

CHAPTER 5

Well Head Protection

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SEC. 8-5-1. TITLE OF ORDINANCE.

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

SEC. 8-5-2. PURPOSE, AUTHORITY AND APPLICATION.

- (a) **Purpose.** Residents in the City of Thorp 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 City's Municipal water supply and well fields, and to promote the health, safety and general welfare of the residents of the City of Thorp.
- (b) **Authority.** Statutory authority of the City to enact these regulations was established by the Wisconsin Legislature in ss. 62.23(7)(a) and (c), Wis. Stats. Under these statutes, the City has the authority to enact this ordinance, effective in the incorporated areas of the City, to encourage the protection of groundwater resources.
- (c) **Application.** The regulations specified in this WHP Ordinance shall apply within the City's corporate limits.

SEC. 8-5-3. DEFINITIONS.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number.

- (a) **Aquifer.** "Aquifer" means a saturated, permeable, geologic formation that contains, and will yield, significant quantities of water.
- (b) **Board.** Board means the City of Thorp Sewer and Utility Board.
- (c) **District.** "District" means the Groundwater Protection Overlay District.
- (d) **Existing facilities.** "Existing facilities" means current facilities, practices and activities which may cause or threaten to cause environmental pollution within that portion of the City's wellhead protection area that lies within the corporate limits of the City. 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.
- (e) **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 City of Thorp.
- (f) **Groundwater Protection Overlay District.** "Groundwater Protection Overlay District" means that portion of the recharge areas for the city wells that lies within the city limits as shown in the map attached hereto as Exhibit "A" and incorporated herein as if fully set forth.
- (g) **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.

SEC. 8-5-4. GROUNDWATER PROTECTION OVERLAY DISTRICT.

- (a) **Intent.** The area to be protected as a District consists of the wellhead protection area for each of the city wells, as determined in the most recent wellhead protection plan (2007), normalized to geographic boundaries, and contained within the City limits and shown on the attached map. These lands are subject to land use and development restrictions because of their close proximity to the well fields and the corresponding high threat of contamination.
- (b) **Permitted Uses.** Subject to the exemptions listed in section (c)(5), the following are the only permitted uses within the District. Uses not listed are to be considered non-permitted 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 biking, skiing, nature and fitness trails.
 - (5) Municipally sewered residential development, free of flammable and combustible liquid underground storage tanks.
 - (6) Municipally sewered business development zoned C1, C2, IL or IG, except for the following uses:
 - (a) Above ground storage tanks.
 - (b) Asbestos product sales.
 - (c) Automotive service and repair garages, body shops.
 - (d) Blue printing and photocopying services.
 - (e) Car washes.
 - (f) Equipment repair services.
 - (g) Laundromats and diaper services.
 - (h) Dry cleaning.
 - (i) Gas stations.
 - (j) Holding ponds or lagoons.
 - (k) Infiltration ponds.
 - (l) Nurseries, lawn and garden supply stores.
 - (m) Small engine repair services.
 - (n) Underground storage tanks.
 - (o) Wells, private, production, injection or other.

- (p) Animal confinement facilities, Animal waste facilities, Animal waste spreading
- (q) Landfills or waste disposal facilities
- (r) Waste water treatment facilities
- (s) Junk yard or auto salvage yard
- (t) Bulk fertilizer and/or pesticide facilities
- (u) Asphalt products manufacturing
- (v) Exterminating businesses
- (w) Paint and coating manufacturing
- (x) Hazardous and/or toxic materials storage
- (y) Any other use determined by the Common Council of the City Of Thorp to be similar in nature to the above listed items.

(7) Agricultural uses in accordance with the county soil conservation department's best Management Practices Guidelines.

(c) **Separation Distances.** The following separation distances as specified in s. NR 811.16(4)(d), Wis. Adm. Code, shall be maintained within the Groundwater Protection Overlay District.

- (1) Fifty feet between a well and a storm sewer main.
- (2) Two hundred feet between a well and any sanitary sewer main, sanitary sewer manhole, lift station or a 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 AWWA C600 specifications. In no case may the separation distance between a well and a sanitary sewer main be less than 50 feet.
- (3) 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.
- (4) 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.
- (5) One thousand feet between a well and land application of municipal, commercial or industrial waste; the boundaries of a land spreading facility for spreading of petroleum-contaminated soil regulated under ch. NR 718

while that facility is in operation; industrial, commercial or municipal wastewater lagoons or storage structures; manure stacks or storage structures; and septic tanks or soil absorption units receiving 8,000 gallons per day or more.

