

**ORDINANCE NO. 496·2024**

AN ORDINANCE OF THE BOROUGH OF LEESPORT, BERKS COUNTY, PENNSYLVANIA, TO AMEND THE LEESPORT BOROUGH ZONING ORDINANCE OF 1972, AS PREVIOUSLY AMENDED, TO CREATE A WELLHEAD PROTECTION OVERLAY DISTRICT, AND TO REGULATE LAND USES WITHIN SUCH OVERLAY DISTRICT, FOR THE PURPOSE OF PROTECTING GROUNDWATER SUPPLIES; PROVIDING FOR REPORTING REQUIREMENTS FOR CERTAIN REGULATED LAND USES WITHIN THE WELLHEAD PROTECTION OVERLAY DISTRICT; AND ESTABLISHING THE MEANS FOR ENFORCEMENT OF THE ORDINANCE.

WHEREAS, on January 15, 2020, the Council of the Borough of Leesport (the “Borough”) enacted Ordinance No. 470 consolidating the Leesport Zoning Ordinance of 1972, as amended (the “Ordinance”); and

WHEREAS, THE Borough’s potable water supply is dependent on the extraction of water from groundwater sources located in close proximity to the Borough; and

WHEREAS, the Borough has adopted a Source Water Protection Plan; and

WHEREAS, the Source Water Protection Plan provides for the Borough to regulate land uses which create risks for the contamination of the groundwater upon which the Borough’s potable water supply depends; and

WHEREAS, the Borough regulates land uses through the Ordinance; and

WHEREAS, the Borough Council wishes to amend the Ordinance to create a Wellhead Protection Overlay District in which land uses which create risks for the contamination of groundwater would be regulated.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Council of  
Leesport Borough, Berks County, Pennsylvania as follows:

SECTION 1. The Ordinance shall be amended to create a Wellhead Protection  
Overlay District, by adding a new Section 414 to read as follows:

Section 414. Wellhead Protection Overlay District

414.1 Purpose and Intent: Authority

- a. The Borough and its residents depend exclusively on groundwater for a safe drinking water supply. The Borough has developed and owns drinking water wells utilized by the Borough, which are located in two townships which adjoin the Borough, Ontelaunee Township and Bern Township. Certain land use practices and activities outside and within the Borough can seriously threaten or degrade ground water quality. The purpose of this Ordinance is to protect the public health, safety and welfare through the preservation of the groundwater resources of the Borough public water supplies and to ensure a future supply of safe and healthful drinking water for the residents of the Borough. The designation of the Wellhead Protection Overlay District, as provided herein below, and the regulation of activities within such Wellhead Protection Overlay District will reduce the potential of groundwater and surface water contamination of the Borough-owned water wells and thereby preserve irreplaceable groundwater resources. The delineation of the Wellhead Protection Overlay District and the development of the provisions of this Ordinance are based upon a professional study of the hydrogeological and other features of the Borough and contiguous areas conducted for the benefit of the Borough and certain nearby municipalities.
- b. This Ordinance is enacted pursuant to the authority contained in Article I, Section 27 of the Constitution of the Commonwealth of Pennsylvania and Sections 501, 503, 601, 604(1) and 603(b) of the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended by Act 170 of 1988, as amended by Act 209 of 1990, and as further amended by Act 131 of 1992, which provisions authorize the Borough to enact ordinances regulating development and land uses to (i) ensure the public health and safety, (ii) provide a safe, reliable and adequate water supply, and (iii) preserve natural values and aquifers.

414.2 Establishment and Delineation of Wellhead Protection Overlay District and Wellhead Protection Zones

The "Wellhead Protection Overlay District" shall be defined as that area within the corporate boundaries of the Borough as is set forth on the map attached hereto, marked as Exhibit "A" and incorporated herein by reference thereto. Within the Wellhead Protection Overlay District, the following Wellhead Protection Zones are hereby established:

- a. Zone II shall be that area marked on Wellhead Protection Exhibit "A" as Zone II; Zone II represents an area determined, by methods applicable to that hydrogeologic setting, as having a ten year time-of-travel of ground water supply to public well sites; and
- b. Zone III shall be all of the remaining area of the Borough of Leesport shown on Wellhead Protection Exhibit "A" which is not part of Zone II marked on Exhibit "A"; Zone III represents the upland area that contributes surface and groundwater to Zone II.

