

VILLAGE OF HUSTISFORD NO. 315-39

**AN ORDINANCE CREATING WELLHEAD PROTECTION (WHP) BY
ESTABLISHING LAND USE RESTRICTIONS WITHIN THE VILLAGE OF HUSTISFORD
TO PROTECT THE VILLAGE'S GROUNDWATER AQUIFER AND MUNICIPAL
WATER SUPPLY**

The Village Board of the Village of Hustisford, Dodge County, Wisconsin do ordain as follows:

SECTION 1. Title of Ordinance. This Ordinance shall be known, cited and referred to as the "Wellhead Protection Ordinance" (hereinafter referred to as "WHP Ordinance").

SECTION 2. Purpose, Authority and Application.

(1) Residents in the Village of Hustisford 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 WHP Ordinance is to institute land use regulations and restrictions to protect the Village's Municipal water supply and well fields, and to promote the health, safety and general welfare of the residents of the Village.

(2) Statutory authority of the Village to enact these regulations was established by the Wisconsin Legislature in ss. 61.35 and 62.23(7)(a) and (c), Wis. Stats. Under these statutes, the Village has the authority to enact this ordinance, effective in the incorporated areas of the Village, to encourage the protection of groundwater resources.

(3) The regulations specified in this WHP Ordinance shall apply within the Village's corporate limits.

SECTION 3. Definitions.

(1) Aquifer. "Aquifer" means a saturated, permeable, geologic formation that contains, and will yield, significant quantities of water.

(2) Existing facilities. "Existing facilities" means current facilities, practices and activities which may cause or threaten to cause environmental pollution within that portion of the Village's wellhead protection area that lies within the corporate limits of the Village. Existing facilities include but are not limited to the type listed in the Department of Natural Resources' form 3300-215, Public Water Supply Potential Contaminant Use Inventory Form which is incorporated herein as if fully set forth [consult your municipal attorney regarding incorporation by reference Form 3300-215.]

(3) Recharge Area. "Recharge area" means the land area which contributes water to a well by infiltration of water into the subsurface and movement with groundwater toward the well. This area extends beyond the corporate limits of the Village.

(4) Groundwater Protection Overlay District. "Groundwater Protection Overlay District" means that portion of the recharge area for the village wells that lies within the village limits as shown in the map attached hereto as Exhibit "A" and incorporated herein as if fully set forth.

(5) Well Field. “Well field” means a piece of land used primarily for the purpose of supplying a location for construction of wells to supply a municipal water system.

SECTION 4. Groundwater Protection Overlay District.

(1) Separation Distances. The following minimum separation distances shall be maintained within the Groundwater Protection Overlay District.

(a) Fifty feet between a well and storm sewer main.

(b) Two hundred feet between a well and any sanitary sewer main, sanitary sewer manhole, lift station or single family residential fuel oil tank. A lesser separation distance may be allowed for sanitary sewer mains where the sanitary sewer main is constructed of water main materials and joints and pressure tested in place to meet current American Waterworks Association (AWWA) C600 specifications. In no case may the separation distance between a well and sanitary sewer main be less than 50 feet.

NOTE: Current AWWA C600 specifications are available for inspection at the office of the Wisconsin Department of Natural Resources, the Secretary of State’s office and the office of the Revisor of Statutes.

(c) Four hundred feet between a well and a septic tank or soil adsorption unit receiving less than 8,000 gallons per day, a cemetery or a storm water drainage pond.

(d) Six hundred feet between a well and any gasoline or fuel oil storage tank installation that has received written approval from the Wisconsin Department of Commerce (hereafter Commerce) or its designated agent under s. Comm 10.10, Wis. Adm. Code.

(e) One thousand feet between a well and land application of municipal, commercial or industrial waste; boundaries of a landspreading facility for spreading of petroleum-contaminated soil regulated under ch. NR 718 while that facility is in operation; industrial, commercial or municipal waste water lagoons or storage structures; manure stacks or storage structures; and septic tanks or soil adsorption units receiving 8,000 gallons per day or more.

(f) Twelve 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; any property with residual groundwater contamination that exceeds ch. NR 140 enforcement standards that is shown on the Department of Natural Resources’ geographic information system registry of closed remediation sites; 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 s. Comm 10.10, Wis. Adm. Code; bulk fuel storage facilities; and pesticide or fertilizer handling or storage facilities.

(2) Overlay District.

(a) Permitted uses -. The following uses are permitted uses within the Overlay District. Uses not listed shall be considered prohibited uses:

1. Parks, provided there is no on-site waste disposal or fuel storage tank facilities associated with this use.
2. Playgrounds.

3. Wildlife areas.
4. Non-motorized trails, such as bike, skiing, nature and fitness trails.
5. Residential, commercial and industrial property, which is municipally sewered, and free of flammable and combustible liquid and underground storage tanks (USTs).

(b) Mapping. The location and boundaries of the Overlay District established by this Ordinance are set forth on the attached Exhibit "A" which is incorporated herein and hereby made a part of this Ordinance. Said map, together with everything shown thereon and all amendments thereto, shall be as much a part of this Ordinance as though fully set forth and described herein.

SECTION 5. Review of Permit Application.

