

Town of Little Black

Wellhead Protection Ordinance

A Drinking Water Quality Protection Ordinance Establishing Land Use Restrictions to Conserve and Protect Groundwater

Ordinance No. 41.01

THE TOWN BOARD OF LITTLE BLACK DOES ORDAIN AS FOLLOWS: AN ORDINANCE BY THE TOWN BOARD OF THE TOWN OF LITTLE BLACK, TAYLOR COUNTY, WISCONSIN CREATING MUNICIPAL WATER SUPPLY PROTECTION BY ESTABLISHING LAND USE RESTRICTIONS WITHIN THE TOWN OF LITTLE BLACK FOR THE VILLAGE OF STETSONVILLE'S MUNICIPAL WELLHEAD RECHARGE AREAS AND PROTECTION ZONES

SECTION 1. PURPOSE AND AUTHORITY

(A) PURPOSE – Residents of the Town of Little Black and the Village of Stetsonville depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The Village of Stetsonville has recently installed a municipal water system and enacted a wellhead protection ordinance; however, the wells and land within the wellhead protection zone are located within the Town's borders. The residents of the Town of Little Black, desiring an amicable relationship with the Village of Stetsonville, wish to work jointly with the Village for the protection of groundwater in the area of the Village. The purpose of this Ordinance is to institute regulations and restrictions which protect the Village of Stetsonville's municipal water supply, and to promote the health, safety and general welfare of the residents of the Village and Town.

(B) AUTHORITY – This Ordinance is adopted and enacted pursuant to the Town's village and police powers under Wis. Stat. §§ 60.10(2)(c), 60.22(3), and 61.34. Wis. Stat. § 60.61(2)(g) specifically authorizes the Town to pass ordinances "to encourage the protection of groundwater resources," (The Town also recognizes the provisions of the federal Safe Drinking Water Act, 42 U.S.C. 300h-7 encouraging communities with municipal (public) water systems to develop and adopt wellhead protection zoning.

(C) WELLHEAD PROTECTION OVERLAY DISTRICT – A wellhead protection overlay district is created to institute land use regulations and restrictions within a defined area which contributes water to the Village of Stetsonville municipal water supply, promoting public health, safety, and welfare.

It is further intended that the Wellhead Protection Overlay District shall be operated in conjunction with the regulations governing the underlying zoning districts and other overlay districts in the subject area. Uses permitted by such other districts, but subject to the provisions of this section, may not be undertaken unless they are also permitted by the terms of this section. In the event of conflicting standards between the underlying zoning and these wellhead protection regulations, the more restrictive will apply. If conditional use permits are required for both this overlay district and the underlying zoning district for a proposed use, the processing of the two permits shall be treated separately under the terms applicable to each district.

The boundaries of the Wellhead Protection Overlay District are shown on the map "Wellhead Protection Overlay District for The Village of Stetsonville, Taylor County Wisconsin" dated January 2012, only insofar as that District lies within the borders of the Town of Little Black. Said map is hereby adopted by reference becoming a part of this ordinance as if the map were fully described herein. The Wellhead Protection Overlay District is divided into two zones based on the land-use restrictions needed.

SECTION 2. DEFINITIONS

- (A) AQUIFER - "Aquifer" means a saturated, permeable, geologic formation that contains, and will yield, significant quantities of water.
- (B) CONDITIONAL USES - In addition to permitted and prohibited uses, this section identifies the requirements for getting approval of certain conditional (or provisional) uses. If an activity isn't identified as permitted or prohibited, a conditional use permit may be needed for that activity. This section identifies the requirements for getting approval for a conditional use not otherwise allowed.
- (C) EXISTING FACILITIES - "Existing facilities" means current facilities, practices and activities which may cause or threaten to cause environmental pollution within the Village wellhead recharge areas and protection zones.

- (D) LARGE SCALE WATER WITHDRAWAL – “Large scale water withdrawal” means any withdrawal of water from a water source that consumes more than 30,000 gallons of water per 24 hour period.
- (E) RECHARGE AREAS- The “recharge areas” for Village wells is that land area which contributes water to the well by infiltration of water into the subsurface and movement with groundwater toward the wells.
- (F) 10-YEAR ZONE OF CONTRIBUTION (ZOC) – means the outer boundary of which it is determined or estimated that groundwater or potential contaminants will take ten years to reach a pumping well, plus an additional 1,200 ft buffer to account for uncertainties or irregularities in groundwater flow path modeling. The 10-Year ZOC for Stetsonville was estimated using flow path modeling for the Village of Stetsonville Wellhead Protection Plan.
- (G) WATER SOURCE – “Water source” means any one or more wells, drill holes or mine shafts on contiguous or adjacent land having the same owner or any one or more wells, drill holes or mine shafts where the water is combined for a single use.
- (H) WELLHEAD PROTECTION OVERLAY DISTRICT – Means that area in the Town of Little Black’s borders shown on the map “Wellhead Protection Overlay District for the Village of Stetsonville”, adopted here by reference, and becoming part of this ordinance. The Wellhead Protection Overlay District is divided into two zones based on the land-use restrictions needed.
- (I) WELLHEAD- The “wellhead” is a well or group of wells that provides the source of public drinking water for the Village of Stetsonville along with the structures built on top of and around the well(s).

