

111.2 Issuance or Refusal of a Certificate of Zoning Compliance

If the application is in order and the applicant's property complies with the requirements of the zoning ordinance, a certificate of zoning compliance, signed by the Zoning Administrator, shall be issued to the applicant along with one (1) copy of the applicant's plan. If the application is not in order or the zoning ordinance requirements are not complied with, the application for a certificate of zoning compliance shall be refused. The refusal shall be in writing and shall state the reasons therefore, and shall be signed by the Zoning Administrator. The refusal shall be sent to the applicant along with one (1) copy of the plan with notations indicating where the plan fails to meet zoning requirements.

The Zoning Administrator shall respond to requests for a certificate of zoning compliance within forty-five (45) days or the application shall be approved by default. In the event the forty-five (45) day period cannot be met, the applicant shall be advised of the reasons for delay and one forty-five (45) day extension shall be granted. If approval is required by the Historic District Commission, or if the Zoning Administrator desired to consult with the Planning Commission, requests should be submitted to the Commissions one (1) week before their regular meeting.

Copies of the completed certificate of zoning shall be returned to the Town Secretary and to the applicant as soon as acted upon.

ARTICLE XII

ENVIRONMENTAL STANDARDS

SECTION 120. WATER RESOURCE PROTECTION AREAS

A. Purpose

The intent of this section is to implement the Town's Comprehensive Plan and provide clarification on the constraints and requirements for development in environmentally sensitive areas.

B. Definitions

1. Wellhead Water Resource Protection Areas. Surface and subsurface areas that surround a water well or wellfield supplying a public drinking water system, through which contaminants are likely to reach such well or wellfield.
2. Public drinking water system. A “public drinking water system” as defined in § 6002, Chapter 60, Title 7 of the Delaware Code, as amended.
3. Recharge Water Resource Protection Areas. Areas designated as having the best potential for groundwater recharge. Recharge Areas possess high percentages of sand and gravel that have "excellent" potential for recharge as determined through a Stack Unit Mapping Analysis performed originally by the Delaware Geological Survey. Recharge areas were originally delineated using methodology described in a report prepared by the Delaware Geological Survey entitled "Delineation of Ground-Water Recharge Resources Protection Areas in the Coastal Plain of New Castle County, Delaware," dated January 1993.
4. Floodplain Water Resource Protection Areas. The area impacted by the 100 year flood as depicted on the most recent Flood Insurance Rate Maps (FIRMs) developed by the Federal Emergency Management Agency (FEMA) or as depicted on a more accurate topographic survey of a parcel or group of parcels which specifically identify the area impacted by the 100 year flood using the FEMA determined flood elevation.
5. Water Resource Protection Areas (WRPAs). The areas consisting of Wellhead Water Resource Protection Areas, Recharge Water Resource Protection Areas, and Floodplain Resource Protection Areas.

C. Boundary Determination for WRPA

1. All subdivision and land development plans depicting development or land disturbance submitted for Town review shall be evaluated for the existence of WRPAs by scaling for distances shown on the “Town of Odessa Water Resource Protection Area Map” located in Town Hall. Floodplain Water Resource Protection Areas are located as specified in Section 110.0, subsection B-4.
2. Where interpretation is needed concerning the exact location of Wellhead Water Resource Protection Areas and Excellent Recharge Water Resource Protection Areas, the Mayor and Council shall make the necessary and final interpretation, with the assistance of the technical advisory committee established in subsection D of this article. Any person contesting the location of these areas shall have the burden of establishing that such land does not lie within the areas as defined herein. To contest a location of a WRPA, the following information shall be submitted:
 - a) A detailed topographic survey of the location in question prepared by a registered professional land surveyor;

- b) Site specific geological and hydrogeological analyses shall be performed by a Delaware registered professional geologist and shall be based upon thorough site investigation and testing.
- c) Evidence derived from a pumping test(s) or a sufficient number of test borings, test pits, observation wells, and groundwater elevations to clearly demonstrate that the area in question does or does not meet the definition of a WRPA as defined in this article.

