

# 11.04 WELLHEAD PROTECTION ORDINANCE

## VILLAGE OF HILBERT CALUMET COUNTY, WISCONSIN

### **SECTION 1 SHORT TITLE.**

This Ordinance shall be known and cited as the "Wellhead Protection Ordinance" (hereafter Ordinance).

### **SECTION 2 PURPOSE AND AUTHORITY.**

The purpose of this Ordinance is to promote the public health, safety, and general welfare by insuring the provision of a safe and sanitary drinking water supply for the Village by the establishment of a Wellhead Protection Area surrounding the wellheads for all wells which are the supply sources for the Village water system and by the designation and regulation of property uses and conditions which may be maintained within such zones to minimize public and private losses due to contamination of the public water supply.

These regulations are established pursuant to the authority granted by the Wisconsin Legislature in 1983, Wisconsin Act 410 (effective May 11, 1994), which specifically added groundwater protection to the statutory authorization for municipal planning and zoning in order to protect the public health, safety, and welfare.

### **SECTION 3 DEFINITIONS.**

When used in this Ordinance the following words and phrases shall have the meanings given in this Section:

- (a) AQUIFER - a geologic formation, group of formations, or part of a formation that contains sufficient saturated, permeable material to yield significant quantities of water to wells and springs.
- (b) COMMUNITY WATER SYSTEM - a public water system that serves at least fifteen service connections used by year-round residents or regularly serves at least twenty-five year round residents.
- (c) CONE OF DEPRESSION - a depression in the water table that occurs when a pumping well withdraws water at a rate faster than the aquifer can supply water to the well.
- (d) FACILITY - a building or buildings, appurtenant structures, and surrounding land used by a single business, private entity, or governmental unit or sub-unit at a single location or site.
- (e) FIVE-YEAR TIME OF TRAVEL (TOT) - the five-year time of travel is the recharge area upgradient of the cone of depression, the outer boundary of which it is determined or estimated that groundwater and potential contaminants will take five years to reach a pumping well.

- (f) GROUNDWATER - the water in a saturated zone or stratum beneath the surface of land or water, whether or not it is flowing through known and definite channels.
- (g) GROUNDWATER DIVIDE - a ridge in the water table, or potentiometric surface, from which groundwater moves away at right angles in both directions. Line of highest hydraulic head in the water table or potentiometric surface.
- (h) HAZARDOUS SUBSTANCE - any waste or material which because of its quantity, concentration or physical chemical or infectious characteristics may:
  - (1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
  - (2) Pose a substantial present or potential hazard to human health or to the environment when improperly treated, stored, transported, disposed of or otherwise managed.
- (i) MANAGEMENT ZONES - a zone or zones established to provide protection to the area surrounding a well or well field from potential contaminant sources. Management options may include limits on certain activities, more stringent design and operating standards, strict monitoring of potential pollution sources, promoting best management practices, and/or implementing education programs. Multiple protection zones may be established for different management strategies based on proximity to the well field.
- (j) PETROLEUM PRODUCT - any fuels (gasoline, diesel fuel, kerosene, and mixtures of these products), lubricating oils, motor oils, hydraulic fluids, and other similar products.
- (k) POTABLE WATER - any water that is satisfactory for drinking, culinary, and domestic purposes meeting current State and Federal drinking water standards.
- (l) PRIMARY CONTAINMENT- the first level of product tight containment, i.e., the inside portion of that container which comes into immediate contact on its inner surface with the hazardous material being contained.
- (m) PRIMARY PROTECTION ZONE - an area calculated as the zone of influence characteristic to each individual well supply mg potable water to any community water system.
- (n) PUBLIC UTILITY - any utility (gas, water, sewer, electrical, telephone, cable television, etc.) whether publicly owned or privately owned.
- (o) RECHARGE AREA - an area in which water reaches the zone of saturation by surface infiltration and encompasses all areas or features that supply groundwater recharge to a well.
- (p) REGULATORY AGENCY - any governmental agency with jurisdiction over hazardous waste as defined herein.

- (q) SANITARY LANDFILL - a disposal site where solid wastes, including putrescible wastes, or hazardous wastes, are disposed of on land by placing earth cover thereon.
- (r) SECONDARY CONTAINMENT - the level of product tight containment external to and separate from the primary containment. Secondary containment shall consist of leak-proof trays under containers, floor curbing or other containment systems and shall be of adequate state-approved size and design to handle all spills, leaks, overflows, specific design and election of materials shall be sufficient to preclude any substance loss. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented.
- (s) WELL - any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is to conduct groundwater from an aquifer system to the surface by pumping or natural flow, or to monitor the characteristics of groundwater within an aquifer system.
- (t) WELLHEAD - the upper terminal of a well, including adapters, ports, seals, valves, and other attachments.
- (u) WELLHEAD PROTECTION AREA - the surface or subsurface area surrounding a water well or well field, supplying a public water system, an area through which contaminants are reasonably likely to move toward and reach such water well or well field.
- (v) ZONE OF CONTRIBUTION - the land area over which water can infiltrate and move toward the well.
- (w) ZONE OF INFLUENCE - the land area above the cone of depression that results after thirty days of continuous pumping of a well.

