

Section 34: Wellhead Protection Area

A. Purpose and authority.

(1) Purpose. The residents of Lake Como Sanitary District depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of this ordinance is to institute regulations and restrictions protecting the municipal water supply of the Lake Como Sanitary District and promote the public health, safety and general welfare of the residents.

(2) Authority. This section is adopted pursuant to NR 811.12, Wis. Adm. Code and the amendments thereto, which grants the District the authority to enact a wellhead protection plan to protect groundwater resources and to promote the public health, safety and welfare.

B. Application of regulations.

(1) The regulations specified in this section apply to the areas within the District that lie within the wellhead protection area for the municipal wells.

(2) Notwithstanding the foregoing, the regulations specified in this section shall not apply to any development or use by the District which has been approved by the Department of Natural Resources or the Public Service Commission.

C. Definitions. As used in this section, the following terms shall have the meanings indicated:

AQUIFER

A saturated, permeable geologic formation that contains and will yield significant quantities of water.

CONE OF DEPRESSION

The area around a well, in which the water level has been lowered at least 1/10 foot by pumping of the well.

FIVE-YEAR TIME OF TRAVEL

The recharge area up gradient of the cone of depression, the outer boundary of which it is determined or estimated that groundwater will take five years to reach a pumping well.

MUNICIPAL WATER SUPPLY

The municipal water supply of Lake Como Sanitary District.

PERSON

An individual, partnership, association, corporation, municipality or state agency, or other legal entity.

RECHARGE AREA

The area which encompasses all areas or features that, by surface infiltration of water that reaches the zone of saturation of an aquifer, supplies groundwater to a well.

THIRTY-DAY TIME OF TRAVEL

The recharge area up gradient of a well, or its cone of depression, the outer boundary of which it is determined or estimated that groundwater will take thirty days to reach a pumping well.

WELL FIELD

A piece of land used primarily for the purpose of locating wells to supply a municipal water system.

ZONE OF SATURATION

The area of unconsolidated, fractured or porous material that is saturated with water and constitutes groundwater.

D. Wellhead Protection Area.

(1) The Wellhead Protection Area (WPA) is intended to provide regulations and restrictions within a defined area that contributes water directly to a municipal water supply and thus promote public health, safety, and welfare. The WPA is intended to protect the groundwater recharge area for the existing or future municipal water supply from contamination.

(2) The WPA is described as the area within the District within a radius of 1,200 feet of each municipal well of the District.

E. Wellhead Protection Area Boundaries. The boundaries of each WPA shall be shown on the Wellhead Protection Area Map, Exhibit A, which is incorporated herein and hereby made a part of this section as though fully set forth and described herein.

F. Separation distance requirements.

(1) The following separation distances as specified in Wis. Adm. Code § NR 811.16 shall be maintained:

- (a) Fifty feet between a public water supply well and a stormwater sewer main or any sanitary sewer main constructed of water main materials and joints which is pressure tested in place to meet current AWWA C600 specifications.
- (b) Two hundred feet between a public water supply well and any sanitary sewer main not meeting the specifications in Subsection A, any sanitary sewer lift station or single-family residential fuel oil tank.
- (c) Four hundred feet between a public water supply well and a septic system receiving less than 8,000 gallons per day, or a stormwater detention, retention,

or infiltration or drainage basin.

- (d) Six hundred feet between a well and any farm underground storage tank system or other underground storage tank system with double wall and with electronic interstitial monitoring for the system, which means the tank and any piping connected to it; any farm above ground storage tank with double wall, or single wall tank with other secondary containment and under a canopy or other above ground storage tank system with double wall, or single wall tank with secondary containment and under a canopy; and with electronic interstitial monitoring for a double wall tank or electronic leakage monitoring for a single wall tank secondary containment structure. These installations shall meet the standard double wall tank or single wall tank secondary containment installation requirements of s. ATCP 93.260 and receive written approval from the department of safety and professional services or its designated Local Program Operator under s. ATCP 93.110. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances..
- (e) One thousand feet between a well and land application of municipal, commercial or industrial waste; industrial, commercial or municipal wastewater storage structures; and manure stacks or storage structures.
- (f) One thousand two hundred feet between a well and any solid waste storage, transportation, transfer, incineration, air curtain destructor, processing, wood burning, one-time disposal or small demolition facility; sanitary landfill; coal storage area; salt or deicing material storage area; gasoline or fuel oil storage tanks that have not received written approval from Commerce or its designated agent under Wis. Adm. Code § ATCP 93.110; bulk fuel storage facilities; pesticide or fertilizer handling or storage facilities; or any property with residual groundwater contamination that exceeds Wis. Adm. Code Ch. NR 140 that is shown on the Department of Natural Resources geographic information system registry of closed remediation sites.

G. Prohibited Uses. Certain uses are prohibited in the WPA in order to provide the greatest assurance that inadvertent discharge of pollutants into the water supply will not occur, since such an event would result in almost certain contamination of the public water supply and costly mitigation or remediation for which liability is difficult or impossible to establish.

- (1) The uses, activities or structures prohibited in the WPA include:
 - (a) Below-ground hydrocarbon storage tanks, petroleum storage tanks (except a gasoline or fuel oil storage tank installation that has received written approval from the Wisconsin Department of Commerce or its designated agent under Wis. Adm. Code § ATCP 93.260), or hazardous chemical storage tanks. (Hazardous chemicals are identified by OSHA criteria under 40 CFR Part

370.).