414.3 Regulated Land Uses

Within the Wellhead Protection Overlay District land uses shall be regulated as follows:

- a. Lots and tracts of land located within the Wellhead Protection Overlay District, as delineated on Wellhead Protection Exhibit "A", shall be governed by the restrictions applicable to the Wellhead Protection Zone in which such lots and tracts of land are located.
- b. Land uses within the Wellhead Protection Overlay District will be regulated (hereinafter Regulated Land Uses) according to the Schedule of Regulated Land Uses attached hereto, marked Wellhead Protection Exhibit "B", and incorporated herein by reference. Certain particular Regulated Land Uses will be permitted only by Special Exception or Conditional Use, within Zone II or Zone III, as is set forth in the Schedule of Regulated Land Uses.
- c. Land uses within the Wellhead Protection Overlay District continue to be regulated in accordance with the use regulations applicable to the District in which the lot is located as shown on the Official Zoning Map. This Section 414 is intended to supplement, not replace, the otherwise applicable regulations under this Ordinance for lots located in the Wellhead Protection Overlay District. The more restrictive of the regulations under this Section 414 and the

regulations of the underlying District will apply. A use may be allowed at a certain location within the Wellhead Protection Overlay District only if it is allowed under the regulations of the underlying District, and also is allowed under this Section 414. For example, if a use is not regulated at a certain location under Exhibit "B", but is prohibited at that location in the underlying District, the use is prohibited. Similarly, if a use is permitted by right at a certain location in the underlying District, but is subject to a Special Exception or Conditional Use approval process under Exhibit "B", then the use is permitted at such location only upon the approval of a Special Exception or Conditional Use.

#### 414.4 Reporting Requirements

As to each lot or tract of land located within the Wellhead Protection Overlay District, upon which there is conducted a Regulated Land Use, the record owner thereof shall maintain, submit or cause to be submitted to the Zoning Officer the following reports and information in the manner prescribed:

- a. All federal, state and county operational approvals, certificates, permits and applications, on-going environmental reports and monitoring results, relating to environmental, pollution control, hazardous substance and drinking water laws and regulations pertaining to such lot or tract of land, as and when required to be submitted to federal, state and county governmental authorities shall be made available for review by the Zoning Officer.
- b. In the event that any contaminants and/or substances regulated under federal, state or county environmental, pollution control, hazardous substance and drinking water laws and regulations are released in quantities sufficient to require reporting in accordance with federal, state and/or county guidelines on or from any lot or tract of land within the Wellhead Protection Overlay District, copies of any and all notices, reports and documents which such owner filed, or caused to be filed, with any federal, state and/or county governmental authorities which provide notice of or relate to such release, as and when such notices, reports and documents are required to be filed with such governmental authorities; and
- c. Copies of all orders or enforcement actions and similar documentation, as and when received by or on behalf of such record owner or the occupant of any such lot or tract of land from any federal, state or county governmental authority in connection with the enforcement of

environmental, pollution control, hazardous substance and drinking water laws and regulations shall be submitted to the Zoning Officer.

414.5 Administration

- a. The Zoning Officer is hereby designated as the Borough official responsible for the administration and enforcement of this Section 414 of the Ordinance. The Zoning Hearing Board shall hear appeals from the written decisions, determinations and orders of the Zoning Officer regarding applications, enforcement notices, cease and desist orders and other matters, and shall also hear substantive and procedural challenges to the validity of this Section 414 of the Ordinance.
- b. Uses of lots or tracts of land in existence on the date of enactment of this Section 414 of the Ordinance which are Regulated Land Uses shall be subject to the regulations applicable to non-conforming uses under Article VI of this Zoning Ordinance.
- c. A Regulated Land Use shall be deemed to be new or materially altered, changed or expanded if, based upon the best available evidence:
  1. The land use which constitutes the Regulated Land Use was not previously present and conducted upon the lot or tract of land in question.
  2. The production and/or storage capacity of the Regulated Land Use is increased by more than ten percent (10%) in any twelve (12) month period as compared to a prior highest twelve (12) month period;
  3. The types of any substances which give rise to the Regulated Land Use are changed;
  4. The number of types of any substances which give rise to the Regulated Land Use is increased by more than ten percent (10%) in any twelve (12) month period as compared to a prior highest twelve (12) month period;
  5. The quantity of any substances which give rise to the Regulated Land Use is materially increased by more than ten percent (10%) in any twelve (12) month period as compared to a prior highest twelve (12) month period.
- d. Following the date of enactment of this Ordinance, Regulated Land Uses which are new or which constitute material changes, alterations or

expansions of non-conforming Regulated Land Uses will be regulated in accordance with the terms of Exhibit "B" annexed hereto, thereby permitting such Regulated Land Uses only upon the granting of a Special Exception or Conditional Use. Any Regulated Land Use which is permitted to be conducted within the Wellhead Protection Overlay District as a result of the granting of a Special Exception or Conditional Use in accordance with the terms of this Section 414 shall not be deemed to be a non-conforming use of land under the terms of this Section 414, but shall without further action be considered a land use which is in conformity with the terms of this Section 414.

