



“Despite a general abundance of groundwater in Wisconsin, there is a growing concern about the overall availability of good quality groundwater for municipal, industrial, agricultural and domestic use and for adequate baseflow to our lakes, streams and wetlands. Groundwater quantity problems have occurred naturally and from human activities. Natural shortages of groundwater have occurred due to weather conditions (e.g., drought) and geologic setting (e.g., crystalline bedrock aquifer with low yields).” Page 1 of Geological Study 2022. “Geologic conditions may also limit the availability of groundwater. For example, a portion of north-central Wisconsin is underlain by poorly productive, fractured crystalline rocks (Figure 1) where the sand and gravel aquifer is thin or absent. This area includes most of Marathon County and parts of Clark, Wood, Portage, Taylor, Lincoln and Langlade Counties. In these areas, yields of groundwater during dry seasons are too low in most places to sustain large water supplies, but there is generally enough water for domestic wells.” Page 8 of Geological Study 2022. The map from page 4 of this report, copied herein, shows areas of Wisconsin that are water-deficient, including the township of Little Black.

2. Taylor County Wisconsin: The State of Our Groundwater, published in 2012 by Steve Oberle, Taylor County Conservationist, has similar findings about limited groundwater. It includes in Figure 2 an analysis by the Wisconsin DNR that found that the average well yield in the Town of Little Black from January 1988-June 2011 was 9.3 gallons per minute. Figure 3 shows that Taylor County has the lowest average well yield of any county in Wisconsin at 9.2 gallons per minute, and that average well yields in other parts of the state range from 11.3 up to 56.0 gallons per minute.

3. The Taylor County report also discussed groundwater quality, stating, “The availability of groundwater in Taylor County and the surrounding region may also be affected by groundwater quality. The presence of naturally-occurring substances in groundwater (e.g., arsenic, iron and manganese) or human-caused contamination (e.g., leaking underground fuel storage tanks) has limited groundwater use in some areas of the County. ... High levels of iron and manganese can cause encrustation of wells and subsequent decreased well yields; iron bacteria can form on the well casing to form a biofilm with similar results.” page 1. According to the maps in the Taylor County report, the township of Little Black has a few wells with high levels of iron, a few wells with high levels of manganese, and a few wells with arsenic levels above the Wisconsin safe drinking water standard (0.010 mg/L). Lowered groundwater table levels can exacerbate groundwater quality problems.

C. Therefore, the purpose of this ordinance is to promote the health, safety, prosperity, aesthetics, and general welfare of the people and communities within the Town of Little Black, Taylor County, Wisconsin (“Town”). More specifically, the purpose of this ordinance is for the town to have information and oversight regarding the type, size, location, and pumping capacity of all high-volume water users after the effective date of this ordinance, to ensure access of town residents to reasonable use of the area’s limited groundwater supply, to preserve property values, and to provide recourse for persons who have suffered unreasonable harm through lowering of the water table or reduction of artisan pressure by high-volume groundwater users.

## SECTION II – AUTHORITY

The Town Board possesses authority under its home rule, village, and police powers in art. XI, s. 3, Wis. Const., and s. 60.10, 60.22 and 61.34, Wis. stats., to adopt this ordinance.

### SECTION III - ADOPTION OF ORDINANCE

The town board, by this ordinance, adopted with a quorum and by a roll call vote by a majority of the town board present and voting provides the authority for the town to require the application of a license for all high volume water users, and to take other actions, as provided in this ordinance.

### SECTION IV - DEFINITIONS

In this ordinance:

- A. "Building" means any building or structure and any installation constructed, reconstructed, or remodeled, enlarged, altered, removed, or demolished for any use within the town, including but not limited to one- and two-family dwellings, manufactured homes, mobile homes, temporary or seasonal dwellings, garages, agricultural structures, and outbuildings.
- B. "DNR" means the Wisconsin Department of Natural Resources.
- C. "High-volume water user" means a person who intends to extract more than 35,000 gallons of groundwater per day from a single property or group of contiguous commonly-owned properties via groundwater pumping, from one or more wells in the town of Little Black.
- D. "High-volume water use" means a use of groundwater that extracts more than 35,000 gallons of groundwater per day from a single property or group of contiguous, commonly-owned properties via groundwater pumping, from one or more wells.
- E. "Person" means a natural person, corporation, business, unincorporated association, or other entity.
- F. "Town" means the Town of Little Black, Taylor County, Wisconsin, and includes the town's officers, employees, and agents when appropriate.
- F. "Town board" means the Board of Supervisors for the Town of Little Black, or any person designated to act for the town board.
- G. "Town clerk" means the Clerk of the Town of Little Black, or his or her deputy or agent.
- H. "Specific capacity" means the continuous yield of water from a well at a given discharge expressed in gallons per minute per foot of drawdown.
- I. "Wis. stats." means the Wisconsin Statutes, including successor provisions.

