

**VILLAGE OF COCHRANE
ORDINANCE NO. 76**

**AN ORDINANCE CREATING WELLHEAD PROTECTION BY
ESTABLISHING LAND USE RESTRICTIONS WITHIN THE VILLAGE OF
COCHRANE TO PROTECT THE VILLAGE'S GROUNDWATER
AQUIFER AND MUNICIPAL WATER SUPPLY**

The Village Board of the Village of Cochrane, Buffalo County, Wisconsin does ordain as follows:

SECTION 1. GROUNDWATER PROTECTION OVERLAY ZONE.

(1) **STATEMENT OF PURPOSE.** Village residents 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 institute land use regulations and restrictions to protect the Village's municipal water supply, and to promote the health, safety and general welfare of the residents of the Village.

This section, which may be cited and referred to as the Village of Cochrane Wellhead Protection Ordinance, institutes land use regulations and restrictions in the Groundwater Protection Overlay District in order to protect the portion of the recharge area for the Village wells that lie within the Village's limits. The recharge areas for the Village wells are the land areas which contribute water to the Village wells by infiltration of water into the subsurface and movement with groundwater toward the wells.

It is further intended that the Groundwater 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 groundwater 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 Groundwater Protection Overlay District are incorporated into and shown on the maps incorporated into the Wellhead Protection Plan.

(2) **PRINCIPAL PERMITTED USES.** Uses within the Groundwater Protection Overlay District must be permitted uses in the underlying zoning district as well as in this overlay district. The following are permitted uses within the Groundwater Protection Overlay District provided the separation distances set forth in subsection (5) are maintained.

- a. Parks, provided there is no on-site waste disposal or fuel storage tank facilities associated with this use.
- b. Playgrounds.
- c. Wildlife areas.
- d. Non-motorized trails, such as bike, skiing, nature and fitness trails.
- e. Municipally sewered residential development, free of:
 1. Underground storage tanks containing flammable and combustible liquid; and
 2. Aboveground storage tanks larger than 20 gallons in size, containing flammable and combustible liquid other than heating oil or propane.

- f. Municipally sewerred business development, except for the following uses:
 - 1. Above ground storage tanks.
 - 2. Asbestos product sales.
 - 3. Automotive service and repair garages, body shops.
 - 4. Blue printing and photocopying services.
 - 5. Car washes.
 - 6. Equipment repair services.
 - 7. Laundromats and diaper services.
 - 8. Dry cleaning.
 - 9. Gas stations.
 - 10. Holding ponds or lagoons.
 - 11. Infiltration ponds.
 - 12. Nurseries, lawn and garden supply stores.
 - 13. Small engine repair services.
 - 14. Underground storage tanks.
 - 15. Wells, private, production, injection or other.
 - 16. Any other use determined by the Village Board to be similar in nature to the above listed items.

- g. Agricultural uses in accordance with the county land conservation department's best management practices guidelines.

(3) **CONDITIONAL USES.** The uses listed above in subsection (2) f are conditional uses. Although they are conditional uses, the presumption is that these uses are disfavored and that a conditional use permit will not be granted unless conditions may be imposed that will ensure a reasonable degree of certainty to the Village's satisfaction that the groundwater will be protected.

(4) **PROHIBITED USES.** All uses not expressly identified as permitted or conditional uses are prohibited within the Groundwater Protection Overlay District.

(5) **SEPARATION DISTANCES FROM WELL.** Uses shall maintain the following minimum separation distances within the Groundwater Protection Overlay District.

- 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 the Wisconsin Administrative Code, and receive written approval from the department of commerce or its designated Local Program Operator. 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 the Wisconsin Administrative Code, and receive written approval from the department of commerce or its designated Local Program Operator. 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 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 the Wisconsin Administrative Code, and receive written approval from the department of commerce or its designated Local Program. 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, 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.

(6) **CONDITIONAL USE APPLICATIONS**

- a. **Required Application Materials.** In addition to the application materials required, each application for a conditional use permit under this section shall include the following:
 - 1. A statement with supporting evidence showing that the use seeking the proposed conditional use shall conform to the standards set forth in subsection (6) c below.
 - 2. An operational plan and/or other documentation which describes in detail the use, activities, and structures proposed.
 - 3. An operational safety plan, which details the operational procedures for material processes and containment, best management practices, storm water runoff management, and groundwater monitoring as required.