- e. As to any new Regulated Land Use or any proposed material change, alteration or expansion of a Regulated Land Use which is a non-conforming Regulated Land Use and to which such Regulated Land Use is permitted to be conducted within the applicable Wellhead Protection Zone upon the granting of a Special Exception or Conditional Use, such Special Exception or Conditional Use shall only be granted upon the following conditions:
  - 1. Such Regulated Land Use is one which is specifically authorized as a Special Exception use or Conditional Use use in the Wellhead Protection Zone in question, as set forth on Wellhead Protection Exhibit "B";
  - 2. Such Regulated Land Use will not, during construction or thereafter, cause the average ground water quality upon or beneath the lot or tract of land in question or upon or beneath adjacent lots or tracts of land to violate safe drinking water standards promulgated by federal or state governmental authorities;
  - 3. Satisfactory evidence has been provided to the Zoning Hearing Board or Borough Council, as applicable, that the proposed Regulated Land Use is in substantial compliance with applicable provisions of all federal, state and local laws and regulations applicable to such Regulated Land Use and the record owner or occupant has received all necessary approvals of federal, state and local governmental authorities for the conduct of such Regulated Land Use.
- f. Application for a Special Exception shall be made to the Zoning Hearing Board, and application for a Conditional Use shall be made to the Borough Council, in writing on such form as may be prescribed by and approved by the Borough and such application shall include, at a minimum, a detailed description of each of the activities to be conducted upon the lot or tract of land in question which constitute a Regulated Land Use, including a listing of all substances which are to be stored, handled, used or produced

in connection with each Regulated Land Use being proposed and which substances are subject to regulation by federal, state and/or local environmental authorities.

- g. The Zoning Hearing Board or the Borough Council, as applicable, shall conduct a hearing subject to the same procedures and be processed in the same manner as is applicable to all other applications for Special Exception or Conditional Use under the Ordinance. A written decision shall be issued approving or disapproving the application for a Special Exception or Conditional Use, or conditioning the granting of the Special Exception or Conditional Use upon adherence to any or all of the following requirements by the applicant for the Special Exception or Conditional Use, where the Zoning Hearing Board or Borough Council, as applicable, has found that such adherence is reasonably necessary to fulfill the ground water protection purposes of this Ordinance:
  - 1. The installation of containment facilities and systems as required by federal, state and/or local authorities;
  - 2. The preparation, filing (with the Zoning Officer) and periodic revision of an emergency plan (such as a Preparedness, Prevention and Contingency Plan) addressing the means by which any potential contamination of groundwater will be controlled, collected and remediated, including emergency contacts and identification of potential contaminants;
  - 3. Regular inspection and/or monitoring of the Regulated Land Use by the owner, occupant and/or third parties; and
  - 4. Compliance by the applicant with the provisions of the Borough's Subdivision and Land Development Ordinance then in effect pertaining to sanitary sewage disposal, water supply, storm water management, utilities easements, and subsurface carbonate areas.
  
- g. Applications to the Zoning Hearing Board for a Special Exception and applications for a Conditional Use to the Borough Council under this Section 414, as well as written decisions of the Zoning Hearing Board and Borough Council and appeals from the written decisions of the Zoning Hearing Board and Borough Council to the courts of the Commonwealth of Pennsylvania, shall be subject to the same procedures and shall be processed in the same manner as is applicable to other applications for Special Exceptions and Conditional Use under the terms of the Ordinance in effect at the time the application is filed.

#### 414.6 Subdivision and Land Development Review

As a condition of the issuance of a zoning permit under this Section 414, all subdivision proposals and other proposed land development plans involving Regulated Land Uses to be located within the Wellhead Protection Overlay District shall be reviewed by the Zoning Officer for compliance with the provisions of this Section 414. It shall be the responsibility of the Zoning Officer and the Borough Planning Commission to recommend to Borough Council approval, disapproval or approval with conditions or modifications of the proposed subdivision or development plan, so as to assure compliance with the provisions of this Section 414.