SECTION 3. SEPARATION DISTANCES FROM STETSONVILLE MUNICIPAL WELLS.

Uses within the Wellhead Protection Overlay District shall maintain the following minimum separation distances as specified in s. NR 811.12 (5) (d), *Wis. Admin. Code*.

- (A) 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.
- (B) Two hundred feet between a well 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.
- (C) Three hundred feet between a well 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. SPS 310.260, *Wis. Admin. Code*, and receive written approval from the department of commerce or its designated Local Program Operator under s. SPS 310.110, *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.
- (D) Three hundred feet between a well 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. SPS 310.260, *Wis. Admin. Code*, and receive written approval from the department of commerce or its designated Local Program Operator under s. SPS 310.110, *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.
- (E) Four hundred feet between a well 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.
- (F) Six hundred feet between a well 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. SPS 310.260, *Wis. Admin. Code*, and receive written approval from the department of commerce or its designated Local Program Operator under s. SPS 310.110, *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.

(G) 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 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.

(H) 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; 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 commerce or its designated Local Program Operator under s. SPS 310.110, *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.

SECTION 4. ZONE A-WELLHEAD PROTECTION OVERLAY DISTRICT

Zone A is the area around a Village of Stetsonville wellhead extending to a 10-year zone of contribution which directly contributes water to the municipal well(s), as identified on the attached map. This area has the highest potential to impact well water quality and therefore the land use restrictions are the most restrictive. These lands are subject to the most stringent land use and development restrictions because of the close proximity to the Village of Stetsonville's wells, recharge areas, and the corresponding high threat to contamination. If any part of any parcel of land is within the boundary of Zone A of the Wellhead Protection Overlay District, the regulations set forth in this ordinance shall apply to the whole parcel.

(A) PROHIBITED USES – The following uses are prohibited in Zone A of the Wellhead Protection Overlay District

The uses prohibited by this zone have been identified as risks for groundwater contamination. Prohibition provides the greatest assurance that inadvertent discharge of pollutants into the ground water supply will not occur. The following are prohibited uses within Zone A of the Wellhead Protection Overlay District.

1. Private (non-municipal) large-scale water withdrawal.
2. Private on-site wastewater treatment system with a design capacity of more than 12,000 gallons per day.
3. Animal waste storage areas and facilities.
4. Automobile or truck fuel sales or service stations.
5. Shops for repair, servicing or assembling of machinery, motors or motor vehicles, including body repair, painting or engine rebuilding.
6. Junk/Recycling yards, motor vehicle salvage yards.
7. Landfills, areas for dumping or disposal of garbage, refuse, trash or demolition material.
8. Septage and municipal sewage sludge disposal sites.
9. Metallic, non-metallic or other mining operations.
10. Highway salt storage areas.
11. Dry cleaning establishments.
12. Printing and publishing establishments.
13. Storage, sale, processing or manufacturing of fertilizer, chemicals, toxic or hazardous materials
14. Manufacturing of paint products, plastics, or pulp and paper products
15. Industrial liquid waste storage areas.
16. Electroplating operations.
17. Exterminating supply, storage, or application shops.
18. Foundries and forge or metal reduction and refinement plants.
19. Any other use determined by the Town board to be similar in nature to the above listed items.

(B) PERFORMANCE STANDARDS – The following standards apply to all uses in Zone A of the Wellhead Protection Overlay District

1. Private on- site wastewater treatment system (POWTS) with any type of discharge – must meet the County and State health standards for the effluent, and conform with s. SPS 383, *Wis. Admin. Code*.
2. Agricultural Uses – Must comply with all applicable local, state, and federal rules and regulations pertaining to agricultural best management practices and performance standards.

