

**SECTION 1. WELLHEAD PROTECTION OVERLAY DISTRICT:**

- (a) **Purpose.** The residents of the Village Crivitz 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 establish a Wellhead Protection Overlay District to institute land use regulations and restrictions within a defined area which contributes water directly to the municipal water supply providing protection for the aquifer and municipal water supply of the Village of Crivitz and promoting the public health, safety and general welfare of Village residents.
- (b) **Authority.** Statutory authority of the Village to enact these regulations was established by the Wisconsin Legislature in 1983, Wisconsin Act 410 (effective May 11, 1984), which specifically added groundwater protection, in §59.97(1) {which has since been renumbered as §59.69(1)} and §62.23(7)(c), Wis. Stats., to the statutory authorization for municipal planning and zoning to protect the public health, safety and welfare. In addition, §62.23(7)(c) and 60.10(2) Wis. Stats., the Village has the authority to enact this ordinance to encourage the protection of groundwater resources.
- (c) **Application.** The regulations specified in this Wellhead Protection Overlay District shall apply within the area surrounding each municipal water supply well that has been designated as a “wellhead protection area” by the Village in the most recent & up to date wellhead protection plan [on file in the Village of Crivitz office], and are in addition to the requirements in the underlying zoning district, if any. If there is a conflict between this chapter and the zoning ordinance, the more restrictive provision shall apply.
- (d) **Definitions.** The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense include the future; the singular number includes a plural number; and the plural number includes the singular number. The word “shall” is mandatory and not permissive.
  - (1) “*Aquifer*” means a saturated, permeable, geologic formation that contains, and will yield, significant quantities of water.
  - (2) “*Existing facilities*” means current facilities, practices and activities which may cause or threaten to cause environmental pollution within the wellhead protection area. 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.
  - (3) “*Wellhead Protection Overlay District*” means that area of land which contributes water to a municipal well based on accepted hydrogeological research, outlined and described as a “Wellhead Protection Area” by the Village’s wellhead protection plan.
  - (4) “*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 may extend beyond the corporate limits of the Village of Crivitz.
  - (5) “*Hazardous Chemicals*” means chemicals and chemical mixtures that are required to have an MSDS and meet the definition of hazardous chemicals under the OSHA regulations found at 29 CFR 1910.1200(c). Substances packaged for consumption for humans or animals are not considered Hazardous Chemicals. Hazardous Chemicals include:
    - a. Chemicals for which there is scientific evidence that acute or chronic health effects may result from exposure including carcinogens, toxic and highly toxic agents, irritants, corrosives, sensitizers, hepatotoxins, agents that act on the hematopoietic system, reproductive toxins, and

agents which damage the lungs, skin, eyes, or mucous membranes as defined in 29 CFR 1910.1200, Appendix A, "Health Hazard Definitions (Mandatory)."

- b. Mixtures of chemicals which have been tested as a whole and have been determined to be a health hazard.
- c. Mixtures of chemicals which have not been tested as a whole but which contain any chemical which has been determined to be a health hazard and comprises one (1.0) percent or greater of the composition on a weight-per-unit weight basis.
- d. Mixtures of chemicals which include a carcinogen if the concentration of the carcinogen in the mixture is one-tenth of one (0.1) percent or greater of the composition on a weight-per-unit weight basis.
- e. Ingredients of mixtures prepared within the Wellhead Protection Overlay District in cases where such ingredients are health hazards but comprise more than one-tenth of one (0.1) percent of the mixture on a weight-per-unit weight basis if carcinogenic, or more than one (1.0) percent of the mixture on a weight-per-unit weight basis if no carcinogenic.
- f. Petroleum and non-solid petroleum derivatives (except non-PCB dielectric fluids used in equipment or for transmission of electric power to homes and businesses).

(6) "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.

(e) **Permitted Uses.** The following uses are permitted in the Wellhead Protection Overlay District subject to the separations distances in *Section (h)*:

- (1) Parks, Playground and Wildlife areas provided there is no on-site waste disposal or fuel storage tank facilities associated with this use.
- (2) Non-motorized trails, such as bike, skiing, nature and fitness trails.
- (3) Residential, commercial and industrial establishments whose *Aggregate of Hazardous Chemicals* in use, storage, handling and/or production may not exceed 20 gallons or 160 pounds at any time, with the exception for those uses listed as "conditional" or "prohibited" in sections (f) or (g).
- (4) Routine tillage, planting, and field management operations in support of agricultural crop production, where nutrients from legume, manure, and commercial sources are accounted for and credited toward crop nutrient need. The combination of all nutrient sources applied or available on individual fields may not exceed University of Wisconsin soil test recommendations for that field.
- (5) Private on-site wastewater treatment systems (POWTS) or holding tanks receiving less than 12,000 gallons per day.