#### 414.7 General Exceptions

The following General Exceptions specify those activities that are permitted by right and do not require a Special Exception:

- a. Transit: the transportation of any hazardous or governmentally regulated substance through the Wellhead Protection Overlay District shall be exempt from provisions of this Section 414, provided that the transporting vehicle is in transit through the Wellhead Protection Overlay District and further provided that such transportation is conducted in compliance with all applicable federal and state laws and regulations;
- b. Residential: to the extent otherwise permitted or regulated by federal, state and/or local statutes and regulations, the owners and/or occupiers of lots and tracts of land which are primarily utilized for the purpose of single or multi-family residential dwellings are permitted to utilize and store fuels, hazardous chemicals, pesticides, fertilizers, inflammable liquids and gases, and toxic and regulated substances in such quantities and in such manner as is associated with normal consumer, household use, and such limited utilization shall not be deemed a Regulated Land Use for the purposes of this Section 414.

#### 414.8 Preventive and Enforcement Remedies

For the purpose of preventing violations of this Section 414 and enforcing the provisions of this Section 414, the Borough shall have the same remedies as any other violation of the Ordinance.

- 414.9 Conflicts. Whenever there is a difference between any of the minimum standards specified in this Section 414 and any standard included in any other provision of the Ordinance or any other ordinance, law or regulation of the Borough, the more stringent requirement shall apply.



the Ordinance or any other ordinance, law or regulation of the Borough, the more stringent requirement shall apply.

SECTION 2. Repealer. All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.


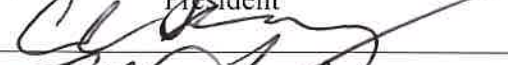



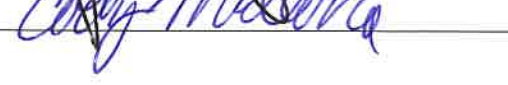
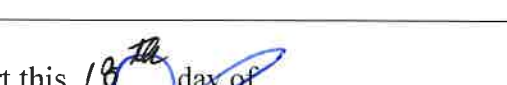
SECTION 3. Effective Date. This Ordinance shall become upon its approval by the Mayor, as provided by law.

ENACTED AND ORDAINED as an Ordinance of the Borough of Leesport, Berks County, Pennsylvania, this 18<sup>th</sup> day of December, 2024.

BOROUGH COUNCIL  
BOROUGH OF LEESPORT  
BERKS COUNTY, PENNSYLVANIA

ATTEST:

  
Secretary

  
President  
  
  
  
  
  


Approved as an Ordinance of the Borough of Leesport this 18<sup>th</sup> day of December, 2024.

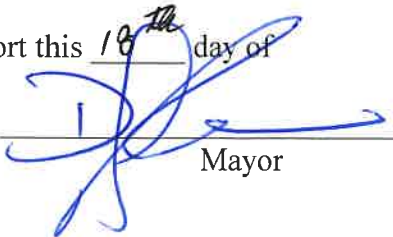
  
Mayor

Exhibit "A"  
Wellhead Protection Overlay District  
Map of Wellhead Protection Zones

**Leesport Borough**  
**Zone II Protection Area**  
**Leesport Borough**  
**Water Authority**  
**PWSID# 3060047**  
**Berks County, PA**