SECTION 5. ZONE B-WELLHEAD PROTECTION OVERLAY DISTRICT

Zone B includes all of the area within sections 11, 12, 13, 23, & 24, Township 30 North, Range 1 East "Town of Little Black" that are beyond the boundary of Zone A. Zone B is established due to inherent uncertainties and irregularity of groundwater flow in the unconfined aquifer(s) and fractured, shallow bedrock geology found in Taylor County and the surrounding region, and documented by scientific studies. Zone B is less restrictive than Zone A. Zone B is intended to protect the existing and future municipal wells and their corresponding recharge areas from contamination beyond the 10 year time-of-travel, and has been normalized to follow section lines to simplify implementation.

(A) PROHIBITED USES – The following uses are prohibited in Zone B of the Wellhead Protection Overlay District

The uses prohibited by this zone have been identified as risks for groundwater contamination. Prohibition provides the greatest assurance that inadvertent discharge of pollutants into the ground water supply will not occur. The following are prohibited uses within Zone B of the Wellhead Protection Overlay District.

1. Private (non-municipal) large-scale water withdrawal.
2. Animal waste storage areas and facilities.
3. Junk/Recycling yards, motor vehicle salvage yards.
4. Landfills, areas for dumping or disposal of garbage, refuse, trash or demolition material.
5. Metallic, non-metallic or other mining operations.
6. Industrial liquid waste storage areas.
7. Electroplating operations.
8. Foundries and forge or metal reduction and refinement plants.
9. Any other use determined by the Town Board to be similar in nature to the above listed items.

(B) PERFORMANCE STANDARDS – The following standards apply to all uses in Zone B of the Wellhead Protection Overlay District

1. Private on-site wastewater treatment system (POWTS) with any type of discharge – must meet the County and State health standards for the effluent, and conform with s. SPS 383, *Wis. Admin. Code*.
2. Agricultural Uses – Must comply with all applicable local, state, and federal rules and regulations pertaining to agricultural best management practices and performance standards.
3. Sale, storage, handling, processing or manufacturing of chemicals, paint or paint products, plastics, pulp or paper products, chemicals or any substance considered to be toxic or hazardous must comply with all applicable local, state, and federal rules and regulations regarding the sale, storage, handling, processing or manufacture of such materials.

SECTION 7. EXISTING NON-CONFORMING USES

Non-conforming uses lawfully in existence within the Groundwater 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.

(A) Existing facilities shall provide copies of all federal, state and local facility operation approvals or certificate and on-going environmental monitoring results to the Town upon request.

(B) Existing facilities shall replace equipment or expand in a manner that improves the existing environmental and safety technologies already in existence.

(C) In the event a lawful non-conforming use poses a direct hazard to the Village of Stetsonville's public water supply, the Town may take any action permitted by law to abate the hazard.

(D) Existing facilities shall have the responsibility of drafting and/or filing with the Town, a contingency plan satisfactory to the Town board for the immediate notification of the appropriate Town officers in the event of an emergency.

SECTION 8. NO ACCEPTANCE OF LIABILITY BY TOWN. Nothing in this section shall be construed to imply that the Town has accepted any of an owner or operator's liability if a facility or use, whether permitted as of right or pursuant to a conditional use permit, contaminates groundwater in any aquifer.

SECTION 9. ENFORCEMENT AND PENALTIES.

- (A) In the event an individual and/or facility causes the release of any contaminants which endanger the Wellhead Protection Overlay District, the individual/facility causing said release shall immediately cease and desist, and provide clean-up satisfactory to the Town of Little Black.

(B) The individual/facility shall be responsible for all costs of cleanup and the Town of Little Black consultant fees at the invoice amount plus administrative costs for oversight, review and documentation, which includes all of the cost of Town or Village employees' time associated in any way with the clean-up, the cost of Town or Village equipment employed and the cost of mileage reimbursed to the Town employees attributed to the clean-up.

(C) Following any such discharge, the Town may require additional test monitoring or other requirements as outlined in Sections 5 and 6 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 Dollars (\$100.00) or more than Five Hundred 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 10. CONFLICT AND SEVERABILITY.

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 thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, paragraphs, or phrases may be declared invalid or unconstitutional.

SECTION 11. EFFECTIVE DATE.

This ordinance is effective on publication or posting.

The town clerk shall properly publish this ordinance as required under s. [60.80](#), Wis. stats.

Adopted this _____ day of _____, 20 by the Town Board of Supervisors of the Town of Little Black, Taylor County

Town Chairman
Town Supervisor
Town Supervisor

Adopted this 11th day of March, 2011 by the Town Board of Supervisors of the Town of Little Black, Taylor County
Town Chairman Daniel C. Hoffman
Town Supervisor Bryan McPherson
Town Supervisor Allen G. Curry