

CHAPTER 29

WELLHEAD PROTECTION

29.01 TITLE

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

29.02 PURPOSE AND AUTHORITY

A. The residents of the Town of Freedom (hereinafter "the Town") 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 WHP ordinance codified in this chapter is to protect the Town's municipal water supply and areas from which Town wells draw water, and to promote the public health safety and general welfare of residents of the Town.

B. These regulations are established pursuant to the authority granted 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 in order to protect the public health, safety and welfare. Areas appropriate for protection in the WHP are established in the source water protection plan ("the plan") for the Freedom Sanitary District No. 1, Town of Freedom, Wisconsin, dated January 2007. The plan document is incorporated herein by this reference, and a copy is on file in the office of the Town Clerk.

29.03 APPLICABILITY

The regulations specified in the WHP ordinance codified in this chapter shall apply only to lands within those portions of the five-year time of travel zones (hereinafter sometimes "TOT") of Well No. 1 and Well No. 2 shown on the wellhead protection map (Figure 6.0 and Figure 6.1 of WHP) (hereinafter "the map"), which areas also lie within the Town limits.

29.04 DEFINITIONS

"Aquifer" means a saturated, permeable geologic formations that contains and will yield significant quantities of water.

"Cone of depression" means the area around a well, in which the water level has been lowered at least one-tenth of a foot by pumping of the well.

"Existing facilities which may cause or threaten to cause environmental pollution" means existing facilities which may cause or threaten to cause environmental pollution within the corporate limits of the Town 's Well No. 1 and Well No. 2 recharge area which

include but are not limited to the Wisconsin Department of Natural Resources' draft list of "Inventory of Sites or Facilities Which may Cause or Threaten to Cause Environmental Pollution" and Department of Industry, Labor and Human Relations list of "Leaking Underground Storage Tanks" (hereinafter "LUST's") and the Registry of Waste Disposal Sites in Wisconsin, all of which are incorporated herein by reference, together with future amendments thereto, as if fully set forth.

"Five Year Time of Travel (TOT)." The five year TOT is a portion of the recharge area, the outer boundary of which it is determined or estimated that groundwater and potential contaminants will take five years to reach a pumping well. The five year TOT for Freedom's municipal Well No. 1 and Well No. 2 are established based on the uniform flow equation. The TOT area is shown on the map. The TOT area shown on the map is hereinafter referred to as "the TOT".

"Groundwater divide" means ridge in the water table, or potentiometric surface, from which groundwater moves away at right angles in both directions. Line of highest hydraulic head in the water table or potentiometric surface.

"Groundwater protection overlay district" shall be defined as that area within the TOT shown on the map attached as Exhibit A and incorporated herein by reference as if fully set forth.

"Recharge area" means area in which water reaches the zone of saturation by surface infiltration and encompasses all areas or features that supply groundwater recharge to a well.

"Wellhead protection area" means those portions of the TOT which lie within the Town of Freedom limits.

29.05 WELLHEAD PROTECTION AREA

A. Intent. The area to be protected is the Freedom wellhead protection area (hereinafter "WPA") (as determined by the plan) contained within the Town boundary limits. These areas are designated on the map. These lands are subject to land use and development restrictions because of their close proximity to the TOT and the corresponding high threat of contamination.

B. Permitted Uses. The following are the only permitted uses within the WPA:
1. Any existing use, even though listed on prohibited uses, below, located within such areas to the extent that use currently exists, subject to the requirements for existing prohibited uses, subsection E of this section below; 2. Those uses permitted under county zoning code consistent with the zoning map, as amended by action of the Freedom Town Board and Outagamie County and which are not prohibited under subsection C of this section below.

C. Prohibited Uses. The following uses, if created after the adoption of the WHP ordinance codified in this chapter, are prohibited uses within the wellhead protection area designated on the map. These uses are prohibited based on the high probability that activities routinely associated with these uses (storage, use and handling of potential pollutants) will cause groundwater contamination. Uses not listed are not considered permitted uses.

1. Underground storage tanks of any size;
2. Septage and/or sludge spreading;
3. Animal waste land spreading;
4. Animal waste facilities;
5. Animal confinement facilities;
6. Gas stations;
7. Vehicle repair establishments, including auto body repair;
8. Printing and duplicating businesses;
9. Bus or truck terminals;
10. Repair shops;
11. Landfills or waste disposal facilities;
12. Wastewater treatment facilities;
13. Spray wastewater facilities;
14. Junk yards or auto salvage yards;
15. Bulk fertilizer and/or pesticide facilities;
16. Asphalt products manufacturing;
17. Dry-cleaning businesses;
18. Salt storage;
19. Electroplating facilities;
20. Exterminating businesses;
21. Paint and coating manufacturing;
22. Hazardous and/or toxic materials storage;
23. Hazardous and/or toxic waste facilities;
24. Radioactive waste facilities;
25. Recycling facilities;
26. Cemeteries

D. Where any of the uses listed in subsection C of this Section exist within the WPA on the effective date of the ordinance codified in this chapter, owners of these facilities will be allowed to upgrade such uses to facilitate or enhance groundwater protection. Plans for the proposed upgrade must be approved by the Plan Commission, and the appropriate permit issued by the Town building inspector's office prior to any work being initiated. Expansion of the prohibited use may be allowed with approval of the Planning Commission.

E. Requirements for Existing Prohibited Uses, Section 5C above. 1. Such uses shall provide copies of all federal, state, and local facility operation approvals or certificates and ongoing environmental monitoring results to the Town Board. 2. Such uses shall provide additional environmental or safety structures/monitoring as deemed

necessary by the Town, which may include but are not limited to storm water runoff management and monitoring. 3. Such uses shall replace equipment or expand in a manner that improves the existing environmental and safety technologies already in existence. 4. Such uses shall have the responsibility of devising and filing with the Town a contingency plan satisfactory to the Town Board for the immediate notification in the vent of an emergency.

29.06 ENFORCEMENT

A. In the vent the individual and/or facility engaging in permitted use(s) under this chapter causes the release of any contaminants which endangers the WPA, the activity causing said release shall immediately cease and a cleanup satisfactory to the Town shall occur.

B. The individual/facility causing the release of contaminants shall be responsible for all costs of cleanup. The costs of cleanup shall include, but not limited to, Town consultant fees, at the invoice amount plus administrative costs for oversight, review and documentation.

1. The cost of Town employees' time associated in any way with the cleanup based on the hourly rate paid to the employee multiplied by a factor determined by the Town representing the Town's cost for expenses, benefits, insurance, sick leave, holidays, overtime, vacation, and similar benefits;

2. The cost of Town equipment employed;

3. The cost of mileage reimbursed to Town employees attributed to the cleanup.

C. Following any such discharge the Town may require additional test monitoring and/or bonds/sureties as it deems necessary and reasonable.

D. Penalties for noncompliance shall be provided pursuant to the Town of Freedom Schedule of Fees and Forfeitures.

29.07 SEVERABILITY

All sections and provisions of this ordinance have an independent existence, and, should any section or provision be declared invalid or unconstitutional by a court of competent jurisdiction, it is the intent of the Town Board of Supervisors that any section or provision so declared shall be severable from and shall not affect the validity of the remainder of the ordinance.