

WELLHEAD PROTECION REGULATION
for the TOWN OF SHEBOYGAN

“5.15 WELLHEAD PROTECTION ORDINANCE

- a. **Purpose and Authority.** The residents of the Town of Sheboygan 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 the Wellhead Protection Ordinance is to institute land use regulations and restrictions to protect the Town’s municipal water supply and well fields, and to promote the public health, safety, and general welfare of the residents of the Town.

Statutory authority of the Town to enact these regulations was established by the Wisconsin Legislature in 1983, Wisconsin Act 410 (effective May 11, 1984), which specifically added groundwater protection to the statutory authorization for municipal planning and zoning to protect public health, safety, and welfare.

- b. **Application of Regulations.**

- (1) The regulations specified in this Wellhead Protection Ordinance shall apply to all lands that lie within Overlay District A and Overlay District B, as defined below, and are within the Town corporate limits.
- (2) No new use or change in use of any structure, land, or water shall be located, extended, converted, or structurally altered and no development shall commence without full compliance with the terms of this Ordinance and other applicable regulations.

- c. **Definitions.**

Five Year Time of Travel (TOT). The Five Year TOT is the recharge area up gradient from a well, with the outer boundary determined by an estimation of where groundwater and potential contaminants will take five (5) years to reach that pumping well. The Five Year TOT for the three Town of Sheboygan wells are established based on flow path modeling and depicted in the attached Figures A, B, and C.

Wellhead Protection Area. The Wellhead Protection Area shall constitute the lands immediately surrounding Well 1, Well 2, and Well 3 in the Town of Sheboygan, including all lands in Overlay District A and Overlay District B, as collectively shown on the Figures attached hereto and made a part of this Ordinance, and more fully described below.

Nonconforming Use. An existing lawful use of land, structure, building, or accessory use which is not in conformity with the provisions of this Ordinance.

Stagnation Point Radius. The radius equal to the distance from the well to the down gradient stagnation point. The stagnation point is the extent of the well capture zone in the down gradient flow direction.

d. Groundwater Protection Overlay District A

- (1) **Intent.** The primary portion of the well recharge areas to be protected is the land within the points designated below. These lands are subject to the most stringent land use and development restrictions because of their close proximity to the well field and the corresponding threat of contamination.
- (2) **Overlay District A Boundaries.** Overlay District A shall include all land within the following distances from each of the specified wells:
 - (a). Well 1: The Stagnation Point Radius, or a radius of 1,450 feet from the well;
 - (b). Well 2: A radius of 1,000 feet from the well;
 - (c). Well 3: A radius of 1,960 feet from the well.
- (3) **Permitted Uses for Overlay District A.** The following uses are permitted uses within Overlay District A. Uses not listed in this subsection are to be considered Prohibited Uses.
 - (a). Parks and playgrounds, provided there are no onsite waste disposal of fuel storage tank facilities;
 - (b). Wildlife areas;
 - (c). Nonmotorized trails, such as biking, skiing, nature and fitness trails;
 - (d). Sewered residential developments.
- (4) **Prohibited Uses for Overlay District A.** The following uses are prohibited uses within Overlay District A. These uses are prohibited based on the high probability that activities routinely associated with these uses will cause groundwater contamination. Uses not listed are not automatically considered Permitted Uses.
 - (a) Septage and/or sludge spreading;
 - (b) Gasoline stations;
 - (c) Landfills or waste disposal facilities;
 - (d) Spray wastewater facilities;
 - (e) Bulk fertilizer and/or pesticide facilities;
 - (f) Asphalt products manufacturing;

- (g) Salt storage;
- (h) Electroplating facilities;
- (i) Paint and coating manufacturing;
- (j) Hazardous and/or toxic materials storage;
- (k) Hazardous and/or toxic waste facilities;
- (l) Radioactive waste facilities;
- (m) Underground storage tanks of any size;
- (n) Animal waste land spreading;
- (o) Animal waste facilities;
- (p) Vehicle repair establishments, including auto body repair;
- (q) Printing and duplicating businesses;
- (r) Any manufacturing or industrial businesses;
- (s) Bus or truck terminals;
- (t) Wastewater treatment facilities;
- (u) Junk yards or auto salvage yards;
- (v) Dry cleaning businesses;
- (w) Exterminating businesses;
- (x) Recycling facilities;
- (y) Other similar uses that pose a threat to groundwater quality.

e. Groundwater Protection Overlay District B (Five Year TOT).