(f) **Conditional uses.** The following uses may be conditionally permitted in the Wellhead Protection Overlay District subject to the separations distances in *Section (h)*, and governed by the conditional use provisions of *Section (j)*.

- (1) Hydrocarbon, petroleum or hazardous chemical storage greater than 110 gallons in any single or double wall tank.
- (2) Motor vehicle services, including filling and service stations, repair, renovation and body work.
- (3) Residential, commercial and industrial establishments that are municipally sewered and whose use, *Aggregate of Hazardous Chemicals* in use, storage, handling and/or production exceeds 20 gallons or 160 pounds at any time.
- (4) Stormwater infiltration basins
- (5) Geothermal wells, also known as ground source heat pump along with any associated piping and/or ground loop component installations.

(g) **Prohibited uses.** The following uses are prohibited in the Wellhead Protection Overlay District.

- (1) Animal waste storage facilities.
- (2) Asphalt products manufacturing plants.
- (3) Cemeteries.
- (4) Concentrated Animal Feeding Operation (CAFO).
- (5) Hazardous chemical, processing or manufacturing plants.
- (6) Dry cleaning establishments.
- (7) Electronic circuit assembly plants.
- (8) Electroplating plants.
- (9) Fertilizer manufacturing or storage plants.
- (10) Foundries and forge plants.
- (11) Road salt or de-icing materials storage areas.
- (12) Industrial liquid waste storage areas.
- (13) Landfills or other areas for dumping, disposal or transferring of garbage, refuse, recycling, trash, or demolition material, including auto salvage operations.
- (14) Metal reduction and refinement plants.
- (15) Mining operations, including metallic, gravel pits, industrial or frac-sand mining.
- (16) Motor freight terminals.
- (17) Paint products manufacturing.
- (18) Plastics manufacturing.
- (19) Private on-site wastewater treatment systems (POWTS) or holding tanks receiving 12,000 gallons per day or more.
- (20) Pulp and paper manufacturing.
- (21) Sewage, sludge or septage disposal, storage or land spreading (This does not include residential POWTS or holding tanks receiving less than 12,000 gallons per day).
- (22) Any other use determined by the Village Board to be similar in nature to the above listed uses.

(h) **Separation Distances.** The following separation distances as specified in s. NR 811.12(5), Wis. Adm. Code, shall be maintained within the Wellhead Protection Overlay District.

- (1) Ten feet between a well and an emergency or standby power system that is operated by the same facility which operates the well and that has a double wall above ground storage tank with continuous electronic interstitial leakage monitoring. These facilities shall meet the 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.
- (2) Fifty feet between a well and a storm sewer main or a sanitary sewer main where the sanitary sewer main is constructed of water main class materials and joints. Gravity sanitary sewers shall be successfully air pressure tested in place. The air pressure test shall meet or exceed the requirements of the 4 psi low pressure air test for plastic gravity sewer lines found in the latest edition of Standard Specifications for Sewer & Water Construction in Wisconsin. Force mains shall be successfully pressure tested with water to meet the AWWA C600 pressure and leakage testing requirements for one hour at 125% of the pump shut-off head.
- (3) Two hundred feet between a well field and any sanitary sewer main not constructed of water main class materials, sanitary sewer manhole, lift station, one or two family residential heating fuel oil underground storage tank or above ground storage tank or private onsite wastewater treatment system (POWTS) treatment tank or holding tank component and associated piping.
- (4) Three hundred feet between a well field 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. These installations shall meet the

most restrictive 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, Wis. Admin. Code. 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.

- (5) Three hundred feet between a well field and any farm above ground storage tank with double wall, or single wall tank with other secondary containment and under a canopy; 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 most restrictive installation requirements of s. ATCP 93.260, Wis. Admin. Code, and receive written approval from the department of commerce or its designated Local Program Operator under s. ATCP 93.110, Wis. Admin. Code. 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.
- (6) Four hundred feet between a well field and a POWTS dispersal component with a design capacity of less than 12,000 gallons per day, a cemetery or a storm water retention or detention pond.
- (7) Six hundred feet between a well field 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.
- (8) One thousand feet between a well field and land application of municipal, commercial, or industrial waste; the boundaries of a land spreading facility for spreading of petroleum-contaminated soil regulated under state administrative regulations while that facility is in operation; agricultural, industrial, commercial or municipal waste water treatment plant treatment units, lagoons, or storage structures; manure stacks or storage structures; or POWTS dispersal component with a design capacity of 12,000 gallons per day or more.
- (9) Twelve hundred feet between a well field 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; coal storage area; salt or deicing material storage area; any single wall farm underground storage tank or single wall farm above ground storage tank or other single wall underground storage tank or above ground storage tank that has or has not received written approval from the department of safety and professional services or its designated Local Program Operator under s. ATCP 93.110, Wis. Admin. Code, for a single wall tank installation. 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; and bulk pesticide or fertilizer handling or storage facilities.