### SECTION V - SUBDIVISION AND NUMBERING OF THIS ORDINANCE

This ordinance is divided into sections designated by upper case Roman numerals. Sections

may be divided into subsections designated by upper case letters. Subsections may be divided into paragraphs designated by numbers. Paragraphs may be divided into subdivisions designated by lower case letters. Subdivisions may be divided into subdivision paragraphs designated by lower case Roman numerals. Reference to a "section," "subsection," "paragraph," or "subdivision" includes all divisions of the referenced section, subsection, paragraph, or subdivision.

## SECTION VI – HIGH VOLUME WATER USER LICENSING REQUIREMENTS

A. After the effective date of this ordinance, high-volume groundwater use in the Town shall comply with all provisions of this Ordinance.

1) A license is required for all high-volume water users in the town, except those existing at the time of the effective date of this Ordinance. If pre-existing water uses are increased after the effective date of this ordinance, any expansion that, collectively with the existing use meets the definition of a high volume water use, shall be subject to the licensing requirements of this ordinance.

B. At least 60 days prior to constructing or initiating any new high-volume groundwater use, a property owner or well operator shall file a High-Volume Water Use License Application with the Town Clerk, on forms available from the Town.

1) The application shall include a report of results from a pump test analyzing impacts of the proposed high-volume water use on existing residential, agricultural, commercial, and municipal wells up to 1½ miles from the proposed high-volume water use. The pump test should last 10 or more days at the maximum anticipated daily usage, with drawdowns measured on at least three monitoring wells at locations approved by the Town. The Town must approve all pump test protocol prior to commencing testing. The application shall include groundwater elevation data from the three monitoring wells.

2) If the applicant has also applied for or received an approval from the DNR under Wis. Stat. §§ 281.34 or .35 to construct or withdraw water from a high capacity well or high capacity well property or system shall, the applicant shall include:

a) A copy of the application and any approval from the DNR under Wis. Stat. § 281.34(2) or Wis. Stat. § 281.35, including any conditions of operation;

b) Any groundwater level, groundwater modeling, groundwater quantity, groundwater quality, or well construction data submitted to the DNR as part of its application for any approval under Wis. Stat. chs 281.

C. The Town Clerk shall forward the application materials to the Town Board, for consideration at its next scheduled meeting that occurs at least three days after the application is received.

1) The Town Board may designate a subcommittee to examine the application, may consult with a hydrogeologist or other expert, and may review such other data or testimony as it finds necessary and appropriate prior to making an final decision on the application. The applicant may be required to pay the costs of expert consultation, as determined by the Town Board.

2) The Town Board and may hold a public hearing on the completed application prior to final approval or denial.

D. If the Town Board finds that the proposed high-volume water use will not unreasonably harm the existing well owners and operators specified in Paragraph VI.B.1., and if it determines that development and operation of the high-volume water use is consistent with the protection of the public health, safety, and general welfare and performance standards in Section VIII, it may approve the application for a high-volume water use license, with or without conditions.

E. If the Town Board finds that the proposed high-volume water use will unreasonably harm the existing well owners and operators specified in Paragraph VI.B.1, either by reduction of groundwater levels, reduction of artesian pressure, or reduction in groundwater quality attributable to groundwater drawdown, the Board may only approve the high-volume water use license if:

1) The maximum water withdrawal is reduced to a level that does not unreasonably harm the existing well owners;

2) A compensation agreement is executed with the applicant to repair or remediate any damage caused by the applicant, at the applicant's expense; or

3) The Town Board includes other conditions to address and mitigate any harm caused by the high-volume water user to existing well owners.

F. All high-volume water use licenses are effective for the duration of the water use. Licensed activities may not be modified or expanded without approval of the Town Board.

## SECTION VII – OTHER REQUIREMENTS REMAIN APPLICABLE

The license procedures under this Chapter do not relieve the licensee from any of the following:

A. Obtaining any permit that may be required by any other state law or local ordinance, including but not limited to any of the following:

1) State approvals under Wis. Stat. ch. 281 and Wis. Admin. Code ch. NR 812, or any other approval relating to drinking water supply or groundwater.

2) County approvals under Wis. Admin. Code ch. 845;

3) Any other applicable permit under town or county ordinance or state law.

4) Any necessary easements, public or private, for location of the well, distribution system, or maintenance access.