#### **SECTION 4 ESTABLISHMENT OF WELLHEAD PROTECTION AREA.**

There is hereby established a use district to be known as a Wellhead Protection Area, identified and described as all the areas including those of the cone of depression due to the average pumping capacity of the wells, the areas encompassing the zone of contribution for a five year time of travel to the wells, and the recharge areas influencing the wells.

The area(s) designated as the Zone of Influence for the well(s) is hereby known as the Primary Protection Zone(s). It begins at the wellhead and extends radially outward a distance of 500 feet from the well.

Additional protection beyond the Primary Protection Zone shall be accomplished by the establishment of Management Zones.

The boundaries of the Primary Management Zone shall begin at a point or points along the outer perimeter of the Primary Protection Zone and extend outward to all points within and including the designated Zone of Contribution for the five year time of travel to each of the wells. Furthermore, as the annual average pumping capacity of the wells is changed, the Primary Management Zone boundaries shall be changed in like manner and simultaneously.

The boundaries of Secondary Management Zone shall include all the area extending between the Primary Management Zone outer perimeter and a minimum of one (1) mile radially or the Village Limit boundaries (whichever is less) from any well supplying water to the aforementioned community water system.

Subsequent and additional Management Zones may be established whenever it is found that the Wellhead Protection Zone needs to be expanded to provide adequate protection for the groundwater within and/or adjacent to the Wellhead Protection Area.

#### **SECTION 5 SUBSTANCES REGULATED.**

The materials regulated by this ordinance shall consist of the following:

- (a) Petroleum products as defined in Section 3, Definitions.
- (b) Substances listed in the Federal Hazardous Waste List.
- (c) Substances other than those listed on the Federal Hazardous Waste List that are determined by State or Federal agencies to pose a significant threat to any community water supply well or well field.

#### **SECTION 6 RESTRICTIONS WITHIN THE WELLHEAD PROTECTION AREA.**

Restrictions within each Zone of the Wellhead Protection Area shall be determined by the Village Council or their appointee. The Council or their appointee shall conduct a survey of the Wellhead Area and identify the potential sources of contamination therein. After assessing the local groundwater protection needs, the method or combination of management methods shall be submitted for approval.

The restrictions within each Zone may be modified periodically to provide additional protection or to prevent future contamination.

The following uses or conditions shall be and are hereby prohibited within the Primary Protection Zone. Existing uses or conditions that are prohibited under this section that desire to continue shall comply with the requirements of Section 8.

- (a) Agricultural activities;
- (b) Feedlots or other concentrated animal facilities;
- (c) Gas stations;
- (d) Vehicle repair establishments, including auto body repair;
- (e) Junk yards or auto salvage yards;
- (f) Bus or truck terminals;
- (g) Impervious surfaces other than roofs of buildings, and streets, parking lots, driveways and sidewalks;

- (h) Dry cleaning businesses;
- (i) Any manufacturing or industrial business;
- (j) Electroplating facilities,
- (k) Exterminating businesses;
- (l) Sanitary landfills;
- (m) Sanitary sewer lines within 100 feet of a wellhead;
- (n) Animal waste spreading,
- (o) Septic tanks or drain fields appurtenant thereto;
- (p) Stormwater infiltration basins;
- (q) Hazardous waste disposal sites;
- (r) Surface use or storage of hazardous material, including commercial use of agricultural pesticides;
- (s) Underground storage
- (t) Salt storage;
- (u) Bulk herbicide and/or pesticide storage and use.

The following uses or conditions shall be and are hereby prohibited within Management Zone One (1).

- (a) Junk yards and auto salvage yards;
- (b) Sanitary landfills;
- (c) Hazardous waste disposal sites;
- (d) Stormwater infiltration basins.

The following uses or conditions are permitted within Management Zone One (1) only as a special exception. A conditional use permit may be granted to an individual and/or facility to allow a special exception use. In order to receive a conditional use permit, an individual and/or facility must demonstrate compliance with applicable Federal, State and County requirements.

- (a) Feedlots or other concentrated animal activities;
- (b) Gas stations;
- (c) Vehicle repair establishments, including auto body repair,
- (d) Bus or truck terminals;
- (e) Dry cleaning businesses;

- (f) Any manufacturing or individual business;
- (g) Electroplating facilities;
- (h) Exterminating businesses;
- (i) Animal waste spreading,,
- (j) Septic tanks or drain fields
- (k) Bulk salt storage
- (l) Surface use or storage of hazardous materials

The area within Management Zone Two (2) shall be managed by conducting a public education program to inform the property owners of the need for and methods of wellhead protection. If additional management methods are necessary, the appropriate governing bodies with jurisdiction over the area within the Management Zone Two (2) shall be notified.