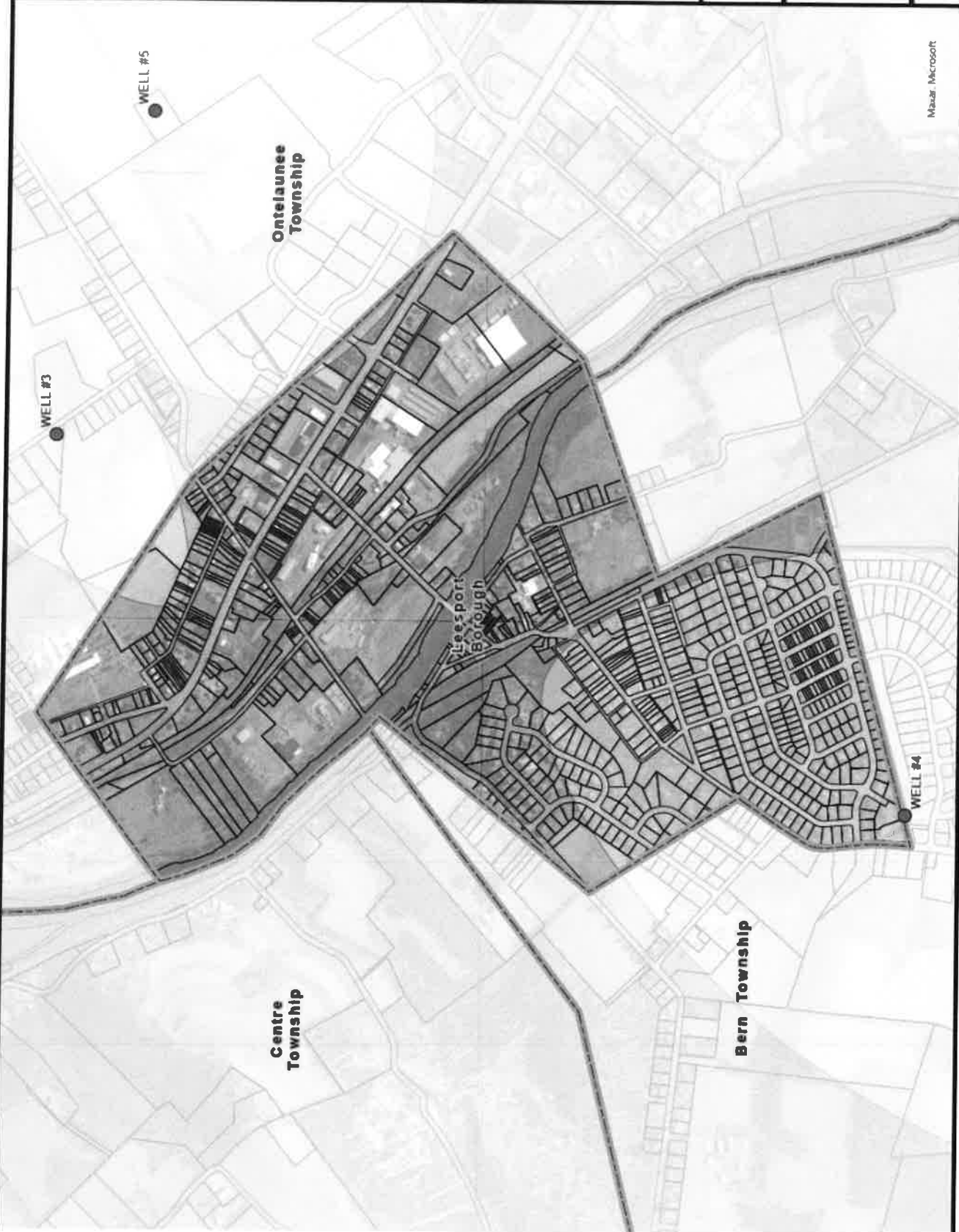
- LBWA Well
- ▭ Parcel Boundary
- ▭ Zone II Protection Area
- ▭ Municipal Boundary



Data Source:  
1916, PA DEP 2019  
Parcel Berks County, 2022  
Aerial, 2014, 2022

**SSM**  
SPOTTS | STEVENS | MCCOY  
Engineering and Environmental Services  
Reading | Lehigh Valley | Lancaster | West Chester  
P 610.621.2000 F 610.621.2001  
asm@ssm.com

12/06/22



Mazur, Microsoft

Exhibit "B"  
Wellhead Protection Overlay District  
Schedule of Regulated Land Uses

<u>Use</u>	<u>Zone II</u>	<u>Zone III</u>
Bulk storage of regulated substances (excluding single family residential use propane tanks and heating oil tanks up to 1,000 gallons):	X	SP
Liquid greater than 119 gallons of liquid substance		
Solid greater than 882 pounds or having a volume greater than 119 gallons of solid substance		
Gas greater than 1,000 pounds, or having a volume greater than 119 gallons of gaseous substance		
Dry-cleaning establishments; coin or commercial laundries, if not connected to public sewer	X	SP
Gasoline service station	X	SP
Heavy industrial use and general industrial use	X	SP
Junkyards	X	X
Land application of wastewater and sludges, except in accordance with an approved Nutrient Management Plan.	X	X
Livestock animals in excess of 25 animal equivalent units per acre in yarding areas	X	X
Metal plating establishments	X	SP
Open burning sites and dumps, unless exempt under municipal open burning regulations	X	X
Quarries and mining operations	X	X
Road salt stockpiles	SP	SP
Sales and/or storage of fuels, other than gasoline service station	SP	SP
Sanitary landfill	X	X
Sewage treatment facilities with on-site disposal of primary or secondary treated effluent in excess of 5,000 gallons per day (not including municipal or PUC regulated sewage treatment	X	X

facilities within Zone III)

Storage and mixing of regulated substances	X	SP
Storage of inflammable liquids and gases (not including municipal or PUC regulated water storage facilities)	SP	SP
Use which involves as a principal activity the manufacture, Storage, use, transportation or disposal of regulated substances	X	X
Use which involves use or storage of regulated substances in quantities greater than those associated with normal household use but less than the amounts constituting bulk storage	SP	SP
Used motor vehicle sales area	SP	SP

Notes: X = Conditional Use  
SP = Special Exception

As used in this Exhibit B, the term "regulated substances" shall mean any substances regulated under federal, state or county environmental, pollution control, hazardous substance and drinking water laws and regulations.