(i) **Existing non-conforming uses.** Non-conforming uses lawfully in existence within the Wellhead Protection Overlay District at the adoption of the ordinance creating this district may continue to exist in the form and

scope in which they existed at that time subject to the following provisions.

- (1) Existing facilities shall provide copies of all federal, state and local facility operation approvals or certificate and on-going environmental monitoring results to the Village upon request.
- (2) ~~If an existing facility replaces equipment, it shall be done in a manner that meets the standards of existing environmental and safety technologies.~~
- (3) In the event a lawful non-conforming use poses a direct hazard to the Village's public water supply, the Village may take any action permitted by law to abate the hazard.
- (4) Existing facilities shall have the responsibility of devising and/or filing with the Village, a contingency plan satisfactory to the Plan Commission for the immediate notification of the appropriate Village officers in the event of an emergency.

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(j) **Conditional Use Permits.** Individuals and/or facilities may request the Village in writing, to permit additional land uses in the Wellhead Protection Overlay District. Conditional use permit applications within the district are subject to review and recommendation by the Planning-Zoning/Economic Development Committee and Public Utilities Commission.

- (1) Required Application Materials.
  - a. All requests shall be in writing, whether on or in substantial compliance with forms to be provided by the Village and may require an environmental assessment report prepared by a licensed environmental engineer. Said report shall be forwarded to the Village and/or designee(s) for recommendation and final decision by the Village Board.
  - b. The individual/facility shall reimburse the Village for all consultant fees associated with the review at the invoiced amount plus administrative costs.
  - c. Any exemptions granted shall be conditional and may include required environmental and safety monitoring consistent with local, state and federal requirements, and/or bonds and/or securities satisfactory to the Village.
- (2) Referral to the Village Board. A properly filed application shall be referred to the Village Board for review and recommendation. The Village Board shall review the application and hold a public hearing.
- (3) Standards For Conditional Use. The Village Board shall apply 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 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 well(s) 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.

- (4) Types Of Conditions Which The Village Board May Require. The Village Board may stipulate conditions and restrictions including but not limited to the following:
- a. A requirement for periodic environmental and safety sampling, testing, and reporting to establish the continued protection of the public water supply. The Village may require an application to install one or more groundwater monitoring well(s), at the expense of the applicant;
  - b. The establishment of safety structures to prevent groundwater contamination;
  - c. The establishment of an operational safety plan to define processes and procedures for material containment, operations monitoring, best management practices, and stormwater runoff management to prevent groundwater contamination;
  - d. Written policies and procedures for reporting and cleaning up any spill of a hazardous material;
  - e. The provision of copies of all federal, state and local facility operation approval or certificates, and on-going environmental monitoring results to the Village.
  - f. A written agreement pursuant to which the applicant agrees to be held financially responsible for all environmental cleanup costs in the event of groundwater contamination;
  - g. Bonds and/or securities satisfactory to the Village for future monitoring and cleanup costs if groundwater contamination occurs in the future.

The foregoing conditions are listed for illustration purposes and are not exclusive.

- (5) Transfers Of Interest In Property. Conditional use permits issued under this section are non-transferable to successor owners of the property subject to the permit without the express written consent of the Village Board. The Village Board may set conditions and restrictions on the transfer including but not limited to a stipulation that the permit shall not be transferred unless the new owner expressly and in writing assumes the same terms, if any, for personal liability as were required of the former owner in the conditional use permit to be transferred. Written permission shall be obtained prior to the voluntary transfer of the subject property. When an involuntary transfer occurs, the new owner, trustee, or other successor to an interest in the real property shall apply to the Village within 60 days for permission to continue the use granted by the conditional use permit.
- (6) Payment Of Costs. The applicant shall be solely and exclusively responsible for any and all costs associated with the application. The conditional use will become effective only after any costs incurred by the Village during the conditional use application review process and billed to the applicant are paid by the applicant. Those costs may include:
- a. The Village's expenses, including consultant's and attorney's fees, if any, associated with the review at the invoiced amount plus administrative costs.
  - b. The cost of an environmental impact study if so required by the Village or its designee.
  - c. The cost of groundwater monitoring or groundwater wells if required by the Village or its designee.
  - d. The costs of an appraisal for the property or other property evaluation expense if required by the Village or its designee.