## **SECTION 7 EXEMPTIONS.**

Individuals and/or Facilities may request the Village to issue a conditional use permit for a special exception use in the Wellhead Protection Area. All requests shall be in writing either on or in substantial compliance with forms to be provided by the Village and shall include an environmental assessment report prepared by a licensed environmental engineer. Said report shall be forwarded to the Village Engineer and/or designee(s) for recommendation and final decision by the Village Board. The Individual/Facility shall reimburse the Village for all Consultant fees associated with this review at the invoiced amount plus administrative costs. Any permitted uses shall be conditional and may include required environmental and safety monitoring consistent with local, state, and federal requirements, and/or bonds and/or sureties satisfactory to the Village.

The following activities or uses are exempt from the provision of this Ordinance:

- (a) The transportation of any hazardous substance through the wellhead protection area, provided the transporting vehicle provides adequate primary and secondary containment and is in-transit.
- (b) The use of herbicides and pesticides is allowed within the Management Zones, provided best management practices are used or it is determined that the use of such herbicides and pesticides does not pose a serious to the groundwater.
- (c) The use of any hazardous substance solely as fuel in a vehicle fuel tank or as a lubricant in a vehicle.
- (d) Fire, police, emergency medical services, emergency management center facilities, or public utility transmission facilities.
- (e) Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers.

- (f) Consumer products limited to use at a facility solely for janitorial or minor maintenance purposes.
- (g) Consumer products located in the home which are used for personal, family or household purposes.
- (h) The storage and use of hazardous substances as fuel or lubricant to provide auxiliary power for emergency use to the well field, provided an enclosed secondary containment system is provided for the substance.
- (i) Any water treatment chemicals connected with the operation of the wells.
- (j) Stormwater retention ponds constructed in a manner approved by the Village and/or Village Engineer may be placed in the management zone. The soil beneath the retention pond shall have a low rate of water transmission, less than 0.15 inches per hour.

### **SECTION 8 REQUIREMENTS FOR EXISTING FACILITIES.**

The following requirements are to be met by existing facilities wishing to continue with activities prohibited under Section 6.

- (a) Facilities shall provide copies of all federal, state, and county operation approvals or certificates and on-going environmental monitoring results to the Village.
- (b) Facilities shall provide additional environmental or safety structures/monitoring as deemed necessary by the Village, which may include but are not limited to stormwater runoff management and monitoring.
- (c) Facilities shall replace equipment or expand in a manner that improves the existing environmental and safety technologies already in existence.
- (d) Facilities shall have the responsibility of devising and filing with the Village a contingency plan satisfactory to the Village for the immediate notification of Village officials in the event of an emergency.

### **SECTION 9 PENALTIES.**

In the event of the release of any contaminants, which endanger the Wellhead Protection Area, the activity causing said release shall cease immediately and a cleanup satisfactory to the Village shall occur.

The individual/Facility participating in such activity shall be responsible for all costs of cleanup, Village consultant fees at the invoice amount plus administrative costs for oversight review, and documentation. These costs may include but are not limited to:

- (a) The cost of Village employees' time associated in any way with the cleanup based on the hourly rate paid to the employee multiplied by a factor determined by the Village representing the Villages cost for expenses, benefits, insurance, sick leave, holidays, overtime, vacation, and similar benefits.

- (b) The cost of Village equipment employed.
- (c) The cost of mileage reimbursed to Village employees attributed to the cleanup.

Any violation of this Ordinance within the Primary Protection Zone or Management Zone One (1) shall be punishable by imprisonment of the said violator(s) in the County jail for up to 12 months and/or by a fine of not less than \$100.00 nor more than \$500.00, plus the costs of prosecution for each separate violation hereof. Each day a violation exists or continues shall constitute a separate offense. For any corporation committing any violation of this Ordinance within Management Zone One (1) shall be punished by a fine of not more than \$10,000 or double the defendant's gain, whichever is greater.

**SECTION 10 MAPS & DETAILS AVAILABLE AT VILLAGE HALL**

Complete details of this Ordinance as well as maps illustrating the areas referred to herein may be inspected at the Village Hall and copies may be obtained at a reasonable charge for copying.

**SECTION 11 CONFLICT AND SEVERABILITY.**

Conflict with other Ordinances: In case of a conflict between this Ordinance, or any part thereof, and the whole or part of any existing or future Ordinances, the provisions of the most restrictive shall apply.

Severability: If any word, clause, phrase, portion, or provision of this Ordinance is held invalid or unconstitutional by any duly authorized court in the State of Wisconsin, such a decision shall not affect the remainder or any other provision of this Ordinance.

All Ordinances and parts of Ordinances in conflict herewith shall not be and the same are hereby repealed.