- (b) Cemeteries.
- (c) Chemical manufacturers (Standard Industrial Classification Major Group 28).
- (d) Coal storage.
- (e) Dry cleaners.
- (f) Industrial lagoons and pits.
- (g) Landfills and any other solid waste facility, except post-consumer recycling.
- (h) Manure and animal waste storage except animal waste storage facilities regulated by the county.
- (i) Nonmetallic earthen materials extraction or sand and gravel pits.
- (j) Pesticide and fertilizer dealer, transfer or storage.
- (k) Railroad yards and maintenance stations.
- (l) Rendering plants and slaughterhouses.
- (m) Salt or deicing material storage.
- (n) Salvage or junkyards.
- (o) Septage or sludge spreading, storage or treatment.
- (p) Septage, wastewater, or sewage lagoons.
- (q) Private on-site wastewater treatment systems or holding tanks receiving 8,000 gallons per day or more.
- (r) Stockyards and feedlots.
- (s) Motor vehicular services, including filling and service stations, repair, renovation and body working [gasoline filling stations, without service facilities, are subject to the separation distances in Subsection G (1)(a)].
- (t) Wood preserving operations.
- (u) Hazardous, toxic or radioactive materials transfer and storage.

H. Requirements for existing facilities which may cause or threaten to cause environmental pollution. Existing facilities within the WPA at the time of enactment of such district which may cause or threaten to cause environmental pollution include, but are not limited to, those types listed in the Department of Natural Resources' Form 3300-215, Public Water Supply Potential Contaminant Use Inventory Form, and all other facilities which are considered a prohibited use in Subsection G.

(1) Such facilities as above which exist within the WPA at the time of enactment of this ordinance shall provide copies of all current, revised or new federal, state and local facility operation approvals, permits or certificates; operational safety plans; and ongoing environmental monitoring results to the District.

(2) Such facilities as above which exist within the WPA at the time of enactment of this ordinance shall have the responsibility of devising, filing and maintaining, with the District, a current contingency plan which details how they intend to respond to any emergency which may cause or threaten to cause environmental pollution that occurs at their facility, including notifying municipal, county and state officials.

I. Changing technology.

(1) The uses prohibited by this ordinance are prohibited based upon the combined pollution experience of many individual uses, and the technology generally employed by a particular use considered being of a high risk for pollution to the groundwater resource. As the technology of other uses change to low or nonrisk materials or methods, upon petition from such user, after conferring with the District's engineers or other expert opinion, and after appropriate public notice and hearing, the District may change the provisions of this ordinance to remove from the designated prohibited uses such uses as are demonstrated convincingly that they no longer pose a groundwater pollution hazard.

(2) In dealing with uses which attempt to become permissible under the terms of this ordinance, by continuing to utilize pollutant materials but altering their processing, storage and handling, it is not the intention to accept alternate or reduced hazards as the basis for making a use permissible. It is the intention to continue a prohibition on such uses until the technology of the use removes reliance upon the pollutant materials or processes deemed to be a groundwater hazard.

J. Appeal. Any person whose proposed use or development of property is prohibited by the application of the provisions of this section may petition the Commission for review of the proposed development or use to determine whether the same complies with the separation distance requirements of this ordinance.

(1) All requests for review shall be submitted to the District in writing for a review of permit application materials. The request will then be forwarded to the District's engineer and/or other outside consultant.

(2) The review application shall include:

- (a) A site plan map set showing all building and structure footprints, driveways, sidewalks, parking lots, stormwater management structures, groundwater monitoring wells, and 2-foot ground elevation contours. The plan set should also include: building plans (must include floor plans of typical floors and denote all entrances, exits, loading docks, building service areas, etc.), storage areas for regulated substances, grading plans showing existing and proposed grades and contours, proposed surface water drainage patterns, catch basin and storm sewer locations, connections to existing utilities and a construction site erosion control plan.
 - (b) An operational plan and/or other documentation which describes in detail the use, activities, and structures proposed.
 - (c) A narrative which identifies the area or areas of apparent non-compliance identified by the District and the reason or reasons such area or areas of apparent non-compliance to do bar applicant's proposed use or development.
- (3) The person making the request shall reimburse the District for consultant fees and technical review expenses associated with this review at the invoiced amount.

K. Enforcement and penalty.

- (1) Penalty. Any person who violates, neglects or refuses to comply with any of the provisions of this section shall be subject to a penalty as provided in Section 38 of the District's Water Use ordinance.
- (2) Injunction. The District may, in addition to any other remedy, seek an injunction or restraining order against the party alleged to have violated the provisions herein, the cost of which shall be charged to the defendant in such action.
- (3) Cleanup costs. As a substitute for, and in addition to any other action, the District may commence legal action against both the person who releases the contaminants and the owner of the facility whereupon the contaminants were released to recover the costs, together with the costs of prosecution. Any person who causes the release of any contaminants which may endanger or contaminate the municipal water supply system shall immediately cease such discharge and immediately initiate cleanup satisfactory to the District and the other state and federal regulatory agencies. The person who releases such contaminants and the person who owns the facility whereon the contaminants have been released shall be jointly and severally responsible for the cost of cleanup, consultant, or other contractor fees, including all administrative costs for oversight, review and documentation, including the District employees, equipment, and mileage.

L. Conflict. Where any terms or requirements of this section may be inconsistent or conflicting, the most restrictive requirements or interpretations shall apply.