B. Complying with any other requirement, ordinance, or law, including, but not limited to, those governing zoning, subdivision, land division, excavation, roads, and setbacks.

## SECTION VIII – PERFORMANCE STANDARDS FOR HIGH VOLUME WATER USERS

A. No high-volume water user operating in the Town may unreasonably harm, through lowering of the water table, reduction of artisan pressure, or reduction of groundwater quality attributable to water table drawdown, any other well owner or groundwater user in the Town.

- 1) Any person who believes he or she has been unreasonably harmed as provided in Section VIII.A. may notify the Town Board, which may investigate such notice or complaint.
- 2) The Town Board may require groundwater monitoring to determine whether a private well owner has been unreasonably harmed through lowering of the water table or reduction of artisan pressure, by one or more high volume water user, at the high volume water user's expense.
- 3) The Town Board may require water use metering of high volume water users at the expense of the high volume water users, with the Town Board or its appointed agent having access to inspect the water system for proper installation of the metering system. This will include the recording of water usage.
- 4) The Town Board may request that a high volume water user provide temporary or emergency potable water supplies to Town residents, including farms for livestock use, in all cases where it is reasonably determined by the Town Board that the operation of high volume water use has depleted or has otherwise caused the loss of an adequate water supply and/or adequate water quality.

B. No high-volume water use shall cause a public nuisance.

## SECTION IX -- NOTICE AND REPORTING

A. Any high volume water use license holder shall notify the Town of the following events or information within 30 days of their occurrence:

- 1) The date any of the wellhead(s) on the wells to which the license applies have been filled in and abandoned;
- 2) Any modifications to any approval granted by DNR under Wis. Stat. §§ 218.34 and .35;

B. All persons who are required to provide pumping or other groundwater quantity or



quality data to the DNR under Wis. Admin. Code § NR 820.13 or under their high capacity well license for property in the Town shall simultaneously file a copy of such data with the Town Clerk.

## SECTION X – INDEMNIFICATION

If, under Wis. Stat. § 281.77(4)(b), the Town is required to supply water to a damaged private water supply due to the activities of an owner or operator of a regulated activity under Wis. Stat. § 281.77(1)(b), the Town shall be entitled to seek indemnification from the owner or operator for any costs and expenses associated with supplying the water.

## SECTION XI - Inspection, Enforcement, Procedures and Penalties

- A. Inspections. The Town Board or other authorized representative of the Town, may make inspections to determine the existence and/or condition of high volume water uses in the Town in order to safeguard the health and safety of the public and determine compliance with this Chapter, upon showing proper identification, and upon reasonable notice.
- B. Violations. Violations under this Chapter include the following:
  - 1. Making an incorrect or false statement in the information and documentation submitted to the Town or during inspection of the operation by the Town or its duly appointed representative.
  - 2. Failure to timely file the notice and reporting under Section IX.
  - 3. Failure to follow the conditions in a high-volume water use license.
  - 4. Failure to take appropriate action in response to a notice of violation, citation, or other order issued by the Town.
  - 5. Failure to remedy unreasonable harm caused to any other private well owner or user through lowering of the water table or reduction in artisan pressure.
- C. Remedies. The Town Board may take any appropriate action or proceeding against any person in violation of this Chapter, including the following:
  - 1. Revocation of the high volume water use license.
  - 2. Issue a notice of violation and order that specifies the action to be taken to remedy a situation.
  - 3. Issue a citation in accord with the Town of Little Black citation ordinance.
  - 4. Refer the matter to legal counsel for consideration and commencement of legal action including the assessment of penalties under sub (D) and injunctive relief.
- D. Any person who fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture of not less than \$50 nor more than \$500, plus the applicable surcharges, assessments and costs, for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. In addition, the Town Board may seek injunctive relief from a court of record to enjoin further violations.

- E. A failure by the Town to take action on any past violation(s) shall not constitute a waiver of the Town's right to take action on any present violation(s).

## SECTION XII - SEVERABILITY

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable. If any application of this Chapter to a particular parcel of land is adjudged unconstitutional or invalid by a final order or a court of competent jurisdiction including all applicable appeals, such judgment shall not be applicable to any other parcel of land not specifically included in said judgment.

## SECTION XIII - EFFECTIVE DATE

This ordinance is effective on publication.

The town clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. stats.

This ordinance shall take effect from and after its passage as provided by law.

Adopted this 9<sup>th</sup> day of January, 2017 by the Town Board of Supervisors of the Town of Little Black, Taylor County

Town Chairman

Town Supervisor

Town Supervisor

Filed this 9<sup>th</sup> day of January, 2017

Attest: JoAnn Smith Town Clerk