- (1) **Intent.** A secondary portion of the Town of Sheboygan well recharge areas to be protected is the Zone of Contribution which includes the Five Year TOT. Land use restrictions are less restrictive than in District A because of longer groundwater flow times and a greater potential for remediation, dilution, and attenuation.
- (2) **Overlay District B Boundaries.** Overlay District B includes the land which lies within the shaded areas depicted on the attached Figures A, B, and C and includes land area defined by the Five Year TOT and other portions of the Zone of Contribution to the wells.
- (3) **Permitted Uses.** The following uses are permitted uses within Overlay District B:
 - (a) All uses listed as permitted uses in Overlay District A;
 - (b) Commercial and/or industrial uses served by municipal sanitary sewer, except those listed as prohibited Uses in Subsection (3) below; and
 - (c) Unsewered residential uses.
- (4) **Prohibited Uses.** The following uses are prohibited uses within Overlay District B. These uses are prohibited based on the high probability that activities routinely associated with these uses will cause groundwater contamination. Uses not listed are not automatically considered Permitted Uses.
 - (a) Septage and/or sludge spreading:

- (b) Gasoline stations;
- (c) Landfills;
- (d) Spray wastewater facilities;
- (e) Bulk fertilizer and/or pesticide facilities;
- (f) Asphalt products manufacturing;
- (g) Electroplating facilities;
- (h) Paint and coating manufacturing;
- (i) Hazardous and/or toxic materials storage;
- (j) Hazardous and/or toxic waste facilities;
- (k) Radioactive waste facilities;
- (l) Underground storage tanks of any size;
- (m) Animal waste facilities;
- (n) Animal confinement facilities, except veterinary clinics;
- (o) Vehicle repair establishments, including auto body repair;
- (p) Printing and duplicating businesses which use hazardous chemicals (as defined by the EPA) in their printing process;
- (q) Bus or truck terminals;
- (r) Wastewater treatment facilities;
- (s) Auto salvage yards;
- (t) Dry cleaning businesses;
- (u) Exterminating businesses;

f. **Minimum Separation Distance from All Wells.** Well No. 1, Well No. 2, and Well No. 3 shall be adequately separated from potential sources of contamination. To the extent that the following uses have not already been addressed in this ordinance in subsections e or f, the minimum separation distance shall be as follows.

- (1) Fifty feet (50') between a well and a storm sewer main.
- (2) Two Hundred Feet (200') between a well and any sanitary sewer main, 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 watermain materials with joints pressured tested in place to meet current regulatory specifications. In no case may the separation distance between a well and a sanitary sewer main be less than 50'.
- (3) Four Hundred Feet (400') between a well and a septic tank receiving less than 8,000 gallons per day, a cemetery or a storm water drainage pond.
- (4) Six Hundred Feet (600') between a well and any gasoline or fuel oil storage tank installation that has received written approval from the Wisconsin Department of Commerce.
- (5) One Thousand Feet (1,000') between a well and land application of municipal, commercial, or industrial waste; industrial, commercial, or municipal wastewater lagoons or storage structures; and septic tanks or soil absorption

units receiving 8,000 gallons per day or more.

- (6) One Thousand Two Hundred Feet (1,200') between a well and any solid waste storage, transportation, transfer, incineration, air curtain destructor, processing, one time disposal, or small demolition facility; sanitary landfill; salt or de-icing material storage area; gasoline or fuel oil storage tanks that have not received written approval from the Wisconsin Department of Commerce; bulk fuel storage facilities; and pesticide or fertilizer handling or storage facilities.

g. Other Uses.

- (1) Individuals and/or entities may request the Town to permit land uses in the District not specifically covered in this Ordinance.
- (2) All requests shall be in writing to the Town and shall include an environmental assessment report.
- (3) A copy of the environmental assessment report shall be forwarded to the Town Administrator as designee for recommendation to the Town Plan Commission.
- (4) Any uses permitted under this section 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 Town.

h. Nonconforming Uses. Insofar as the standards in this section are not inconsistent with the provisions of s. 62.23(7)(h), Wis. Stats., they shall apply to all nonconforming uses. The existing lawful use of a structure or building or its accessory use which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:

- (1) No modifications or additions to a nonconforming use shall be permitted unless they are made in conformity with the provisions of this section. For the purposes of this section, the words "modification" and "addition" shall include, but not be limited to, any alteration, addition, modification, rebuilding, or replacement of any such existing structure or accessory use. Ordinary maintenance and repairs are not considered structural repairs, modification, or additions. Ordinary maintenance and repairs include internal and external painting, decoration, paneling, and the replacement of doors, windows, and other nonstructural components.
- (2) If a nonconforming use is discontinued for three consecutive months, any future use of the structure, land, or water shall conform with the appropriate provisions of this Ordinance.

i. **Enforcement and Penalties**

- (1) **Violations.** It shall be unlawful to constructor use any structure, land, or water in violation of any of the provisions of this Ordinance, In case of any violation, the Town Board and/or Town of Sheboygan Sanitary District No. 3 (Water) Commissioners may institute appropriate action or proceedings to enjoin a violation of this Ordinance.
- (2) **Penalties.** Any person, firm, or corporation who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit not less than \$100.00, nor more than \$500.00, plus the costs of prosecution for each violation, and in default of payment of such forfeiture and costs shall have such costs levied against said lands pursuant to sec. 66.60, Stats., as same may be amended, as a lien against the subject property. Each day a violation exists or continues shall constitute a separate offense.”

Section 2. **Effective Date.** This Ordinance shall take effect upon enactment and publication.

Enacted this 16th day of June 2010.

TOWN OF SHEBOYGAN

DANIEL W. HEIN, Chairperson

CERTIFICATE OF CLERK

I hereby certify that the foregoing Ordinance was duly enacted by the Town Board of the Town of Sheboygan on the 16th day of June 2010.

CATHERINE CONRAD, Clerk