(1) The Village of Hustisford Utilities Commission shall review all requests for approval of permits for land uses in the Groundwater Protection Overlay District. All determinations shall be made by the Utilities Commission within sixty (60) days of any request for approval, provided however, that this sixty (60) day period of limitation may be extended by the Utilities Commission for "good cause", as determined in the sole and absolute discretion of the Utilities Commission.

(2) Upon reviewing all requests for approval, Utilities Commission shall consider all of the following factors:

(a) The Village's responsibility, as a public water supplier, to protect and preserve the health, safety and welfare of its citizens.

(b) The degree to which the proposed land use practice, activity or facility may seriously threaten or degrade groundwater quality in the village or the Village's recharge area.

(c) The economic hardship which may be faced by the landowner if the application is denied.

(d) The availability of alternative options to the applicant, and the cost, effect and extent of availability of such alternative options.

(e) The proximity of the applicant's property to other potential sources of contamination.

(f) The then existing condition of the Village's groundwater public water wells and well fields, and the vulnerability to further contamination.

(g) The direction of flow of groundwater and other factors in the area of the applicant's property which may affect the speed of the groundwater flow, including topography, depth of soil, extent of aquifer, depth to water table and location of private wells.

(h) Any other hydrogeological data or information which is available from any public or private agency or organization.

(i) The potential benefit, both economic and social, from the approval of the applicant's request for a permit.

(3) Any exemptions granted will be made conditional and may include environmental and/or safety monitoring which indicates whether the facility may be emitting any releases or harmful contaminants to the surrounding environment. The facility will be held financially responsible for all environmental cleanup costs. The Utilities Commission may require that a bond be posted for future monitoring and cleanup costs if deemed necessary at the time of granting an exemption.

(4) The applicant shall be solely and exclusively responsible for any and all costs associated with the application, including all of the following:

- (a) The cost of an environmental impact study if so required by the Village or its designee.
- (b) The cost of groundwater monitoring or groundwater wells if required by the Village or its designee.
- (c) The costs of an appraisal for the property or other property evaluation expense if required by the Village or its designee.
- (d) The costs of Village's employee's time associated in any way with the application based on the hourly rate paid to the employee multiplied by a factor, determined by the Village, representing the Village's costs for expenses, benefits, insurance, sick leave, holidays, overtime, vacation and other similar benefits.
- (e) The cost of Village equipment employed.
- (f) The cost of mileage reimbursed to the Village employees.

SECTION 6. Requirements for Existing Facilities and Land Uses.

- (1) Existing facilities shall provide copies of all Federal, State and local facility operation approvals or certificates and ongoing environmental monitoring results to the Village.
- (2) Existing facilities shall provide additional environmental or safety monitoring as deemed necessary by the Utilities Commission, specifically including the production of any and all environmental statements detailing the extent of chemical use and storage on the property.
- (3) Existing facilities shall replace equipment or expand in a manner that improves the existing environmental and safety technologies already in existence.
- (4) Existing facilities shall have the responsibility of devising and/or filing with the Village a contingency plan satisfactory to the Utility Commission for the immediate notification of the appropriate Village officers in the event of an emergency.
- (5) Property owners with an existing agricultural use shall be exempt from requirements of this Ordinance as they relate to restrictions on agricultural uses, provided however, that such exemption shall only apply to the property owners in existence at the time of passage of the Ordinance and this exemption shall not constitute a covenant running with the land.

SECTION 7. Enforcement and penalties.

- (1) In the event an individual and/or facility causes the release of any contaminants which endanger the Groundwater Protection Overlay District, the individual/facility causing said release shall immediately cease and desist, and provide clean-up satisfactory to the Village.
- (2) The individual/facility shall be responsible for all costs of cleanup and the Village consultant fees at the invoice amount plus administrative costs for oversight, review and documentation, including all of the following:
 - (a) The cost of Village employees' time associated in any way with the clean-up based on the hourly rate paid to the employee multiplied by a factor determined by the Village, representing the Village's 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 the Village employees attributed to the clean-

up.

(3) Following any such discharge, the Village may require additional test monitoring or other requirements as outlined in Section 6 and 7 herein.

(4) Violations: It shall be unlawful to construct or use any structure, land or water in violation of this Ordinance. Any person who is specifically damaged by such violations may institute appropriate action or proceeding to enjoin a violation of this Ordinance.

(5) Penalties. Any person, firm or corporation who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit not less than One Hundred and 00/100 Dollars (\$100.00) nor more than Five Hundred and 00/100 Dollars (\$500.00) plus the costs of the prosecution for each violation, and in default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until payment thereof, but not exceeding thirty (30) days, or in the alternative, shall have such costs added to their real estate property tax bill as a lien against the property. Each day a violation exists or continues shall constitute a separate offense.

SECTION 8. Severability Clause. If any section, subsection, sentence, clause paragraph or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or other applicable administrative or governing body, such decision shall not effect the validity of any other section, subsection, sentence, clause, paragraph or phrase or portion thereof. The Village Board of the Village of Hustisford hereby declares that they would have passed this Ordinance and each section, subsection, sentence, clause, paragraph or phrase thereof irrespective of the fact that any one or more other sections, subsections, sentences, clauses, paragraphs, or phrases may be declared invalid or unconstitutional.

SECTION 9. All Ordinances in conflict with the foregoing are hereby repealed or amended to read consistent with this Ordinance.

SECTION 10. This Ordinance shall take effect upon passage and publication as provided by law.

Passed:

Published

