the facility or the average quantity of water extracted per day over the five-year period prior to the enactment of this provision.
- (6) Monitoring and Reporting.
- (a) Monitoring Equipment. The applicant shall provide adequate equipment, monitoring and recording measures, through the use of sealed gauges, to document, among other things, the Natural Q7-10 Base Flow Rate, the amounts of water extracted or collected, the sources of same, and neighboring stream flow conditions, and pollutant levels in order to ensure consistency with any previous approvals granted and with permitting or exemption standards of the DRBC or other agencies having jurisdiction.
- (b) Bench Mark Data. Prior to commencement of operation of the proposed use, the applicant shall provide bench mark data against which the impact of the water withdrawal may be compared in the future.
- (c) Quarterly Reports. The data required hereunder shall be filed with the Borough not less than quarterly.
- (d) Complaint Reports. The applicant shall provide the Borough with copies of any complaints received from Borough residents.
- (7) Emergency Contact Information. The applicant shall keep on file with the Borough, at all times, up-to-date, twenty-four-hour emergency telephone numbers and contact information for persons with authority over the property and operation of the water extraction facility.
- (8) Noise. The applicant shall identify the noise levels which are anticipated to be generated by the proposed use, and shall identify the distances said noises may travel beyond the property lines of the proposed site and what methods the applicant shall employ to comply with §500-65 and Chapter 314 Noise. ~~in compliance with Township ordinances to protect the surrounding area from said noises.~~
- (9) Drainage. The applicant shall demonstrate, in accord with all federal, state and local laws, regulations and ordinances, that adequate drainage and detention controls shall be installed in conjunction with any land development of the property to prevent runoff from well drilling, site development, tanker overflow, storage tanks and/or filling areas from draining onto adjoining properties and/or roadways.
- (10) Hours of Operation. The applicant shall identify the proposed hours of operation and the scope and nature of activity to be conducted during said hours.
- (11) Cessation of Operations. A plan of how the site shall be made safe once the water extraction operation ceases, including a plan for environmentally restoring the property.
- (12) Additional Information. The applicant shall provide such other information and documentation as the Borough may require.

- E. Permits. Prior to the commencement of any earth disturbance or any other development activity, the applicant shall document compliance with ~~must obtain all~~ required local (including, without limitation, grading and stormwater), state and/or federal permits, including, but not limited to, permits and approvals from the PA DEP, Delaware River Basin Commission (DRBC), the local health department, Carbon County Conservation District and any other agency having jurisdiction. ~~Such permit(s) shall be a prerequisite to the commencement of development of the use, and to the issuance of any building permit, use permit or certificate of use and occupancy.~~
- F. Site Requirements.
- (1) Parking and Loading. Parking and loading shall be in accord with §500-29.
 - (2) Signs. The provisions of Article XI shall apply to signs.
 - ~~(3) Screening. All loading or parking areas shall be screened from view from any adjacent roadway or lot(s); in accordance with Township ordinances. Addressed by other zoning and SALDO sections.~~
 - (3) Security. The site shall be made secure and maintained in a secure fashion at all times. (See also §500-75.)
- G. Other Standards. The proposed use shall be subject to the requirements of Chapter 390 (Subdivision and Land Development), including, without limitation, stormwater management control, stormwater infiltration control, erosion control, traffic control, landscaping, lighting and other standards prescribed by Chapter 305, Subdivision and Land Development, and/or other applicable Borough ordinances.
- H. Delaware River Basin Commission Regulation. The regulation of the proposed extraction and collection activity by the DRBC shall not act to relieve the applicant from compliance with the conditional use and other provisions of this chapter not explicitly reserved to the jurisdiction of the DRBC.
- I. Abandonment.
- (1) Abandonment. If any such groundwater, spring or surface water extraction or collection operation or facility discontinues operation for a period of 12 months or more, it shall be considered abandoned, and the owner and/or operator of said facility shall remove all pumps, supply piping, wires and similar equipment or fixtures.
 - (2) Plan. Wells shall be positively identified on a plan filed with the Borough before initiating the abandonment techniques.
 - (3) Well Ordinance. Wells shall be abandoned according to local, state and federal regulations Chapter 343; ~~Wells~~. No hole or void shall remain open.