D. Technical Advisory Committee

A committee shall be established to assist in the interpretation of and/or revision of boundaries established in this article, the review of development plans within WRPAs, and other related matters that may arise in the administration of this article. The committee's membership shall be appointed by Mayor and Council and shall consist of at least one (1) registered professional engineer with a background in hydrogeology and one (1) registered professional geologist. Mayor and Council may appoint additional members to the committee that are qualified to provide technical advice on hydrogeology. The committee shall be advisory only; all final determinations shall be made by Mayor and Council.

E. Regulations Governing Development in Wellhead Water Resource Protection Areas

1. In areas within three hundred (300) feet of the well, impervious surfaces shall be limited to the buildings and access associated with the well and distribution and treatment facilities and their maintenance.
2. The natural runoff flowing into wellhead areas shall be allowed and all new stormwater runoff shall be diverted around the wellhead protection areas whenever possible.
3. The stormwater system's discharge to Wellhead Water Resource Protection Areas shall be by sheet through grassland or by discharge from a stormwater management facility having a wetland or aquatic bench. Stormwater runoff from all parking areas shall be directed to a stormwater management facility before it is discharged into a wellhead WRPA.
4. The minimum lot area for a proposed public water supply well and related facility drawing from a confined aquifer shall be 1 acre and the minimum lot area for a public well drawing from an unconfined aquifer shall be 2 acres.
5. Underground storage tanks containing petroleum or any hazardous substances listed in 40 CFR 116 in an aggregate quantity equal to or greater than a reportable quantity as defined in 40 CFR 117 shall not be permitted in a designated wellhead area.

F. Regulations Governing Development in Recharge Water Resource Protection Areas

1. Underground storage tanks containing petroleum or any hazardous substances listed in 40 CFR 116 in an aggregate quantity equal to or greater than a reportable quantity as defined in 40 CFR 117 shall not be permitted in Recharge Water Resource Protection Areas.

2. At least twenty-five percent (25%) of the gross area designated within a subject parcel as a Recharge Water Resource Protection Area shall be maintained as Open Space. Permitted uses within Open Space in a Recharge Water Resource Protection Area shall include Open Areas as defined in this Ordinance and other Open Space uses as permitted in the zoning district containing the subject parcel. Open Spaces uses in a Water Resource Protection Area should contain no impervious surfaces.

a) Optional Environmental Impact Assessment Report. New development in WRPAs may proceed with less than twenty-five percent (25%) Open Space within excellent recharge water resource protection areas, but must comply with all Open Space requirements of the Zoning district which the area resides in, provided the applicant submits an environmental assessment recommending a climatic water budget and facilities to augment recharge. The environmental assessment must document that post-development recharge will be no less than predevelopment recharge when computed on an annual basis. Commonly, the applicant offsets the loss of recharge due to impervious cover by constructing recharge basins that convey relatively pure rooftop runoff for infiltration to ground water. If a proposed use requires an environmental impact assessment report, the applicant shall have such a report certified by a professional engineer, geologist or other certified professional in the applicable environmental discipline. The report shall contain the following criteria, given in order of preference:

- 1) Site character. The report shall identify all potential on-site sensitive environmental concerns.
- 2) Avoidance. Alternative sites or routes shall be identified that would not damage the resource or result in less resource damage. Reasons shall be provided explaining why using these sites is impossible or infeasible versus that proposed.
- 3) Minimization. The applicant shall demonstrate that the plan minimizes the impact of the activity, route, or use on the resource. The applicant shall also demonstrate that the areas impacted shall be lowest quality and result in the least damage to the resource.
- 4) Mitigation. A mitigation plan shall be submitted indicating mitigation activities. On-site replacement is the most acceptable form of mitigation. However, mitigation can include restoration and enhancement after the use is abandoned. Mitigation by replacement on another site shall be at a ratio of two to one (2:1). Mitigation may also include enhancement; this ratio shall be four to one (4:1). Final approval by Mayor and Council is required for all other forms of mitigation not consistent with this section.