4. A contingency plan which addresses in detail the actions that will be taken should a contamination event caused by the proposed use, activities, or structures occur.
 5. An environmental risk assessment report prepared by a licensed environmental professional which details the risk to, and potential impact of, the proposed use, activities, and structures on groundwater quality.
 6. Additional information deemed necessary to determine and provide for enforcement of this section may be required.
 7. Pre-payment of the required fee.
- b. Referral to Water/Sewer Committee. A properly filed application shall be referred to the Water/Sewer Committee for its review and recommendation, if any, including proposed conditions, to the Village Board. The Water/Sewer Committee shall review the application and make its recommendation, if any, including proposed conditions, to the Village Board. Upon receipt of the recommendations of the Water/Sewer Committee, the Village Board shall hold a hearing.
- c. Standards for Conditional Use. In addition to the standards for conditional uses, the Village Board shall apply the following factors:
1. The Village's responsibility, as a public water supplier, to protect and preserve the health, safety and welfare of its citizens.
 2. 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.
 3. The economic hardship which may be faced by the landowner if the application is denied.
 4. The availability of alternative options to the applicant, and the cost, effect and extent of availability of such alternative options.
 5. The proximity of the applicant's property to other potential sources of contamination.
 6. The then existing condition of the Village's groundwater public water wells and well fields, and the vulnerability to further contamination.
 7. 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.
 8. Any other hydro geological data or information which is available from any public or private agency or organization.
 9. The potential benefit, both economic and social, from the approval of the applicant's request for a permit.
- d. Types of Conditions Which the Board May Require. In addition to the conditions and restrictions set out prior, the Village Board may stipulate conditions and restrictions including but not limited to the following:
1. 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;
 2. The establishment of safety structures to prevent groundwater contamination;
 3. The establishment of an operational safety plan to define processes and procedures for material containment, operations monitoring, best management practices, and storm water runoff management to prevent groundwater contamination;
 4. Written policies and procedures for reporting and cleaning up any spill of a hazardous material;

5. The provision of copies of all federal, state and local facility operation approval or certificates, and on-going environmental monitoring results to the Village.
6. 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;
7. 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.

- e. 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. The Village Board may also stipulate as a condition of the transfer that the new owner provide assurances and guarantees deemed satisfactory by the Village in its sole discretion that the new owner has at least the same means and ability, including but not limited to insurance, to pay potential liabilities as were required of the former owner in the conditional use permit. 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.
- f. 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:
 1. The Village's expenses, including consultant's and attorney's fees, if any, associated with the review at the invoiced amount plus administrative costs.
 2. The cost of an environmental impact study if so required by the Village or its designee.
 3. The cost of groundwater monitoring or groundwater wells if required by the Village or its designee.
 4. The costs of an appraisal for the property or other property evaluation expense if required by the Village or its designee.

(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 provisions of section 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.

(8) **NO ACCEPTANCE OF LIABILITY BY VILLAGE.** Nothing in this section shall be construed to imply that the Village 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.

(9) PENALTIES FOR VIOLATION OF GPO RESTRICTIONS.

(1) GENERAL PENALTY. Whenever so provided in this Code, any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to a penalty which shall be as follows:

(a) First Offense, Penalty. Any person who shall violate any provision of this Code subject to a penalty shall, upon conviction thereof, forfeit not less than \$5 nor more than \$500, together with the costs of prosecution and, in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the County Jail until said forfeiture and costs are paid, but not exceeding 90 days.

(b) Second Offense, Penalty. Any person found guilty of violating any ordinance or part of an ordinance of this Code who shall previously have been convicted of a violation of the same ordinance shall, upon conviction thereof, forfeit not less than \$10 nor more than \$500 for each such offense, together with the costs of prosecution and, in default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until said forfeiture and costs of prosecution are paid, but not to exceed 6 months.

SECTION 3. This Ordinance shall take effect upon passage and publication as provided by law.

ADOPTED this 13th day of May, 2014.

/s/ *David Busch*

David Busch, Village President

ATTEST:

/s/ *Sherry Lorenz*

Sherry Lorenz, Village Clerk