- (6) 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.
- (d) **Mapping.** The location and boundaries of the zoning districts 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.

SEC. 8-5-5. REVIEW OF PERMIT APPLICATION.

- (a) **Review Procedure.** The Board shall review all requests for approval of permits for land uses in the Groundwater Protection Overlay District. All determinations shall be made by the Board within sixty (60) days of any request for approval, provided however, that this sixty (60) day period of limitation may be extended by the Board for "good cause", as determined in the sole and absolute discretion of the Board.
- (b) **Factors.** Upon reviewing all requests for approval, the Board shall consider all of the following factors:
 - (1) The City's responsibility, as a public water supplier, to protect and preserve the health, safety and welfare of its citizens.

- (2) The degree to which the proposed land use practice, activity or facility may seriously threaten or degrade groundwater quality in the City of Thorp or the City's recharge area.
 - (3) The economic hardship which may be faced by the landowner if the application is denied.
 - (4) The availability of alternative options to the applicant, and the cost, effect and extent of availability of such alternative options.
 - (5) The proximity of the applicant's property to other potential sources of contamination.
 - (6) The then existing condition of the City's groundwater public water wells and well fields, and the vulnerability to further contamination.
 - (7) 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.
 - (8) Any other hydrogeological data or information which is available from any public or private agency or organization.
 - (9) The potential benefit, both economic and social, from the approval of the applicant's request for a permit.
- (c) 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 Board may require that a bond be posted for future monitoring and cleanup costs if deemed necessary at the time of granting an exemption.
- (d) The applicant shall be solely and exclusively responsible for any and all costs associated with the application, including all of the following:
- (1) The cost of an environmental impact study if so required by the Board or its designee.
 - (2) The cost of groundwater monitoring or groundwater wells if required by the Board or its designee.
 - (3) The costs of an appraisal for the property or other property evaluation expense if required by the City of Thorp or its designee.
 - (4) The costs of City employees' time associated in any way with the application based on the hourly

rate paid to the employee multiplied by a factor, determined by the City, representing the City's costs for expenses, benefits, insurance, sick leave, holidays, overtime, vacation and other similar benefits.

- (5) The cost of City equipment employed.
- (6) The cost of mileage reimbursed to the City employees.

SEC 8-5-6. REQUIREMENTS FOR EXISTING FACILITIES AND LAND USES.

- (a) **Approvals, Certificates and Results.** Existing facilities shall provide copies of all Federal, State and local facility operation approvals or certificates and ongoing environmental monitoring results to the City of Thorp.
- (b) **Monitoring.** Existing facilities shall provide additional environmental or safety monitoring as deemed necessary by the Board, specifically including the production of any and all environmental statements detailing the extent of chemical use and storage on the property.
- (c) **Replacement.** Existing facilities shall replace equipment or expand in a manner that improves the existing environmental and safety technologies already in existence.
- (d) **Contingency Planning.** Existing facilities shall have the responsibility of devising and/or filing with the City of Thorp Utilities Commission, a contingency plan satisfactory to the Utilities Commission for the immediate notification of the appropriate City of Thorp Utilities Commission officers in the event of an emergency.
- (e) **Agricultural Exemption.** 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.

SEC. 8-5-7. ENFORCEMENT AND PENALTIES.

- (a) **Contamination.** 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 Board.
- (b) **Costs.** The individual/facility shall be responsible for all costs of cleanup, and the Board's consultant fees at the invoice amount plus administrative costs for oversight, review and documentation, including all of the following:
 - (1) The cost of City 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 City, representing the City's cost for expenses, benefits, insurance, sick leave, holidays, overtime, vacation, and similar benefits.
 - (2) The cost of City equipment employed.
 - (3) The cost of mileage reimbursed to the City employees attributed to the clean-up.
- (c) **Monitoring.** Following any such discharge, the Board may require additional test monitoring or other requirements as outlined in Sections 8-5-6 and 8-5-7 herein.
- (d) **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.
- (e) **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.

SEC. 8-5-8. 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 affect the validity of any other section, subsection, sentence, clause, paragraph or phrase or portion thereof. The Common Council of the City of Thorp 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.

SEC. 8-5-9. CONFLICTING ORDINANCES

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

SEC. 8-5-10. EFFECTIVE DATE

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